



THE SOURCE

News You Need At Automotive Speed

IN THIS ISSUE:

Joe Lescota | Pg 6

Steve Stauning | Pg 8

Ronald Gorsline & Dailey Wilson | Pg 14

Eric L. Johnson | Pg 16

John Summer | Pg 21



ADESA. YOUR AUCTION PARTNER IN TENNESSEE.

Find the cars you need and get the service you deserve at these locations:

ADESA Knoxville

1011 ADESA Pkwy
Lenoir City, TN 37771
865-988-8000
Sale on Friday

ADESA Memphis

5400 Getwell Rd.
Memphis, TN 38118
901-365-6300
Sale on Tuesday

ADESA Nashville

631 Burnett Road
Old Hickory, TN 37138
615-847-7400
Sale on Thursday

ADESA.COM

CREATIVITY IS THINKING UP NEW THINGS. INNOVATION IS DOING NEW THINGS.

— Theodore Levitt
Economist, Harvard professor (1925-2006)

Long before COVID was an every day word, ProGuard began searching for solutions to help our dealers adapt to the changes online shopping were bringing to the buying process. We wanted a tool that was easy to use and after much testing, found it with a company called SnapCell that offers online video capabilities to operate the automotive sales process digitally.

With SnapCell, you can use live video streaming for face-to-face customer contact or to take them on a virtual test drive. On the service lane side of the operation, technicians can explain recommended repairs to the customer, expediting approvals and open up more bays.

Keeping with our tradition of innovation. ProGuard has formed an alliance with SnapCell to bring value to our dealer partners in today's challenging environment. We have negotiated an exclusive discounted trial rate to help incorporate SnapCell into your operations immediately. We believe this technology has great applications today and well into the future and encourage you to take the first step to successful digital marketing.

proguardwarranty.com



877.474.9462



ProGuardSM
WARRANTY

Transparent. Accessible. Flexible.

06- Working Hard?

Joe Lescota

08- SEO?

Steve Stauning

14- Payments Rule

Ronald Gorsline / Dailey Wilson

16- Case of the Month

Eric L. Johnson

21- What did Covid do?

John Summer

22- Auctioneer Spotlight

Marcus Landers



Chief Editor Phyllis Sartin

Greetings,

I need to thank all our Partners for their continued support. We could not do this without you.

Inventory is the hottest topic right now and we want to welcome Clarksville Auto Auction as a new partner. The Adesa Marketplace App is at 95% of all locations. Memphis Auto Auction offers Buy Online, and Jackson Madison Auction has SimCasts. 1Click Auto Auction has consumer buyers and consumer cars for sale on their app. All our auction partners have implemented programs to facilitate all types of buyers.

A strong online presence is even more important today due to Covid and the newer generations buying style. We hope all dealers have compelling offers & vehicles well presented once a prospect has landed on your website or vehicle display page.

Our TDN rewards program continues to grow and offers great benefits. As always PLEASE let us know if we can help in any way.

Disclaimer:

The views, thoughts, and opinions expressed in the text of this publication belong solely to the author and do not necessarily reflect the viewpoint and/or position of Tennessee Dealer News, LLC.

Sales Manager: Phil Sartin
Graphics Design Director: Caleb Sartin
In Memory of Barbara Reed 1934-2019

PO Box 5036 | Bell Buckle, TN 37020
877-TDN-8320
www.TnDealerNews.com

Magazine Cover: Ushindi Namegabe Pexels.com

Contact us at Phil@TnDealerNews.com concerning cost effective advertising opportunities

DIEHARD IS BACK

Stock the brand customers know and trust.



Keep the DieHard batteries you need in stock with our battery stocking program and enjoy flexible payment options, including consignment. Offer industry-leading technology and coverage, with reliable, fast delivery for your shop.

Learn more about stocking DieHard at my.advancepro.com/diehardstocking.



How Hard Are You Really Working?

The auto industry is going crazy right now. Customers are wanting to buy used vehicles but finding inventory to meet demand is very challenging these days. Some dealers have gone so far as to consider following obituaries and divorce notifications in hopes of finding individuals needing to liquidate assets. It's enough to make your head spin. Just don't become one of those customers you had in the past that burned out their car's motor because they "were too busy to check or change the oil". I've spoken to thousands of car owners who simply could not tell me when the last time was they changed or checked their motor oil. You and I both have appraised many of those vehicles over the years. [Don't let it happen to your business.](#)

I'm very hopeful you're making lots of gross profit right now. We can discuss expenses another time. The question is, ["do you know your business today?"](#) When's the last time you stopped and calculated your inventory turn. I know some of you may be thinking, "my inventory is turning way too quickly to even figure it." If you don't stop to do the math every now and then how will you ever know if all of your hard work is really paying off? If you don't know your inventory turn rate, how will you know whether or not you're making as much profit as you deserve? Did you ever scratch your head at the end of a really great sales month only to question why you don't have enough cash on hand to meet your monthly expenditures? [One major clue to the mystery of poor cash flow may be found in discovering what your inventory turn rate is.](#) There are many, many tools on the market that will show you your inventory turn rate in real time. The caveat in taking this real time inventory turn number into consideration is that it will most likely include vehicles taken to auction or wholesaled.

