

APPENDIX

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Exhibit A

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-2199

RICHARD COLEMAN,

Plaintiff - Appellant,

v.

STATE OF NORTH CAROLINA; FRANKLIN COUNTY, NC; AMANDA
STEVENSON, Judge and Individually; ARKOFA AUTO SALES; R. KEITH
SHACKELFORD, Attorney,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of Virginia, at
Norfolk. Raymond A. Jackson, District Judge. (2:21-cv-00399-RAJ-LRL)

Submitted: January 20, 2022

Decided: January 24, 2022

Before WILKINSON, DIAZ, and THACKER, Circuit Judges.

Regan O'Hara O'Hara

Affirmed by unpublished per curiam opinion.

Richard Coleman, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

Exhibit A

PER CURIAM:

Richard Coleman appeals the district court's order dismissing his civil action without prejudice for improper venue.* We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. *Coleman v. State of North Carolina*, No. 2:21-cv-00399-RAJ-LRL (E.D. Va. Sept. 27, 2021). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

* We conclude that the district court's order dismissing Coleman's action without prejudice is an appealable final order. See *Domino Sugar Corp. v. Sugar Workers Local Union 392*, 10 F.3d 1064, 1067 (4th Cir. 1993) (holding that dismissal without prejudice may be final if no amendment to complaint can cure defect in plaintiff's complaint).

FILED: January 24, 2022

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-2199
(2:21-cv-00399-RAJ-LRL)

RICHARD COLEMAN

Plaintiff - Appellant

v.

STATE OF NORTH CAROLINA; FRANKLIN COUNTY, NC; AMANDA
STEVENSON, Judge and Individually; ARKOFA AUTO SALES; R. KEITH
SHACKELFORD, Attorney

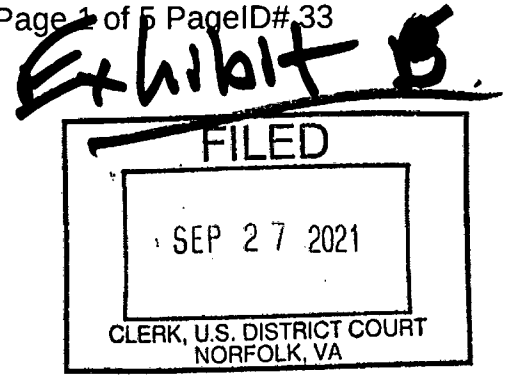
Defendants - Appellees

J U D G M E N T

In accordance with the decision of this court, the judgment of the district
court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in
accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division

RICHARD COLEMAN,

Plaintiff,

v.

ACTION NO. 2:21cv399

STATE OF NORTH CAROLINA, *et al.*,

Defendants.

DISMISSAL ORDER

Plaintiff Richard Coleman ("Plaintiff"), appearing *pro se*, submitted an Application to Proceed in District Court Without Prepaying Fees or Costs ("IFP Application"),¹ along with a proposed Complaint. IFP Appl., ECF No. 1; Proposed Compl., ECF No. 1-1. Based on the information contained in Plaintiff's IFP Application, the Court is satisfied that Plaintiff qualifies for *in forma pauperis* status. Accordingly, Plaintiff's IFP Application, ECF No. 1, is **GRANTED**, and the Clerk is **DIRECTED** to file Plaintiff's Complaint. However, for the reasons set forth below, this action is hereby **DISMISSED** without prejudice.

I. Background

In his Complaint, Plaintiff identifies the named Defendants as: (i) the State of North Carolina; (ii) Franklin County, North Carolina; (iii) the Honorable Amanda Stevenson ("Judge Stevenson"), a state court judge from North Carolina; (iv) Arkofa Auto Sales ("Arkofa"), a car dealership in North Carolina; and (v) R. Keith Shackelford ("Mr. Shackelford"), an attorney from North Carolina (collectively "Defendants"). Compl. at 1-20. In the "Statement of the Case"

¹ When a party proceeds in district court without prepaying fees or costs, it is said that the party is proceeding *in forma pauperis*. As such, the Court will refer to Plaintiff's fee waiver application as an "IFP Application."

