

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

| | | |
|------------------|---|------------------------------|
| ALLY BANK, |) | Case No. _____ |
| |) | |
| Plaintiff, |) | |
| |) | COMPLAINT IN REPLEVIN |
| vs. |) | |
| |) | |
| RANDAL D. ELLIS, |) | |
| |) | |
| Defendant. |) | |

COMES NOW the Plaintiff, Ally Bank, ("Ally") and for its cause of action against the Defendant, for possession of certain collateral alleges as follows:

1. Plaintiff is an entity organized under the laws of Delaware, with its principal administrative offices in Detroit, Michigan, and authorized to do business in the State of Nebraska.

2. Defendant, Randal D. Ellis, resides in Douglas County, and has a business located at 928 South 72nd Street, Omaha, Nebraska 68114.

3. Defendant is in possession of the vehicle owned by Plaintiff which is the subject matter of this action.

4. Plaintiff is the owner of the following described vehicle, now in the possession of the Defendant:

One (1) 2014 Chevrolet Corvette
VIN # 1G1YK3D72E5128152
Fair Market Value: \$53,850.00

hereinafter the "Vehicle".

5. A true and correct copy of the Electronic Title Document is attached hereto, marked Exhibit "A", and by this reference incorporated herein.

6. Plaintiffs have a special ownership interest in the Vehicle by virtue of the terms and conditions of a Retail Installment Sale Contract Simple Finance Charge

(hereinafter "Contract"), executed by Defendant, Randal D. Ellis on July 22, 2014, in favor of Huber Chevrolet Co., Inc. ("Dealer") and by such assigned to Ally. A true and correct copy of the Contract is attached hereto as Exhibit "B", and by this reference incorporated herein.

7. Plaintiff has performed all of its obligations and conditions precedent, if any, pursuant to the Contract. Defendant has failed to fulfill his obligations under the Contract by failing to make the required monthly payments to Plaintiff.

8. On numerous occasions, Plaintiff has demanded Defendant either cure the monthly payment arrearages, or in the alternative, deliver possession of the above-described Vehicle to the Plaintiff, but Defendant has failed and refused to do so.

9. The Vehicle sought to be replevined hereunder is, upon information and belief, located within Douglas County, State of Nebraska, and being wrongfully detained by Defendant.

10. The Plaintiff is entitled to immediate possession of the Vehicle pursuant to the terms and conditions of the above-described Contract, Exhibit "B" hereto.

11. Upon information and belief, the Defendant is not incompetent, a minor, or a member of the military forces of the United States of America or any of its allies.

12. Attached hereto, marked Exhibit "C", and by this reference incorporated herein and made a part hereof, is an Affidavit of Plaintiff's Replevin Specialist, Tiyesa Ethridge, which sets forth sufficient additional facts to authorize the entry of an Order of Delivery as requested below.

13. Attached to this Complaint, marked Exhibit "D", and by this reference incorporated herein and made a part hereof is the notice required under the Fair Debt Collection Practices Act.

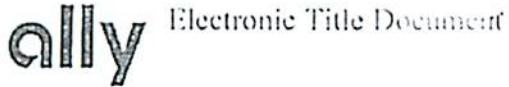
WHEREFORE, Plaintiff prays this Court issue an Order that Defendant, Randal D. Ellis or anyone else in possession of the above-described Vehicle, forthwith deliver to the Sheriff of Douglas County, Nebraska, the Vehicle described herein, and direct that if the Defendant fails to deliver said Vehicle, the Sheriff shall seize and deliver the Vehicle to Plaintiff; that the Court approve a delivery bond in the sum of One Hundred Seven Thousand Seven Hundred Dollars and 00/100ths (\$107,700.00), twice the value of the Vehicle upon which delivery is sought; and such other and further relief as the Court may deem just and proper in the premises.

DATED this 5th day of January, 2016.