In reviewing inventory turn I like to break inventory out and measure turn by category (i.e. trucks, cars, suv, wholesale car, wholesale truck, etc.) I find it easier to identify my true money makers from my losers and softer sellers. [Don't trust your memory or gut.](#)

[Do the math.](#) In order to track your rate of travel for this year's rate of inventory turn follow this formula:

Using last month's sales dollars for retail auto sales not including wholesale units (eg. \$810,000)

Subtract last month's total gross profit on retail auto sales, not including wholesale units (\$100,000)

The result will give you last month's Cost of Sales (e.g. \$710,000)

Multiply the Cost of Sales result by twelve months to give you the annualized C.O.S. (e.g. \$8,520,000)

Divide the annualized C.O.S. by the total dollar amount of retail inventory on hand (e.g. \$1,005,800)

The resulting answer will indicate your anticipated rate of travel at your current month sales rate (e.g. 8)

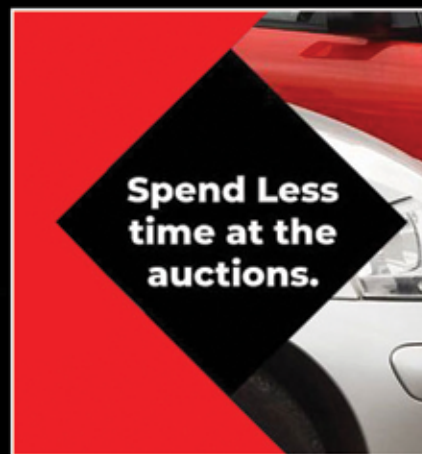
If inventory turns too slowly, let's say 4 times a year, you will have too much inventory on hand that is tying up cash flow. If inventory turns too quickly, let's say 12 times a year, it's possible you may be leaving money on the table or run out inventory to meet demand.

[Know your numbers and you'll earn more profits.](#)

[I look forward to seeing you all in the winner's circle.](#)



Joe Lescota
Joe Lescota Management
Education & Training
Buford, GA 30519
joe@joelescotamet.com
Office: 989-859-0960



Auction Comparison's

AUCTION BUY FEES

(5-Units)

1CLICK AA	\$0
ACV Auctions	\$1625
Local Auction	\$1800
Based On 5 Units	Avg. Transaction Cost

AUCTION SELL FEES

(5-Units)

1CLICK AA	\$0
ACV Auctions	\$1125
Local Auction	\$1610
Based On 5 Units	Avg. Transaction Cost

**Buy & Sell with
"NO AUCTION FEES"**



Download on the
App Store

469-459-3222



Download on the
Google Play



1 Click Auto Auction LLC
13785- Research Blvd #125,
Austin, TX 78750, USA

SEO: The New Old Fraud

I've written before that [SEO and SEM might be the greatest frauds ever perpetrated on America's dealers](#). While Search Engine Marketing (SEM) waste and fraud was usually the costliest of the two, it seems Search Engine Optimization (SEO) fraud has hit a new low.

Recently, a new client asked me for an analysis of their digital marketing. While I discovered the typical waste in their paid social, paid search, and display advertising, [I was absolutely shocked by what I uncovered with their SEO provider](#).

To be sure everyone understands what I'm writing about: SEO is intended to help your dealership's website rank higher in the organic (free) results on search engines like Google and Bing. Good SEO is essential for dealerships in a metro area, and a nice-to-have for most rural dealers.

This dealership had an agreement with their website vendor to provide SEO services in exchange [for a monthly payment of more than \\$1,500](#). The vendor's SEO agreement clearly spelled out the services they would provide. Among these, they were to create a specified number of content pages (mostly model reviews) and blog posts each month. For the sake of honoring my client's desire to remain anonymous, let's say the total number of content pages plus blog posts in the agreement was five per month.

Over the previous eight months (the period I reviewed), this vendor's contract indicated [they should have delivered 40 total pages of content, yet they provided exactly four](#). Yes, they delivered only 10% of what this portion of their SEO contract required. Moreover, the content they created for the dealership was poorly written and likely would have no positive impact on the website's search visibility. Coincidentally, two of the four content pieces were provided immediately after the dealership (at my request) sent a note to the vendor asking for clarification of their SEO package.

[Think about this for a moment](#): these model pages and blog posts were the only requirements in the SEO contract that would've been visible to the dealership, and the vendor just skipped 90% of them. This begs the question: What other requirements of the SEO contract has this vendor been skipping?

[In my experience, the vendor set a new low for SEO fraud](#); and it's unfortunate that so many other dealers are still using their services. Of course, this vendor did forward a fancy report each month with lots of graphs and charts touting the "value" delivered by their SEO services. Like nearly all vendor reports, these were meaningless.