Exhibit B

section of his Complaint, Plaintiff alleges that Arkofa listed a 1997 Honda Odyssey for sale on Craig's List on October 19, 2019. *Id.* at 3. Plaintiff, who was living in Chapel Hill, North Carolina at the time, drove to Arkofa to purchase the vehicle. *Id.* at 3-4. Plaintiff alleges that on the drive home:

the engine smoked as if oil had leaked on top on the block, the engine gauge read maximum, [the vehicle was] overheating, the gas gauge recorded "empty," neither the speedometer or odometer functioned, the overhead moon window leaked when it rained, the handle on the side door was broken, and the rear door could not be locked or unlocked from outside the vehicle.

Id. at 4. Plaintiff alleges that a "local [i]nspection [s]tation" advised him that "it would cost \$4,585.00 to make the necessary repairs." *Id.* Plaintiff alleges that he contacted an agent of Arkofa to complain about the vehicle's defects and to demand a full refund; however, Arkofa "refused to do either." *Id.*

Plaintiff alleges that on March 1, 2020, he filed a lawsuit against Arkofa in a North Carolina state court, and asserted claims of fraud and deceptive business practices. *Id.* Plaintiff alleges that Arkofa, who was represented by Mr. Shackelford, filed an untimely dismissal motion. *Id.* at 4-5. The North Carolina court scheduled a status hearing for January 11, 2021; however, Plaintiff alleges that Arkofa, Mr. Shackelford, and the presiding judge, Judge Stevenson, conspired to, among other things: (i) hold a trial on the date of the status hearing; (ii) ignore certain pleadings filed by Plaintiff; (iii) ignore Plaintiff's request for a jury trial; (iv) accept improper witness testimony; (v) dismiss Plaintiff's lawsuit; and (vi) withhold the dismissal order from Plaintiff until Plaintiff's deadline to appeal expired. *Id.* at 6-8.

Based on these factual allegations, Plaintiff filed the instant action in this Court, and asserts claims against Arkofa, Mr. Shackelford, Judge Stevenson, the State of North Carolina, and/or Franklin County, North Carolina for fraud, deceptive business practices, the violation of Plaintiff's rights under the North Carolina State Constitution, the violation of Plaintiff's rights under the

Exhibit B

Fourteenth Amendment to the United States Constitution, and the violation of the Racketeer Influenced and Corrupt Organizations Act. *Id.* at 9-20.

II. Venue Issues

Upon review of Plaintiff's Complaint, it is clear that venue is improper in this Court.

Pursuant to 28 U.S.C. § 1391(b), the general venue statute, a civil action may be brought in:

- (1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located;
- (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated; or
- (3) if there is no district in which an action may otherwise be brought as provided in this section, any judicial district in which any defendant is subject to the court's personal jurisdiction with respect to such action.

28 U.S.C. § 1391(b).

Here, Plaintiff's lawsuit is based on (i) an alleged fraudulent vehicle sale that took place in North Carolina; and (ii) the manner in which Plaintiff was treated by Defendants during a subsequent lawsuit that Plaintiff filed in a North Carolina state court. Compl. at 1-20. Defendants in the instant action are residents of North Carolina, not Virginia, and all of the events giving rise to Plaintiff's claims allegedly occurred in North Carolina. Accordingly, venue is improper in this Court.

