

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

HEATHER PETERS

Plaintiff(s) and Respondent(s)

AMERICAN HONDA MOTOR CO., INC.

Defendant(s) and Appellant(s)

Case Number  
11S02156

J U D G M E N T  
AFTER TRIAL DE NOVO ON APPEAL  
FROM THE SMALL CLAIMS COURT

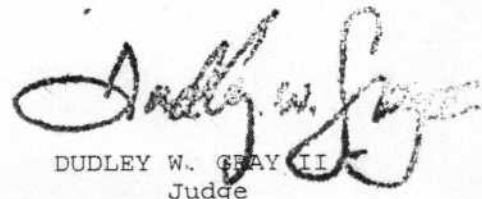
(Department SWM )

The Appeal of the Defendant(s) and Appellant(s) herein from a Judgment of the Small Claims Court of the SOUTHWEST DISTRICT, at the TORRANCE COURT COURTHOUSE the Honorable DUDLEY W. GRAY II Judge of the Superior Court, Presiding in Department SWM, on 04/13/2012; the Plaintiff(s) and Respondent(s) appearing In Pro Per and the Defendant(s) and Appellant(s) appearing with counsel ROY BRISBOIS and evidence having been adduced, and the cause argued and submitted to the Court for decision, and after submission, on 05/08/2012, the Court renders the following ruling:

It is ordered, adjudged and decreed that said PLAINTIFF(S) and RESPONDENT(S) take nothing by his action and that said DEFENDANT(S) and APPELLANT(S) have judgment for his costs in the Superior Court in the sum of \$ 75.00

OTHER: (PLEASE SEE THE COURT'S DETAILED RULING IN THE 'ATTACHMENT TO SMALL CLAIMS JUDGMENT'.)

Dated: 05/08/2012

  
DUDLEY W. GRAY II  
Judge

SCT4

JUDGMENT AFTER TRIAL DE NOVO ON APPEAL

**FILED**  
LOS ANGELES SUPERIOR COURT

MAY 08 2012

JOHN A. CLARKE, CLERK  
*Amy Eubanks*  
BY AMY EUBANKS, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES  
SOUTHWEST JUDICIAL DISTRICT

HEATHER PETERS, ) Case No.: 11S002156  
Plaintiff, )  
vs. ) ATTACHMENT TO SMALL CLAIMS  
AMERICAN HONDA MOTOR CO., INC., ) JUDGMENT  
Defendant )

On April 13, 2012 this matter came on for Small Claims Appeal Trial De Novo in Department M of the Southwest District, the Honorable Dudley W. Gray II, Judge, presiding. Plaintiff Heather Peters, and Defendant American Honda Motor Co., Inc., were each present or represented at Trial.

The Appeal Trial De Novo was heard and taken under submission by the Court. After further consideration of the evidence and argument presented by the parties, the Court ordered Judgment in favor of the Defendant. (See attached Judgment.) The Court now offers the following detailed ruling:

After opting out of a similar class action lawsuit, the Plaintiff Heather Peters filed this action against the Defendant American Honda Motor Company.

1 The Plaintiff makes three claims. She claims fraud by the Defendant in its fuel economy  
2 ratings for the vehicle. She claims fraud by the Defendant in its advertising for the vehicle's  
3 performance. She alleges her reliance on the fraudulent representation caused her to buy an  
4 unsatisfactory vehicle. Finally, Plaintiff claims her vehicle's performance was harmed by  
5 Defendant's mandatory software upgrade.

6  
7 The Court finds the following facts were proved at Trial:

8  
9 • Plaintiff has standing to bring this suit in state court. However, federal regulations  
10 control the fuel economy ratings posted on vehicles and advertising claims related to those fuel  
11 economy ratings.

12  
13 • At all relevant times the Defendant complied with applicable Environmental Protection  
14 Agency ("EPA") and Federal Trade Commission (FTC) requirements.

15  
16 • The Defendant's fuel economy ratings for the vehicle were obtained using the test  
17 method mandated by the EPA. The EPA later audited those numbers and found them to be in  
18 compliance.

19  
20 • The Defendant's advertising of its fuel economy ratings are governed by the FTC.  
21 Testimony presented proved compliance with regulations.

22  
23 • The EPA's estimated miles per gallon rating are for comparison among vehicles. They  
24 do not take into account many factors that affect mileage at a given moment.

25  
26 • Some of the many factors that affect mileage include the overall condition of the  
27 vehicle, the speed of the vehicle, the smoothness of driving the vehicle, the length of the trip,  
28 the equipment used such as the tires and air conditioner, the traffic conditions, the weather and  
29 the geography.

1 • Despite these many variables, most of the owners of the subject vehicle achieve fuel  
2 economy very close to the EPA estimate. A graph was presented that showed the results of  
3 real world fuel usage as reported to fueleconomy.gov. The graph demonstrates the bell curve  
4 expected in nearly any large group surveyed. The majority of users report mileage very close to  
5 the EPA estimates.

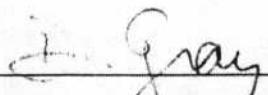
6  
7 At Trial, the Defendant presented testimony of a technician who test drove a customer's  
8 car. The customer reported unsatisfactory mileage in the range of 28 miles per gallon. The  
9 technician, using self-described normal driving procedures, achieved an average of close to 50  
10 miles per gallon in the same vehicle. Plaintiff's vehicle was not tested due to the numerous  
11 conditions imposed on the test and results by the Plaintiff.

12  
13 With regards to Plaintiff's complaint about Defendant's use of advertising slogans such  
14 as "sipping fuel", "amazingly little fuel" and "saves plenty of money on fuel", the Court rules that  
15 these are non-actionable sales puffery. They are not specific promises of anything.

16  
17 Finally, as to the software update, the Court finds it was designed to prolong the life of  
18 the IMA battery, not to increase mileage or performance of the vehicle Plaintiff's subjective  
19 impressions of sluggishness or impaired safety are unsupported by any objective evidence.  
20 Instead evidence was presented that there has never been a reported accident related to the  
21 performance of this vehicle despite the many tens of thousands produced.

22  
23 Based upon the evidence presented, the Court finds judgment in favor of the Defendant.

24  
25  
26 Dated: 5.8.12

27  
28   
29 \_\_\_\_\_  
30 Dudley W. Gray II  
Judge of the Superior Court