My experience with this client might have you wondering if your SEO provider is taking you for a similar ride. It's not likely you're receiving just 10% of what you're paying for, as even the bad SEO providers will take the time to post worthless blogs and pages for their clients. The question you should be asking is, "How can I monitor my SEO provider's efforts to be sure I'm getting the benefits they promised?"

[I'm glad you asked that](#). In my experience, there are just two reports you need to review monthly to properly hold your SEO vendor accountable: Search Console (in Google Analytics) and the SEO Log.

Search Console

Search Console is provided by Google and consists of tools and reports to help measure your website's search performance, identify and fix issues, and improve your ranking in the Google search results. Your SEO provider should already be using this.

What you'll need is for your SEO provider to enable Search Console in your Google Analytics. When they do this, you'll immediately see information about the performance of your organic search

traffic. You'll also see the actual keywords consumers use to find you, and you'll be able to identify areas where your SEO vendor should focus. Plus, you can track improvements over time.

[Without Search Console, you have no idea if your SEO vendor is good, bad, or a fraud](#).

SEO Log

All good (and some bad) SEO vendors maintain an SEO Log. An SEO Log is simply "who did what and when" for your website. Without a log of these activities, the vendor would not be able to track progress and would repeat steps in one month already completed in a prior month.

Ask your SEO vendor to stop sending the fancy graphs (these are worthless) and start sending you their SEO Log each month. Also, be sure the log contains links to the actual content they claim they built for you. While you won't have to inspect these links every month, occasionally clicking through and reading the content they're posting on your behalf will give you a good idea if your vendor is writing what your future customers would actually read.

Art & Science

[To be sure, SEO is often as much art as it is science](#), which can make it hard for dealers to evaluate the efforts of their SEO vendor. Of course, in the case of my new client, SEO was also math; and this time the math just didn't add up.

Good Selling!



Steve Stauning
Founder
Stauning Solutions Group

Steve is the author of *Ridiculously Simple Sales Management* and *Assumptive Selling*; as well as a respected automotive industry veteran and founder of Stauning Solutions Group – a leading training & consulting firm – and the free sales video training website [SteveStauning.com](#). Steve's consulting work puts him in dealerships nearly every week, working side-by-side with managers, salespeople, and internet teams to help them improve their sales, processes, and profits. Prior to this, Steve served in various automotive leadership roles, including as the Asbury Automotive Group's (NYSE: ABG) director of ecommerce, the director of the Web Solutions division of Reynolds & Reynolds, and as the general manager of Dealer Web Services for Dominion's Dealer Specialties.

You may contact Steve directly by calling him at 888-318-6598 or via email at Steve@SteveStauning.com



SimCasts™ is Here!

Bid Online and use our Dealer Mobile App!



38 Graves Loop Rd. Medina, TN 38355 | Every Friday at 9:30 am (Licensed Dealers Only)



WHY CHOOSE US?

LOCATED 6 MINUTES FROM INTERSTATE 24!

For almost two decades we have been helping dealers buy or sell vehicles.



TRUSTWORTHY DEALERS

We protect our buyers and sellers and help guarantee fair and ethical sales.



LATEST SOFTWARE

We have the best software available to make the process of buying and selling vehicles as modern and handy as possible.



QUICK REGISTRATION

Save your time with our online registration form. You can attach all of the documents you need without leaving your home.



CONVENIENT LOCATION

For our clients' convenience and ease of travel we are located in Central TN, within easy reach.

clarksvilleautoauction.com

247 Needmore Rd, Clarksville, TN 37040 | Every Thursday at 1:30 pm



Specialized Insurance for the Independent Auto Dealer

We represent over a Dozen Nationally known
A-Rated Carriers.

We can shop the Market for you, so you can
spend your time selling cars!!

Est. 1995

(901) 756-5440

GARAGE LIABILITY VS GARAGEKEEPERS INSURANCE

Do you know the difference?

Don't worry; if I wasn't in the business, I probably wouldn't know the difference, either. But since you are a car dealer, you need to.

If your dealership operations cause bodily injury or property damage to a member of the public, not you, not your employees, garage liability insurance responds to defend you from lawsuit. It is a requirement of your dealer license. Minimum of \$300,000.

Garagekeepers insurance responds to damage to other people's cars while in your care, custody or control.

Let's say you have a mechanic in your dealership to work on cars you have for sale, you do not take in work from the public. Somebody buys a car from you and 2 weeks later, they bring it back with some mechanical problem that your mechanic can fix. Being a responsible dealer, you want to keep your customers happy, so your mechanic goes to work. When he finishes, he has to test drive the car to be sure it's fixed. There's an accident. You dutifully included your mechanic in your list of covered drivers on your garage liability insurance, so you should be covered, right? But when you sold that car, you transferred ownership to the buyer. It's no longer your car. That's what garagekeepers insurance is for.