When venue is improper, 28 U.S.C. § 1406(a) directs the Court to "dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought." 28 U.S.C. § 1406(a); see Coleman v. North Carolina, No. 2:20cv350, 2020 U.S. Dist. LEXIS 154083, at *1-4 (E.D. Va. July 27, 2020) (dismissing a previous lawsuit filed by Plaintiff against North Carolina, a county in North Carolina, state court judges from North Carolina, and a clerk from a North Carolina state court, after determining that venue was

Exhibit B

improper and that a transfer was not “in the interest of justice”), *aff’d*, 841 F. App’x 589 (4th Cir. Mar. 26, 2021). Here, the Court finds that it is not “in the interest of justice” to transfer this case to another district. Instead, this action should be dismissed without prejudice.


III. Conclusion

For the reasons set forth above, Plaintiff’s IFP Application, ECF No. 1, is **GRANTED**; the Clerk is **DIRECTED** to file Plaintiff’s Complaint; and this action is hereby **DISMISSED** without prejudice.

Plaintiff may appeal this Dismissal Order by forwarding a written notice of appeal to the Clerk of the United States District Court, Norfolk Division, 600 Granby Street, Norfolk, Virginia 23510. The written notice must be received by the Clerk within thirty days from the date of entry of this Dismissal Order.

In addition to the instructions listed above, the Clerk is **DIRECTED** to send a copy of this Dismissal Order to Plaintiff.

IT IS SO ORDERED.



Raymond A. Jackson
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
September 27, 2021

Exhibit C

NORTH CAROLINA
FRANKLIN COUNTY

FILED IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
20 CVD 336

2021 FEB -4 A 8:45

RICHARD COLEMAN

FRANKLIN CO. D.S.C.

Plaintiff.

BY Ans

v.

ORDER GRANTING MOTION
TO DISMISS

ARKOFA AUTO SALES

Defendant.

THIS cause was heard by the undersigned judge on Defendant's Motion to Dismiss the complaint filed herein during the January 11, 2021 session of district court. Upon oral arguments, it appears to the court that the motion should be allowed on the grounds that Plaintiff is not the real party in interest, pursuant to Rule 17(a) of the North Carolina Rules of Civil Procedure and that Plaintiff failed to state a claim upon which relief can be granted pursuant to Rule 12(b)(6) of the North Carolina Rules of Civil Procedure.

It is therefore ordered that the Complaint is hereby dismissed.

This the ____ day of January 2021.

Amanda E. Stevenson

Hon. Amanda E. Stevenson
District Court Judge Presiding

Exhibit D

FRANKLIN COUNTY CIVIL DISTRICT COURT CIVIL CALENDAR
SESSION BEGINNING 01/11/2021
COURTROOM NUMBER 201 SUPERIOR COURTROOM
THE HONORABLE AMANDA E. STEVENSON, JUDGE PRESIDING
MOTIONS AND TRIALS BEGINNING MONDAY, JANUARY 11, 2021 AT 10:00AM

PLEASE NOTE THE TIME SLOT OF YOUR CASE WILL BE CALLED TO DETERMINE THE STATUS OF YOUR CASE AND TO SET A DATE/TIME TO RETURN FOR A TRIAL. THERE ARE VERY LIMITED NUMBER OF SEATS IN THE COURTROOM UNDER OUR COVID-19 POLICY. IF IT IS NOT TIME FOR YOUR CASE, YOU WILL NOT BE ADMITTED INTO THE COURTHOUSE. PLEASE FOLLOW ALL COVID-19 POLICIES. FACE MASKS AND TEMPERATURE CHECKS ARE REQUIRED UPON ENTRY INTO THE COURTHOUSE. NO JURY TRIALS WILL BE HELD AT THIS TIME UNDER COVID-19 POLICIES.