ALLY BANK, Plaintiff

By: Frederick D. Stehlik
Frederick D. Stehlik, #15481
Gross & Welch, P.C., L.L.O.
2120 South 72nd Street
Suite 1500
Omaha, NE 68124-2342
(402) 392-1500
(402) 392-8101 facsimile

ATTORNEYS FOR PLAINTIFF



• ELT*NE

Title # : 14206010252/0146534 Title Type :
Issue Date : 07/25/2014 Lic/Tag/Control # :

VIN: 1G1YK3D72E5128152
Vehicle Info: 2014 CHEV
Brand code:
Odometer Reading: 000006
Date: 00/00/0000
Status:

Owner information

Owner Information: RANDAL D ELLIS
Co-Owner:
Third Owner:
Owner Address: 928 S 72ND ST

OMAHA, NE 681140000

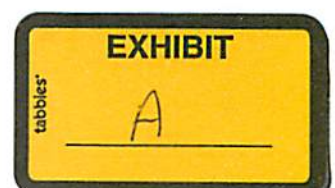
Lienholder information

Lienholder: ALLY BANK
PO BOX 8108
COCKEYSVILLE, MD 21030

2nd Lienholder Name:

ELT Sent Date: 07/25/2014
Lien Type:
Owner Driver License #:

PDP Doc Ref: 50000049155 / 00005 12/11/2015 15:04:30



RETAIL INSTALLMENT SALE CONTRACT
SIMPLE FINANCE CHARGE

Dealer Number: _____ Contract Number: _____

Co-Buyer Name and Address: _____
(The County, and City, and State)

Co-Buyer Signature: _____
CO-BUYER NAME: _____
CO-BUYER ADDRESS: _____
CO-BUYER CITY: _____
CO-BUYER STATE: _____
CO-BUYER ZIP: _____

Buyer Signature: _____
BUYER NAME: _____
BUYER ADDRESS: _____
BUYER CITY: _____
BUYER STATE: _____
BUYER ZIP: _____

You, the Buyer (and Co-Buyer, if any), may buy the vehicle below for cash or on credit. By signing this contract, you choose to buy the vehicle on credit under the agreements in this contract. You agree to pay the Creditor - Seller (sometimes "we" or "us" in this contract) the Amount Financed and Finance Charge in U.S. funds according to the payment schedule below. We will figure your finance charge on a daily basis. The Truth-in-Lending disclosures below are part of this contract.

| | |
|---------------------------------|---|
| Year | 2014 |
| Make and Model | CHEVROLET CORVETTE |
| Vehicle Identification Number | 6 101YK3D725128152 |
| Primary Use For Which Purchased | <input type="checkbox"/> Personal, Family, or Recreational unless otherwise specified below <input type="checkbox"/> Business <input type="checkbox"/> Agricultural |

Applicable Law: Federal law and the law of the state of our address shown above apply to this contract.

Financed Check Charge: You agree to pay a charge of \$ _____ if any check you give us is dishonored.

NO COOLING OFF PERIOD
State law does not provide for a "cooling off" or cancellation period for this sale. After you sign this contract, you may only cancel it if the seller agrees or for legal cause. You cannot cancel this contract simply because you change your mind. This notice does not apply to home solicitation sales.

| ANNUAL PERCENTAGE FINANCE CHARGE | FINANCE CHARGE | FINANCE CHARGE | FINANCE CHARGE | FINANCE CHARGE |
|----------------------------------|----------------|----------------|----------------|----------------|
| 5.49% | \$ 12380.50 | \$ 66452.00 | \$ 78832.50 | \$ 84512.50 |

YOUR PAYMENT SCHEDULE WILL BE:

| | |
|--------------------|------------|
| Monthly Payment | \$ 1051.10 |
| Number of Payments | 60 |
| First Payment Due | 09/06/2014 |

Latent Charge: If a payment is not received in full within 15 days after it is due, you will pay a late charge of 5% of each payment that is late. The charge will not exceed \$25 if you bought the vehicle primarily for personal, family, or household use. If you pay off all your debt early, you will not have to pay a penalty.