Ya'll stay safe out there.

About the author: John Niven has owned and operated Auto Agency Inc., specializing in insuring used auto dealers, since 1995. He holds the CPCU and ARM designations in risk management from the American Institute for Property and Liability Underwriters in Malvern, PA. He can be reached at 901 756 5440 or Niven@bellsouth.net.

FREE CUSTOM RESPONSIVE UPGRADE

CUSTOM DESIGNED WEBSITES

Website Texting
Facebook Marketing
Craigslist Automated Posting
Reputation Management



2020 Top Rated
Website Marketing Provider

JTZ Enterprise,
Your Trusted Dealership Partner

540-286-0801 | <https://www.jtzenterprise.com>

AUTO USE Smart. Simple. Easy.

Auto Use Floorplan provides great flexibility and benefits, such as:

- ✓ No money out of pocket until 90th day
- ✓ Simple, transparent fee structure
- ✓ Extendable terms up to 360 days
- ✓ Accepted at over 500 Auctions Nationwide
- ✓ Accepted on all major online auctions
- ✓ Online Inventory Management
- ✓ Manage your own payments

IMPROVE CASH FLOW WITH THESE ONE
OF A KIND FLOORPLAN PRODUCTS:

- ✓ Checkbook
- ✓ Lien Payoff
- ✓ "Cash" for Trade Ins



Apply today and put our 50 years of Automotive Finance Experience to work for you!

Call toll free
800-873-2907

Log on to:
autouseautoloan.com

email us @
floorplansales@autouse.com

All Floorplan lines are subject to credit approval. Approvals are based on personal credit of all owners, time in business, references and financial information collected with application. All normal terms and conditions of the Auto Use contract apply.

AUCTION PARTNERS



ADESA[®]
NASHVILLE

**Sale Day: Thursday at
8:30 a.m.**

**631 Burnett Road
Old Hickory, TN 37138**

Primary Phone: 615-847-7400

www.adesa.com/Nashville

JACKSON
MADISON COUNTY
AUTO AUCTION

**Sale Day: Friday at
9:30 a.m.**

**38 Graves Loop Rd
Medina, TN 38355**

Primary Phone: 731-783-4500

www.jacksontennesseeeautoauction.com



Memphis Auto Auction

**Sale Day: Wednesday at
8:15 a.m.**

**3719 Old Getwell Road
Memphis, TN 38118**

Primary Phone: 901-795-7634

www.memphisautoauction.com



ADESA[®]
MEMPHIS

**Sale Day: Tuesday at
8:45 a.m.**

**5400 Getwell Rd, Memphis,
TN 38118**

Primary Phone: 901-365-6300

www.adesa.com/memphis

AUCTION PARTNERS



Sale Day: Contact us for details

**13785 Research Blvd #125,
Austin, TX 78750, USA**

Primary Phone: 469-459-3222

www.1clickautoauction.com



**Sale Day: Tuesday at
4:00 p.m.**

**50 Fiberglass Rd
Jackson, TN 38301**

Primary Phone: 731-423-5551

www.dealerconnectautoauction.com



**Sale Day: Every Friday
IN-OP Sale at 9:15 a.m.**

**1011 Adesa Blvd
Lenoir City, TN 37771**

Primary Phone: 865-988-8000

www.adesa.com/Knoxville



**Sale Day: Every Thursday at
1:30 p.m.**

**247 Needmore Road,
Clarksville, TN 37043**

Primary Phone: 931-647-5700

www.clarksvilleautoauction.com

The Bureau's "Payments Rule" – It Could Apply to You

In July 2020, the Consumer Financial Protection Bureau ("Bureau") finalized the Rule governing Payday, Vehicle Title, and Certain High-Cost Installment Loans ("Payments Rule"). **The Payments Rule imposes requirements regarding payment attempts** – specifically, prohibiting subsequent payment attempts following a second consecutive failed payment transfer without a new authorization. The Payments Rule also requires persons making "covered loans" to send three different types of payment notices to borrowers.

The term "covered loan" is broadly defined under the Rule to include "closed-end" credit subject to a number of requirements, exclusions and restrictions set forth in 12 CFR 1041.3. Most notably, the Rule exempts "purchase money security interest loans" (the "PMSI Exemption"), which is defined as credit extended for the sole and express purpose of financing a consumer's initial purchase of a good when the credit is secured by the property being purchased, whether or not the security interest is perfected or recorded. **The Rule does not exempt "closed-end" credit financing the purchase of services.** The Commentary to the Rule in addressing the PMSI Exemption adopts the "sole purpose" test and notes that a loan is made solely and expressly to finance the consumer's initial purchase of a good even if the amount financed under the loan includes Federal, State, or local taxes or amounts required to be paid under applicable State and Federal licensing and registration requirements. However, the Commentary notes that the PMSI Exclusion does not apply to "refinances of credit extended for the purchase of a good."

