

Custom-Built Bel Air

ONE OF MY FAVORITE ROY

ORBISON SONGS is “Careless Heart.” In it, the narrator laments that his cardiologic complacency let his best chance at love slip away, never to be regained.

As it can be in romance, so it can be in law. If a person or entity has done you wrong, but you dilly-dally and the statute of limitations runs out before you sue, you’re pretty much out of luck. Similarly, if you’re in a lawsuit, but you don’t follow the rules, you might lose the case for that reason alone—regardless of the strength of your case or defense.

These opening bars of blues lead us to the case we are spinning this month, *Spatta v. American Classic Cars*, decided on December 11, 2012, by the Superior Court of Connecticut.

According to the court, plaintiff George Spatta Jr. alleged that in March 2007, he met with Gus Paoli, the operator of American Classic Cars, LLC (“ACC”), a company engaged in the business of antique car restoration and new vehicle manufacture and/or assembly. They discussed Spatta’s dream of owning a 1957 Chevrolet Bel Air convertible. Paoli, who represented himself to be an expert at car assembly, offered to build Spatta a 1957 Chevrolet Bel Air convertible as a new car for \$10,000 over his cost, which he estimated to be \$110,000.

Paoli further represented that he could complete the vehicle in three months, that it would be new-car quality and would perform as a new car, and that it would be worth more than \$250,000. (There was no written agreement.) Based upon Paoli’s representations, Spatta gave the defendants a \$50,000 down payment.

Spatta alleged that the project dragged on for longer than agreed; he paid additional money when requested, then finally picked up the car in September 2009. Spatta claimed the vehicle then overheated, the power steering and power brakes were whining, the emergency brake did not operate and the transmission was not operating properly. He returned the car. A week later, after picking the car up again, the power windows did not operate and the power top frame became bent when operated, which caused the canvas top to tear. The defendants

blamed Spatta for the mishaps.

Spatta claimed he subsequently discovered that the metal frame top had been improperly installed, the backseat was not made for the vehicle, the soundproofing was inadequate, and the front seat had been incorrectly installed. Spatta had to gut the interior and reassemble it with proper parts. He brought the car back to the defendants on four separate occasions to deal with various defects.

Spatta claimed the vehicle could not be safely driven. Additionally, there was an overheating problem, the doors and trunklid were not properly aligned, and the doors did not shut when the windows were up. By this time, he had paid the defendants \$175,000, plus sales tax of \$10,500. He also paid directly for parts and repairs. Spatta sued Paoli and ACC; the defendants denied the allegations.

During the lawsuit, the defendants failed to comply with their “discovery” obligations, which required them to provide certain pertinent information and/or materials to Spatta for use in the case. Because of that failure, the court issued a default judgment, a ruling in favor of Spatta and against the defendants. Given that ruling and the defendants’ subsequent failure to submit a timely notice of intention to contradict certain of Spatta’s allegations, the court was bound by (required to rule consistent with) Spatta’s allegations.

After hearing testimony and reviewing evidence in the case relating to damages, the court made additional findings. It found that Spatta paid directly for various items during assembly of the vehicle, in the amount of \$10,976.83. He also paid \$10,000 to rectify defects in the seats, upholstery, roof frame and top.

The court found that the vehicle that the defendants delivered to Spatta in September 2009 was unsafe in several respects. The gas pedal was mounted so that it was actually under the right side of the brake pedal, which can prevent quick application of the brake because the foot may strike the underside of the brake pedal. Both steering universal joints were not secured correctly; two of the lock nuts were missing and the center set screws were not protruding past the lock nuts as they should be; the steering shaft hit the

exhaust header when the engine torqued up in the drive position. The gasoline filter was mounted directly over the exhaust system, with the mounting screws protruding into the filter base; this can cause a crack in the filter housing, resulting in a leak that could cause the gas to ignite. There were several problems with the rear brake hoses and lines, as well.

The main power cable was mounted so it rubbed on the transmission housing, creating a fire hazard. The power windows had power to them at all times, creating another fire hazard; the on/off switch in the trunk was inadequate. The emergency brake was inoperative. The headlamps were not adjusted properly and made driving at night almost impossible. The steering lines were incorrectly installed, resulting in unstable braking with unsafe steering. The oil pan was installed improperly; the rear main seal was leaking, as was the oil pan gasket; the engine overheated, leading to the potential for serious damage.

The frame was improperly attached to the body, causing fit problems. This improper fastening of the body to the frame also created inadequate spacing for the fuel lines and exhaust placement—a fire hazard. The power steering lines were reversed, causing a whine and a potentially disastrous safety issue. There were issues with window fitment and use.

The court accepted the opinion of Spatta’s hired expert that, in order to correct the problems and defects in the vehicle, it would have to be taken apart and put back together again, and many of the components that were improperly installed would need to be replaced.

Finding that Spatta had actually proven all the allegations in his complaint, the court turned to assessing the damages to be awarded him. It rescinded (undid) the agreement between the parties, and provided that Spatta would transfer the vehicle to the defendants upon payment of the \$175,000 purchase price, \$10,976.83 spent directly by Spatta, \$10,000 spent on interior repairs, plus \$15,040.50 in attorney’s fees, for a total of \$211,017.33.

As of this writing in early January, 2013, the defendants are appealing the court’s decision. ☞