TIME SESSION ONE: 10:00AM TO 11:00AM

001	19 CVD 861	
091919 COMPLAINT	DISCOVER BANK	CHRISTINA MCALPIN TAYLOR
COLLECTION ON ACCOUNT	VS	
011320 MOTION	STACIA A DUBIS	
DEFAULT JUDGMENT		
110320 MOTION		
JUDGMENT ON PLEADING		

002	19 CVD 871	
092519 COMPLAINT	DALE RUSSELL SCHENDEL	JEFFREY SCOTT THOMPSON
MONEY OWED	VS	
012420 COUNTER CLAIM	MY GUY SERVICES INC	JOHN S AUSTIN
DISMISS (INVOLUNTARY)	BRADLEY HINES	
MONEY OWED		
032020 MOTION		
DISMISS (INVOLUNTARY)		
032320 AMENDED PLEADING		
MONEY OWED		
061720 MOTION		
DISMISS (INVOLUNTARY)		

003	20 CVD 1070	
113020 COMPLAINT	DIANA SMITH	
MONEY OWED	VS	
	BRADLEY HINES	
	D/B/A MY GUY AUTO SERVICE	

TIME SESSION FOUR: 2:15PM TO 3:15PM

031
061418 COMPLAINT
MONEY OWED
SUMMARY EJECTMENT

18 CVD 476
WANDA HOLDEN
VS
ISSAC P LAMBERT J
MICHAEL P LAMBERT

LARRY E NORMAN
STEVEN H MCFARLANE
STEVEN H MCFARLANE

032
032620 COMPLAINT
CONTRACT
TREBLE DAMAGES
UNFAIR TRADE PRACTICE
050620 MOTION
DISMISS (INVOLUNTARY)
060920 MOTION
CHANGE OF VENUE
DAMAGES BY FRAUD
DIMISS THE MOTION TO DISMISS

20 CVD 336
RICHARD COLEMAN
VS
ARKOFA AUTO SALES

R KEITH SHACKLEFORD

033
110620 COMPLAINT
POSSESSION OF PERSONAL

20 CVD 1007
CAROLINA LEASE MGMT GROUP
HAGWOOD ADELMAN TIPTON
VS
JENNY SOUSA BROWN

JONATHAN WILLIAMS
JONATHAN WILLIAMS

Exhibit B

Imports



100-A Lloyd Street
Carrboro, NC 27510
bkyeargan@gmail.com

"Service is Our Business"

Name:

Address:

City:

DATE	E-Mail	Phone
VIN	License No.	
Mileage	Year / Make	Model
Description of Work		Amount

Amt.	Part No.	Name of Part	Sale Amt.	VIN	License No.
				Mileage	Year / Make
					Model
				Description of Work	Amount
				Dist oring	EST 120 ⁰⁰
				Oil leak Behind the Timing Belt	650 ⁰⁰
				Sway Arm Bushings	240 ⁰⁰
				Power Door lock Incl	(?)
				Rt side outside door handle	255 ⁰⁰
				Trans Service	260 ⁰⁰
				Alc Incl	1200 ÷ 1800
				Cables Pol 71, 02/ear	400 ⁰⁰
				SRS light	(?)
				Both c/v Axle	860 ⁰⁰
					4585 ⁰⁰
TOTAL ACCESSORIES				Authorized by	TOTAL

I hereby authorize the above repair work to be done along with necessary materials. You and your employees may operate above vehicle for purposes of testing, inspection, or delivery at my risk, an express mechanic's lien is acknowledged on above vehicle to secure the amount of repairs thereto. It is understood that this company assumes no responsibility for loss or damage by theft or fire to vehicles placed with them for storage, sale, repair, or while road testing.

PAY THIS
AMOUNT



1 Exhibit : F

STATE OF NORTH CAROLINA
VEHICLE INSPECTION RECEIPT/STATEMENT
SAFETY AND EMISSIONS (OBDII) INSPECTION

Classification: **IM**
Electronic Authorization No: **138**
Date: **09/25/2019**

PASSED

Inspection Fee: **\$23.75**
E-Auth. Fee: **\$06.25**
Window Tinting Fee: **\$00.00**