In addition, the Payments Rule covers three categories of "covered loans:" (1) short-term consumer credit with a term of 45 days or less; (2) longer-term consumer balloon payment credit; and (3) longer-term consumer credit that exceed 45 days with a rate above 36% APR in which the lender obtains a leveraged payment mechanism. A person obtains a leveraged payment mechanism if it has the right to transfer money from a consumer's account.

Though the Payments Rule may not be on your compliance radar, dealers and sales finance companies should be aware that the Payments Rule could apply to certain transactions, depending on the terms of the transaction. Until further clarification from the CFPB, dealerships that include services, ancillary products, insurance, or guaranteed asset protection waivers in the financing transaction need to consider whether the transaction would be covered by the Rule. In sum, dealers should consider the Rule as part of its compliance responsibilities, and monitor the CFPB's pronouncements relating to the Rule.

**** Ronald Gorsline is a partner in the Ooltewah, Tennessee office of Hudson Cook, LLP. Ron can be reached at 423-490-7562 or by email at rgorsline@hudco.com. Dailey Wilson is an associate in the Ooltewah, Tennessee office of Hudson Cook, LLP. Dailey can be reached at 423-490-7567 or by email at dwilson@hudco.com**

The Rule is presently stayed by Court Order in the case of: Community Financial Services Association et al v. Consumer Financial Protection Bureau et al, United States District Court Western District Texas, Cause No: A-18-CV-0295-LY

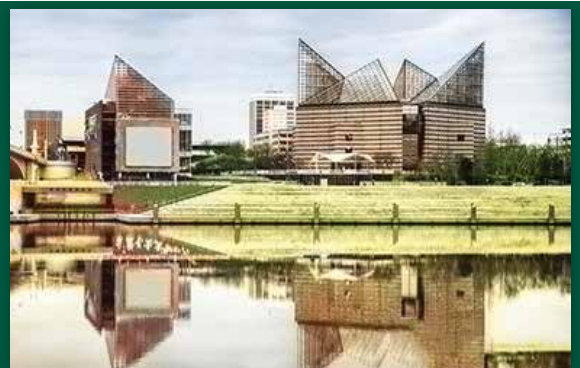


Ronald Gorsline
Partner of Hudson Cook, LLP



Dailey Wilson
Associate of Hudson Cook, LLP

Tennessee Office of Hudson Cook, LLP
9431 Bradmore Lane
Suite 201
Ooltewah, TN 37363
P: 423.490.7560
Fax: 423.490.7558





OPEN NEW DOORS

FOR YOUR DEALERSHIP WITH THE

PROTECTIVE DOWC

DISCOVER THE BENEFITS OF CONTROLLING YOUR F&I OPERATIONS
BY WORKING WITH THE CREATOR OF THE DEALER OWNED WARRANTY
COMPANY PROGRAM

DON'T MISS THE OPPORTUNITY TO START YOUR
OWN WARRANTY COMPANY WITH THE
LARGEST DOWC PROVIDER



Call Protective's Tennessee representative,
at 309 370 4200



Visit protectiveassetprotection.com/DOWC

Protect Tomorrow. Embrace Today.™

Vehicle Protection Plans | GAP Coverage | Credit Insurance | F&I Training
Limited Warranty Products | Dealer Participation Programs | Advanced F&I Technology


Protective.
Asset Protection

USW UNITED STATES
WARRANTY CORP.

A **Protective.** Company

Lifetime Engine Warranty, Limited Warranty, Vehicle Service Contracts (VSCs) and GAP are backed by Protective Property & Casualty Insurance Company in all states except NY. In NY, VSCs are backed by Old Republic Insurance Company. GAP, Lifetime Engine Warranty and Limited Warranty are not available in NY. Credit Insurance is backed by Protective Life Insurance Company in all states except NY, where it is backed by Protective Life and Annuity Insurance Company. USWC Holding Company and its affiliated operating subsidiaries are wholly owned by Protective Life Insurance Company which includes the Asset Protection operating division. Actual financial performance of participation programs vary based on numerous factors. Please consult your tax and/or legal professional.

Case(s) of the Month

by Eric L. Johnson

Courts Discuss Military Lending Act's Applicability to Motor Vehicle Retail Installment Contracts that Financed Items in Addition to Cars:

Two cases we report on this month discuss whether the Military Lending Act applies to motor vehicle retail installment contracts that financed items other than just the cars being purchased.

In the first case, a servicemember entered into a retail installment contract with a dealership to finance his purchase of a used vehicle as well as add-on items, such as a GPS system and GAP coverage. The RIC also included an arbitration provision. The servicemember sued the dealership, and the dealership moved to compel arbitration. The magistrate judge recommended that the motion to compel arbitration be granted, and the servicemember objected.