Security Interest: You are giving a security interest in the vehicle being purchased. Additional information: See this contract for more information including information about nonpayment, default, any required repayment in full before the scheduled date and security interest.

WARNANTIES SELLER DISCLAIMS
Unless the Seller makes a written warranty, or enters into a service contract within 90 days from the date of this contract, the Seller makes no warranties, express or implied, on the vehicle, and there will be no implied warranties of merchantability or of fitness for a particular purpose.
This provision does not affect any warranties covering the vehicle that the vehicle manufacturer may provide.

USED CAR BUYER'S GUIDE. The information you see on the window form for this vehicle is part of this contract. Information on the window form overrides any contrary provisions in the contract of sale.
Spanish Translation: Guía para compradores de vehículos usados. La información que ve en el formulario de la ventanilla para este vehículo forma parte del presente contrato. La información del formulario de la ventanilla de la disposición en el contrato de venta.

SERVICING AND COLLECTION CONTACTS.
You agree that we may try to contact you in writing, by e-mail, or using pre-recorded/automatic telephone dialing systems, as the law allows. You also agree that we may try to contact you in these and other ways at any address or telephone number you provide us, even if the telephone number is a cell phone number or the contact results in a charge to you.

If this box is checked, the following late charge applies to vehicles purchased primarily for business or agricultural use. If a payment is not received in full within _____ days after it is due, you will pay a late charge of \$ _____ or _____% of the part of the payment that is late, whichever is less.
If this box is not checked, the late charge in the "Federal Truth-in-Lending Disclosures" still applies.

RENTORS SINGLE INTEREST WARRANTY (RISURENT). If the preceding box is checked, the Creditor (we) warrants by this contract that the Creditor will not assign or subdivide the vehicle or services obtained primarily for personal, family, or household use, in all other cases, Buyer will not assert against any subsequent holder or assignee of this contract any claims or defenses the Buyer (debtor) may have against the Seller, or against the manufacturer of the vehicle or equipment obtained under this contract.

NOTICE: ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS THEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.
The preceding NOTICE applies only to goods or services obtained primarily for personal, family, or household use, in all other cases, Buyer will not assert against any subsequent holder or assignee of this contract any claims or defenses the Buyer (debtor) may have against the Seller, or against the manufacturer of the vehicle or equipment obtained under this contract.



OTHER IMPORTANT AGREEMENTS

1. FINANCE CHARGE AND PAYMENTS

- a. How we will figure Finance Charge. We will figure the Finance Charge on a daily basis at the Annual Percentage Rate on the unpaid part of the Amount Financed.
- b. How we will apply payments. We may apply each payment to the earned and unpaid part of the Finance Charge, to the unpaid part of the Amount Financed and to other amounts you owe under this contract in any order we choose.
- c. How late payments or early payments change what you must pay. We based the Finance Charge, Total of Payments, and Total Sale Price shown on page 1 of this contract on the assumption that you will make every payment on the day it is due. Your Finance Charge, Total of Payments, and Total Sale Price will be more if you pay late and less if you pay early. Changes may take the form of a larger or smaller final payment or, at our option, more or fewer payments of the same amount as your scheduled payment with a smaller final payment. We will send you a notice telling you about these changes before the final scheduled payment is due.
- d. You may prepay. You may prepay all or part of the unpaid part of the Amount Financed at any time without penalty. If you do so, you must pay the earned and unpaid part of the Finance Charge and all other amounts due up to the date of your payment.