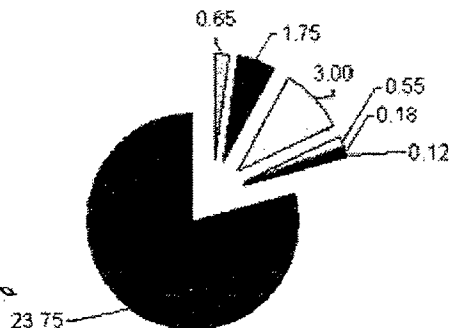
Total Fees: **\$30.00**

Vehicle Make: **Honda**
Vehicle Year: **1997**
Engine Size: **2200**
Body Style: **Minivan**
VIN: **JHMRA1860VC008316**
County: **FRANKLIN**
TIN Number: **237191931866**

Vehicle Type: **Light Duty**
Plate Number: **71057D**
Odometer Reading: **121615**
Number of Cylinders: **4**
Fuel Type: **Gasoline**
Previous Odometer: **000000**
Motor Vehicle Dealer Number: **76848D**

Safety Equipment **PASS**

Headlights: **PASS**
Parking Lights: **PASS**
Tail Lights: **PASS**
Beam Indicator Light/Switch: **PASS**
License Plate Light: **PASS**
Stop Light: **PASS**
Directional Signals: **PASS**
Horn: **PASS**
Windshield Wipers: **PASS**
Rear View Mirrors: **PASS**
Foot Brake: **PASS**
Emergency Brake: **PASS**
Steering Mechanism: **PASS**
Tires: **PASS**
Exhaust System: **PASS**
Clearance Lights: **N/A**
Reflectors: **N/A**
Window Tinting: **N/A**



Tampering Inspection **PASS**

Catalytic Converter: **PASS**
Air Injection System: **PASS**
PCV Valve: **PASS**
Unleaded Gas Restrictor: **PASS**
Exhaust Gas Recirculator: **PASS**
Thermostatic Air Control: **N/A**
Fuel Evaporation Control: **PASS**
Oxygen Sensor: **PASS**
Gasoline Tank Cap: **PASS**

OBDII Test Results

PASS

MIL Bulb Working: **PASS**
Connector Damaged: **PASS**
Communication Established: **PASS**
MIL Commanded ON: **PASS**
Engine RPM at Reading: **00766**

Station Number: **15976**
Inspection Class: **IM**
Parts Exemption Number:

Analyzer Number: **BZ051008** VER. 09
Receipt/Statement Number: **00008551**
Waiver Number:

Inspector Mechanic: Christopher Owner's Repair Authorization: _____

Inspector-Mechanic's Name: **CHRISTOPHER**

RETAIN THIS COPY FOR YOUR RECORDS

Pie Chart Legend

- | | |
|---|--|
| <input checked="" type="checkbox"/> Division of Air Quality = \$0.65 | <input checked="" type="checkbox"/> Telecommunication = \$1.75 |
| <input checked="" type="checkbox"/> Emissions Program = \$3.00 | <input checked="" type="checkbox"/> Highway Fund = \$0.55 |
| <input checked="" type="checkbox"/> Volunteer Rescue/EMS = \$0.18 | <input checked="" type="checkbox"/> Rescue Squad Relief = \$0.12 |
| <input checked="" type="checkbox"/> Inspection Station = \$0.00(min) - \$23.75(max) | |
| Total Inspection Fee \$6.25 (min) - \$30.00 (max) | |

DEALER'S REASSIGNMENT OF TITLE TO A MOTOR VEHICLE

NO FEE

Exhibit C

To be used by North Carolina licensed dealers to reassign out-of-state assigned certificates of title, non-title state registration certificates and/or bills of sale or other documents acceptable for obtaining a certificate of title in North Carolina for vehicles acquired by North Carolina dealers. May also be used to reassign manufacturer's certificates of origin and North Carolina certificates of title when the space or spaces provided on these documents for dealer's assignments have been used.

YEAR 1997 MAKE Honda BODY STYLE VN VIN JH MRA 1860 VC 008 310

Federal and State law requires that you state the mileage in connection with the transfer of ownership. Failure to complete or providing a false statement may result in fines and/or imprisonment.