The U.S. District Court for the Middle District of Florida adopted the magistrate judge's recommendation to enforce the arbitration provision. The servicemember argued that the MLA prevented the dealership from compelling arbitration. The MLA states that an agreement to arbitrate a dispute involving an extension of consumer credit is void and not enforceable against certain groups, including active-duty servicemembers.

However, the MLA exempts from the definition of "consumer credit" "a loan procured in the course of purchasing a car or other personal property, when that loan is offered for the express purpose of financing the purchase and is secured by the car or personal property procured[.]" Department of Defense regulations also exempt from the definition of "consumer credit" any "credit transaction that is expressly intended to finance the purchase of a motor vehicle when the credit is secured by the vehicle being purchased." The servicemember argued that the bundling of the GPS system and the GAP coverage in the RIC removed his credit transaction from the MLA's exemption.

Various DoD interpretive rules have addressed whether a credit transaction involving the financing of a vehicle and other items related to the purchase of the vehicle is subject to the MLA's exemption, but the court noted that "[i]nterpretive rules do not have the force and effect of law and are not accorded that weight in the adjudicatory process."

The court interpreted the phrase "when that loan is offered for the express purpose of financing the purchase" to determine whether the servicemember's RIC was subject to the MLA's exemption. The court found that the RIC specifically states that it is intended to finance "the Vehicle." The majority of the financed amount in the RIC is attributable to the vehicle price. Moreover, "[a]ll of the additional items bundled into the [RIC], apart from the vehicle, were only purchased because the vehicle was purchased. Without the vehicle's purchase, the other items would not have been purchased. The vehicle is at [the] epicenter of the transaction while the costs for items such as a GPS are ancillary and specifically tied to the vehicle. The presence of the other

add-on items does not alter the [RIC's] express purpose, i.e., the purchase of the vehicle."

Accordingly, the court concluded that the servicemember's RIC was exempted from the definition of "consumer credit" in the MLA and DoD regulations and, therefore, that the dealership could enforce the arbitration provision in the RIC. See **Juarez v. Drivetime Car Sales Company, LLC**, 2021 U.S. Dist. LEXIS 103702 (M.D. Fla. June 1, 2021).

In the second case, a servicemember entered into a retail installment contract with a finance company in connection with his purchase of an SUV. The servicemember sued the finance company for violating the MLA by failing to disclose various fees, failing to disclose the true cost of credit, and requiring him to submit claims to arbitration.

The finance company moved to dismiss the complaint, and the U.S. District Court for the Eastern District of Virginia granted the motion.

In 2016, the DoD issued an interpretation of the MLA exclusion for financing the purchase of personal property. That interpretation stated that credit that a creditor extends for the purpose of purchasing personal property that secures the credit is not exempt from the MLA's definition of "consumer credit" if the creditor simultaneously extends credit in an amount greater than the purchase price.

In 2017, the DoD issued a similar interpretation of the MLA exclusion for financing the purchase of a motor vehicle where the creditor simultaneously extends credit in an amount greater than the purchase price of the motor vehicle being purchased. That interpretation, Q&A #2, stated that whether such a transaction is exempt from the MLA's definition of "consumer credit" depends on what the credit beyond the purchase price is being used to finance. If the extra credit is used to finance a product or service expressly related to the vehicle, then the transaction is still covered by the exception and is not subject to the MLA. If, however, the extra credit is used to finance a credit-related product or service, such as GAP insurance or a credit insurance premium, then the transaction would not be covered by the exception and would be subject to the MLA.

In 2020, the DoD withdrew the 2017 interpretation. The servicemember argued that, despite the withdrawal of Q&A #2, his RIC was subject to and violated the MLA because it included GAP coverage, a processing fee, and prepaid interest, none of which were related to the vehicle he purchased. The finance company argued that accepting this argument would amount to a reinstatement of the 2017 interpretation. The court agreed and added that even if the 2016 interpretation concerning personal property, which was not withdrawn, applied to motor vehicles, the GAP coverage, processing fee, and prepaid interest included in the servicemember's RIC are not "unrelated to the purchase of the motor vehicle; rather, they are inextricably tied to [his] purchase of the vehicle." See Davidson v. United Auto Credit Corporation, 2021 U.S. Dist. LEXIS 95302 (E.D. Va. May 19, 2021).

Continued on page 20

WHO'S
BEHIND
YOUR
COMPLIANCE
?

we are.



POWERED BY:
HUDSON
COOK

counselorlibrary.com
877-464-8326

EZ DEALER FINANCE



Banks



Credit Unions



Finance Companies



Leasing



Rate Participation

*We give your dealership more options and sources for you
to sell more vehicles.*

*You Have The Customers
We Have The Lenders!*

USE CODE
TDN2021

www.EZDealerFinance.com

Info@EZDealerFinance.com



TAA

TENNESSEE AUTOMOTIVE ASSOCIATION

**WE ARE HERE
FOR YOU**

Contact us:
615-269-3433
info@taaonline.biz
www.taaonline.biz

- Your voice on Capitol Hill.
- Promoting and protecting Tennessee's Dealers since 1938.
- Open lines of communication with state regulatory agencies, policy makers, legislators and motor vehicle manufacturers.
- TAA Bulletin is widely recognized as one of the best dealer publications in the country.
- CARPAC - Only Political Action Committee exclusively promoting Tennessee's wholesale and retail automotive industry.
www.tncarpac.com
- Educational and Compliance training for you and your employees.
- Legal Defense Fund supports legal actions which may involve one dealer but affect all dealers.
- Wholly owned subsidiary, Tennessee Automotive Association Service Company, partners with firms whose value-added products & services enhance your dealership's bottom line.