2. YOUR OTHER PROMISES TO US

- a. If the vehicle is damaged, destroyed, or missing. You agree to pay us all you owe under this contract even if the vehicle is damaged, destroyed, or missing.
- b. Using the vehicle. You agree not to remove the vehicle from the U.S. or Canada, or to sell, rent, lease, or transfer any interest in the vehicle or this contract without our written permission. You agree not to expose the vehicle to misuse, seizure, confiscation, or involuntary transfer. If we pay any repair bills, storage bills, taxes, fines, or charges on the vehicle, you agree to repay the amount when we ask for it.
- c. Security Interest.
You give us a security interest in:
 - The vehicle and all parts or goods put on it;
 - All money or goods received (proceeds) for the vehicle;
 - All insurance, maintenance, service, or other contracts we finance for you; and
 - All proceeds from insurance, maintenance, service, or other contracts we finance for you. This includes any refunds of premiums or charges from the contracts.

This secures payment of all you owe on this contract. It also secures your other agreements in this contract. You will make sure the title shows our security interest (lien) in the vehicle.
- d. Insurance you must have on the vehicle.
You agree to have physical damage insurance covering loss of or damage to the vehicle for the term of this contract. The insurance must cover our interest in the vehicle. If you do not have this insurance, we may, if we choose, buy physical damage insurance. If we decide to buy physical damage insurance, we may either buy insurance that covers your interest and our interest in the vehicle, or buy insurance that covers only our interest. If we buy either type of insurance, we will tell you which type and the charge you must pay. The charge will be the premium of the insurance and a finance charge equal to the Annual Percentage Rate shown page 1 of this contract or, at our option, the highest rate the law allows. If the vehicle is lost or damaged, you agree that we may use any insurance settlement to reduce what you owe or repair the vehicle.

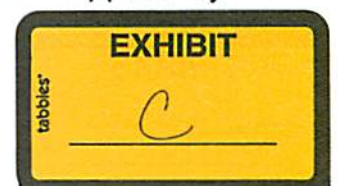
- e. What happens to returned insurance, maintenance, service, or other contract charges. If we get a refund of insurance, maintenance, service, or other contracts, you agree that we may subtract the refund from what you owe.

3. IF YOU PAY LATE OR BREAK YOUR OTHER PROMISES

- a. You may owe late charges. You will pay a late charge on each late payment as shown on page 1 of this contract. Acceptance of a late payment or late charge does not excuse your late payment or mean that you may keep making late payments.
If you pay late, we may also take the steps described below.
- b. You may have to pay all you owe at once, if you break your promises (default), we may demand that you pay all you owe at once after we give you any notice the law requires. Default means:
 1. You do not pay any payment on time; or
 2. You start a proceeding in bankruptcy or one is started against you or your property; you give false, incomplete, or misleading information on a credit application; or you break any agreements in this contract; except that if you bought the vehicle primarily for personal, family, or household purposes, we will only treat these events as defaults if they significantly impair the prospect of payment, performance, or realization of the collateral.

The amount you will owe will be the unpaid part of the Amount Financed plus the earned and unpaid part of the Finance Charge, any late charges, and any amounts due because you defaulted.

- c. We may take the vehicle from you. If you default, we may take (repossess) the vehicle from you after we give you any notice the law requires. We may only take the vehicle if we do so peacefully and the law allows it. If your vehicle has an electronic tracking device, you agree that we may use the device to find the vehicle. If we take the vehicle, any accessories, equipment, and replacement parts will stay with the vehicle. If any personal items are in the vehicle, we may store them for you at your expense. If you do not ask for these items back, we may dispose of them as the law allows.
- d. How you can get the vehicle back if we take it. If we repossess the vehicle, you may pay to get it back (redeem). We will tell you how much to pay to redeem. Your right to redeem ends when we sell the vehicle.
- e. We will sell the vehicle if you do not get it back. If you do not redeem, we will sell the vehicle. We will send you a written notice of sale before selling the vehicle. We will apply the money from the sale, less allowed expenses, to the amount you owe. Allowed expenses are expenses we pay as a direct result of taking the vehicle, holding it, preparing it for sale, and selling it. If any money is left (surplus), we will pay it to you unless the law requires us to pay it to someone else. If money from the sale is not enough to pay the amount you owe, you must pay the rest to us. If you do not pay this amount when we ask, we may charge you interest at a rate not exceeding the highest lawful rate until you pay.
- f. What we may do about optional insurance, maintenance, service, or other contracts. This contract may contain charges for optional insurance, maintenance, service, or other contracts. If we demand that you pay all you owe at once or we repossess the vehicle, we may claim benefits under these contracts and cancel them to obtain refunds of unearned charges to reduce what you owe or repair the vehicle. If the vehicle is a total loss because it is confiscated, damaged, or stolen, we may claim benefits under these contracts and cancel them to obtain refunds of unearned charges to reduce what you owe.



