

DIANA ZALESKI
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IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO
CLERK OF COURTS

2003 01-0657

MITCHELL BLACKMAN)
459 Ionia Avenue)
Staten Island, NY 10312)

CASE NO.

Plaintiff,)

JUDGE

ASSIGNED TO JUDGE COSGROVE

vs.)

TIM ELLIS)
7730 Chaffee Road)
Sagamore Hills, Ohio 44067)

COMPLAINT

Defendant.)

Now comes the Plaintiff, Mitchell Blackman, by and through the undersigned counsel, and for his Complaint against Defendant states:

COUNT I
(DEFAULT ON PROMISSORY NOTE)

1. At all times mentioned herein, Defendant, Tim Ellis was a citizen of the State of Ohio. Defendant, Tim Ellis was the owner of the now defunct Ohio Corporation Dynotech Racing, Inc., 575 D Golden Oak Parkway, Oakwood, Ohio 44146.

2. At all times mentioned herein, Plaintiff, Mitchell Blackman was a citizen of the State of New York, residing at 459 Ionia Avenue, Staten Island, New York 10312.

3. On January 25, 2002, Defendant, Tim Ellis executed and delivered to Plaintiff a Promissory Note in the amount of \$16,500.00, a copy of which is attached hereto, incorporated herein and marked as "Exhibit A".

4. The aforementioned Promissory Note contained a clause indicating that the Defendant, Tim Ellis and Dynotech Racing, Inc. would be in default of said Note if the initial sum of \$2,500.00 was not postmarked by May 1, 2002. That payment was not made, thus Defendant is in default.

5. The Defendant, Tim Ellis and Dynotech Racing, Inc. owe to Plaintiff, Mitchell Blackman the amount of \$16,500.00, the part of said note which remains unpaid.

COUNT II
(BREACH OF CONTRACT)

6. Plaintiff hereby incorporates by this reference each and every allegation contained in paragraph one (1) through five (5) above as if the same were fully rewritten herein.

7. The business relationship between the parties began in June 1999 when Plaintiff, Mitchell Blackman brought his car to Dynotech Racing, Inc. in order for Defendant, Tim Ellis to install certain provided automotive parts into the car.

8. Over the course of two years, Defendant, Tim Ellis, led the Plaintiff, Mitchell Blackman, to believe that work on the vehicle was coming along satisfactorily even though Dynotech Racing, Inc. had closed due to financial difficulties. Defendant, Tim Ellis assured Plaintiff that work would proceed at Defendant's residence, with Defendant, Tim Ellis personally being responsible for the work.

9. During the summer of 2001, Plaintiff returned to Ohio to retrieve his automobile and thousands of dollars in parts he had been shipping to Defendant in order that Defendant could "build" Plaintiff's car to Plaintiff's satisfaction.

10. When Plaintiff recovered his auto, he found that the engine that he had built for the car was replaced by a non-running replica, that many new parts were either missing or gutted and used elsewhere, that the car when delivered to Defendant was in showroom condition, but was now weather beaten and beginning to rust because of outside storage.

11. On or about January 25, 2002, Plaintiff, Mitchell Blackman and Defendant, Tim Ellis entered into a written agreement attached hereto and marked as "Exhibit A", whereby Plaintiff agreed to not pursue any other legal action against Defendant if Defendant would pay the sum of \$16,500.00.

12. The agreement called for Defendant to have the initial down payment of \$2,500.00 postmarked by May 1, 2002.

13. As of the date of this action, no payments have been made by Defendant.

14. Plaintiff, Mitchell Blackman has performed all conditions the agreement has specified.

15. Defendant, Tim Ellis has breached the agreement to settle all claims between the parties by paying the sum of \$16,500.00. There remains due and owing the sum of \$16,500.00. By his willful failure to pay this amount, Defendant has breached his Contract with Plaintiff, all to the Plaintiff's damage.

COUNT III
(FRAUD)

16. Plaintiff hereby incorporates by this reference each and every allegation contained in paragraphs one (1) through fifteen (15) above as if the same were fully rewritten herein.

17. In June of 1999, Plaintiff delivered to Defendant his 1993 Ford Thunderbird Vehicle for the purpose of building a higher performance vehicle. Specifically, Plaintiff hired Defendant to

install a turbo charger system onto a new engine block being built by another business. The vehicle at the time of delivery was in “showroom” condition.

18. Plaintiff gave to Defendant in addition to the new car and engine block, \$12,500.00 to do the job as well as several new parts with an approximate value of \$17,419.80.

19. Throughout the relationship between the parties, Defendant told Plaintiff that all was well, the car was coming along in a satisfactory manner.

20. In reality, Defendant’s business, Dynotech Racing, Inc. was heading toward insolvency and no work was being done to Plaintiff’s 1993 Ford. In fact, many of Plaintiff’s new parts were either vandalized and used on other products or outright stolen.

21. Plaintiff’s vehicle was stored outside for a period of over two years and was weather beaten when recovered by the Plaintiff.

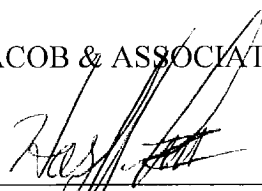
22. Plaintiff relied upon Defendant’s misrepresentations that all was well and that the project was moving forward and Plaintiff’s reliance was reasonable under the circumstances.

23. Plaintiff suffered damages totaling \$30,119.80 as a result of his reliance on Defendant’s misrepresentations that he could do the work contracted for.

WHEREFORE, Plaintiff prays judgment against Defendant for compensatory damages in the amount of \$30,119.80, punitive damages in an amount in excess of \$25,000.00, attorney fees and costs as this Honorable Court deems just.

Respectfully Submitted,

JACOB & ASSOCIATES



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