VANTAGE handles F&I for you and delivers all that you would expect from an industry leading F&I department, which includes being highly effective at **selling back-end products, closing payments, making the proper disclosures, keeping your customers happy and increasing your Per Car Profits.**

VANTAGE is your virtual finance office, completing each transaction by phone while avoiding the headaches that are often associated with traditional F&I operations. All of this without increasing your overhead costs.

LET US SHOW YOU WHAT WE CAN DO FOR YOUR BUSINESS!

**OUT OF STATE TITLE
TRANSFERS PROCESSED *FREE*
PLAIN PAPER FORMS**

**ACH FUNDING
GET YOUR MONEY FASTER!**

DEALER RETAINS 30% OF BACK-END PRODUCTS
that VANTAGE generates for you!

DEALER RETAINS 100% OF FRONT-END LESS A \$239
Vantage fee & Lender acq. fee if deal funds

SERVICES VANTAGE PROVIDES

- Provides access to a full spectrum of National Lenders
- Helps keep you compliant in an ever changing compliance world
- Performs professional product presentations, sells the service contracts & GAP insurance products for you
- Helps improve customer satisfaction and retention
- Credit Application Analysis
- Rehashing & working with Lenders
- Fact finding interviews with Customer
- Provides digital 8 x 11 laser printed deal forms for quick and easy vehicles deliveries



**INCREASE YOUR SALES LEADS
INSTANTLY**

CALL HIGHER TURNOVER TODAY
540-286-0801 | WWW.HIGHERTURNOVER.COM

This Month's CARLAWYER®

Compliance Tip

The Case(s) of the Month provide much needed clarity to auto dealers concerning the applicability of the MLA to vehicle retail installment transactions that include financing for ancillary products. However, note that both cases have been appealed—Davidson to the 4th Circuit and Juarez to the 11th Circuit. In addition, the DoD could reconsider the issue and publish further guidance or interpretations (though there have not yet been any indicators that it plans to do so). Dealers should remain aware of the risks presented by the MLA and its potential applicability to motor vehicle retail installment transactions.

So, there's this month's roundup! Stay legal, and we'll see you next month.

Eric (ejohnson@hudco.com) is a Partner in the law firm of Hudson Cook, LLP, Editor in Chief of CounselorLibrary.com's Spot Delivery®, a monthly legal newsletter for auto dealers and a contributing author to the F&I Legal Desk Book. For information, visit www.counselorlibrary.com. ©CounselorLibrary.com 2021, all rights reserved. Single publication rights only to the Association. HC# 4853-1738-417



Eric L. Johnson
Partner of Hudson Cook, LLP



It's time to change
your approach to F&I compliance

WITH THIS SPECIAL OFFER...

Subscribe to *Spot Delivery* and, at no additional charge, we will send you a copy of your choice of any of our legal compliance books, *CARLAW*, *CARLAW®II Street Legal* or *CARLAW®III Reloaded*.



To order, visit us at
www.counselorlibrary.com/offer/spot
or call us at 877-464-8326.
Also follow us on: [in](#) [t](#) [f](#)

What did Covid do to the Car Business?

Do you remember the feeling you had as we entered the year of 2020? Early that year the economy was BOOMING! Inflation was non-existent, the stock market was roaring, jobs were plentiful and there were people willing to fill them. Cars were selling. Then, Covid hit.

The automotive industry fared better than most experts predicted. That in no way minimizes the death and destruction the virus caused. To date, there have been over 33 million recorded cases and more than 600,000 deaths nationwide. Covid was no joke. The shutdown forced everyone to stay home, take time off from work, find new ways to manage the kids, and cancel all travel plans for an undetermined amount of time. It is true the pandemic made selling cars more of a challenge than ever before. It forced car dealers all across the nation to do one of two things. Either they bunkered down, shuttered the doors, and waited for it to be over, OR they zigged when everyone else was zagging!

JTZ Enterprise has serviced Independent Dealers with their Internet Advertising needs for more than 26 years. We have hundreds of car dealers all across the nation for whom we host websites, manage their data feed needs, and so much more. By the middle of 2020, we could look at a client's website statistics and determine whether they hunkered down or sprang into action.