persons with such knowledge. It is Ally's regular business practice to maintain such records, letters, or memoranda in the course of its business. Except as otherwise specifically stated in this declaration, the facts set forth herein are based on my review of Ally's files and records concerning the customer, and if called as a witness I could and would be competent to testify to those facts.

3. On or about July 22, 2014, Randal D. Ellis, entered into a Retail Installment Sale Contract Simple Finance Charge (hereinafter "Contract") with Dealer in which Plaintiff has a special ownership interest in, whereby Randal D. Ellis, purchased a 2014 Chevrolet Corvette VIN #1G1YK3D72E5128152, (hereinafter "Vehicle"), which is titled in the name of Randal D. Ellis, and upon which Ally is noted as first lien holder.

4. Defendant has failed to fulfill his obligation pursuant to the above-described Contract by failing to make the required monthly payments to Plaintiff as they become due.

5. Ally has made numerous demands upon Defendant for payment of the monthly amounts owed pursuant to the Contract; however, Defendant has failed and refused to make said payments.

6. Pursuant to the terms of the Contract, Ally has a right to immediate possession of the Vehicle described herein.

7. Ally has made numerous demands upon Defendant to surrender the Vehicle, however, Defendant has failed to surrender the Vehicle and the same is being wrongfully detained by the Defendant.

8. The Fair Market Value of said Vehicle is \$53,850.00 for the 2014 Chevrolet Corvette.

9. Said Vehicle has not been seized under any legal process, execution or attachment.

10. Ally may be in danger of losing the Vehicle unless it is taken out of possession of the Defendant or otherwise secured.

11. Upon information and belief, the Defendant is not incompetent, a minor, or a member of the military forces of the United States of America or any of its allies.

12. The Vehicle, to the best of Affiant's knowledge, is located within Douglas County, Nebraska.

FURTHER AFFIANT SAYETH NOT.

DATED this 30 day of Dec, 2015.




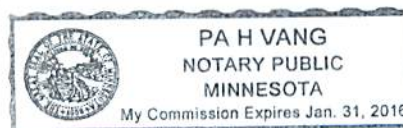
TIYESA ETHRIDGE, Authorized Representative for
Ally Bank

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

On this 30th day of Dec, 2015, before me, a notary public in and for said County and State, personally came the above-named Tiyesa Ethridge, duly sworn as the Authorized Representative for Ally Bank, who executed the within and foregoing instrument on behalf of said corporation; and acknowledged the execution of said instrument to be her voluntary act and deed and the voluntary act and deed of said corporation.

WITNESS my hand and Notarial Seal this day and year last above written.



Notary Public

NOTICE REQUIRED UNDER THE FAIR DEBT
COLLECTION PRACTICES ACT

1. This is an attempt to collect a debt and any information obtained will be used for that purposes.
2. The amount of the debt is stated in the Complaint.
3. The name of the creditor is stated in the Complaint.
4. Unless the debtor disputes the validity of the debt within thirty (30) days after receipt of the notice, it will be assumed that the debt is valid.
5. If the debtor notifies the lawyer in writing within thirty (30) days that the debt is disputed, the lawyer will obtain verification of the debt or a copy of a judgment and mail it to the debtor.
6. The lawyer will provide the debtor with the name and address of the original creditor, if different from the current creditor, if the debtor requests this in writing within thirty (30) days.