All dealership Website Traffic reports show website visits drastically reduced in the month of February. It was then that Doctor Fauci came on to the scene, schools, airports, and businesses were shutting down, and it was becoming clear that the curve was not going to get flattened overnight. That is when the two dealer groups formed. Dealerships that saw this as a time to pull back liquidated what they had in stock, stopped buying vehicles, and may have even sent staff home. The other group of dealers saw vehicle costs dropping and said, "Heck, let's buy more!" and they did. The cautious group of dealers saw further website traffic decreases in March and the declines did not truly level off until April or May. The Risk Takers saw their traffic losses level off in one month and many even saw a rebound back to pre-pandemic levels by June! The first group of dealers saw stagnant traffic throughout the rest of 2020 while the Risk Takers saw gains in traffic starting late in the third quarter.

Why did this difference in reaction affect web traffic? It boiled down to inventory! By mid-April, the Federal

Government pumped out more than \$2 trillion in stimulus money to people who still weren't going to restaurants, movies, work or school. In short, they had nothing to spend their money on so car buying seemed logical. One thing Covid did to the auto buying process was accelerate the rate at which Americans purchased vehicles online. The dealerships that continued buying inventory and honed their online presence saw the greatest amount of sales, period. Online buying was already growing before the virus took hold, but when people were given extra spending money but still not allowed to get out of the house, they found other ways to shop for everything including new and used vehicles. Websites that had extra features such as Save/Compare, Buy Now, Loan and Fuel Calculators, and integrations with Facebook Messenger saw greater conversions because they allowed the consumer to perform more of the Buying Process from their living room getting them past the decision to buy before they ever made it to the dealership. Dealers that went the extra step by providing Home Delivery saw even more shoppers converted into buyers.

While this pandemic is winding down, none of us know what the future holds. The fact is in order to weather the next storm, we all should take the time to review our online presence, improve our online shopping experiences, and generally get ready for the New Generation of Car Buyers, the one willing to Click To Buy their next vehicle!



John Summer

Owner

JTZ Enterprise, LLC

540-286-0801

JTZEnterprise.com

Auctioneer Spotlight



Marcus Landers

Marcus Landers is an Auto Auctioneer with 13 years of experience in the Tennessee auto auction industry. Currently he works at 4 auctions weekly including Manheim Auto Auction, ADESA Nashville, and Music City Auto Auction.

Marcus currently resides in Scottsville Kentucky, where he was born and raised. There he lives with his wife of 10 years, Ann-Kathryn, their two beautiful daughters, Katy Beth (4) and Olivia James (2 months), and their golden retriever, Molly (8). Together they enjoy raising chickens and Hereford cattle as a family on their small farm. He attends Beech Grove Church, where he is a Deacon and Sunday School Superintendent

The 2013 Kentucky State Auctioneer Champion has been in the auction business since 2004 working with Mills Real Estate and Auction initially as sale day help. In 2007 he acquired his apprentice auctioneer license, then in 2011 he received his principal license. Between that time, he began working as a ring man at Manheim Nashville, formerly ABC Bowling Green, and later at ADESA Nashville for the GM Factory Sale. A few years after working as a ring man he began transitioning onto the auction block. Today he works as a full time Auctioneer in the Kentucky and Tennessee auto auction industry, as well as a Real Estate and Farm Machinery Auctioneer. In addition to his auction career, Marcus works with his wife as Landers Realty Team for Mills Real Estate and Auction Company.

The auction industry has given him many opportunities, including the chance at selling the Kentucky State Fair grand champion ham at the Kentucky Farm Bureau Country Ham Breakfast and Auction. In 2014, Marcus sold the record-breaking ham for \$2 million dollars; not many auctioneers can say they've done that. Because of the vast opportunities he's received, Marcus likes to give back to his community by volunteering his talent for charitable auctions. Marcus says, "The Auto Auction industry has been very rewarding for me. I've been able to sell cars for some of the best dealers in the market and cherish the relationships we've built over time." Marcus also mentioned that he could not do what he does if it wasn't for the help and support from the clerks, ring men, and auction staff.

"I truly never dread going to work and I love what I do. Hope to see you in-lane or on-line!"

FEATURES

877-TDN-8320



Compliance



Website Review



Monthly
Newsletter



Legislation



Approved Ad
Guidelines



Auction
Discounts

BENEFITS

JOIN NOW



Training



Fast-Track
Finance



TDN Member
Rewards



THE affordable online classified listing site.

877-836-8320

Tired of chasing cars? We've got you!



SVR TRACKING

SVR GPS TRACKER

RUNAWAY CAR

YOU



**"IF YOU HAVE TIME TO REPO A CAR
YOU BETTER HAVE SVR!"**

- He who has the most data WINS!
- Up to 21,600 free automatic locates / month
- Superior LTE Cat-1 cellular connectivity
- No contracts!
- Voted Best Mobile App in the market

iPhone / Android
app available



Integrated with Frazier



423-661-6899
www.svrtracking.com



SVR Tracking Services



svr_tracking



SVR Tracking