RE-ASSIGNMENT OF TITLE BY LICENSED DEALER

The undersigned hereby certifies that the vehicle described in this title has been transferred to the following printed name and address:

ARKOFA Auto Sales

"I certify to the best of my knowledge that the odometer reading is: 121614 (NO TENTHS) and reflects the actual mileage of this vehicle unless one of the following statements is checked."

☐ 1. The mileage stated is in excess of its mechanical limits. ☐ 2. The odometer reading is not the actual mileage. **WARNING — ODOMETER DISCREPANCY**

DATE VEHICLE DELIVERED TO PURCHASER 4-10-19 To my knowledge the vehicle described herein:
 Yes ☐ No ☒ Has been involved in a collision or other occurrence to the extent that the cost to repair exceeds 25% of fair market retail value.
 Yes ☐ No ☒ Has been a flood vehicle, a reconstructed vehicle or a salvage vehicle.

Hand Printed Name and Signature of Dealer or Agent

CAROLINA AUTO CREDIT

Printed Firm Name

1902 N GARNETT ST, HENDERSON, NC 27536

Dealer No. 10284

Date 2-10-19

County

Yancey

State

NC

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:

Notary Signature

JENNIFER J. EVANS
NOTARY PUBLIC
VANCE COUNTY
NORTH CAROLINA

MY COMMISSION EXPIRES JULY 1, 2024

Jennifer Evans

seller(s) (name(s) of principal(s)).

Hand Printed Name and Signature(s) of Buyer(s)

Arlo Griffin Jr.

RE-ASSIGNMENT OF TITLE BY LICENSED DEALER

The undersigned hereby certifies that the vehicle described in this title has been transferred to the following printed name and address:

Robert J Phillips, 104A Ashly Forest Rd, Chapel Hill NC 27514

"I certify to the best of my knowledge that the odometer reading is: 121,900 (NO TENTHS) and reflects the actual mileage of this vehicle unless one of the following statements is checked."

☐ 1. The mileage stated is in excess of its mechanical limits. ☐ 2. The odometer reading is not the actual mileage. **WARNING — ODOMETER DISCREPANCY**

DATE VEHICLE DELIVERED TO PURCHASER 12-19-19 To my knowledge the vehicle described herein:
 Yes ☐ No ☒ Has been involved in a collision or other occurrence to the extent that the cost to repair exceeds 25% of fair market retail value.
 Yes ☐ No ☒ Has been a flood vehicle, a reconstructed vehicle or a salvage vehicle.

Hand Printed Name and Signature of Dealer or Agent

DAVID SMITH

Printed Firm Name

ARKOFA AUTO SALES

Dealer No.

Date 10-19-19

County

Franklin

State

NC

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:

Notary Signature

Notary Printed or Typed Name

Arlo Griffin Jr

My Commission Expires

2/5/22

(SEAL)

Hand Printed Name and Signature(s) of Buyer(s)

Robert J Phillips

RE-ASSIGNMENT OF TITLE BY LICENSED DEALER

The undersigned hereby certifies that the vehicle described in this title has been transferred to the following printed name and address:

"I certify to the best of my knowledge that the odometer reading is: _____ (NO TENTHS) and reflects the actual mileage of this vehicle unless one of the following statements is checked."

☐ 1. The mileage stated is in excess of its mechanical limits. ☐ 2. The odometer reading is not the actual mileage. **WARNING — ODOMETER DISCREPANCY**

DATE VEHICLE DELIVERED TO PURCHASER _____ To my knowledge the vehicle described herein:
 Yes ☐ No ☐ Has been involved in a collision or other occurrence to the extent that the cost to repair exceeds 25% of fair market retail value.
 Yes ☐ No ☐ Has been a flood vehicle, a reconstructed vehicle or a salvage vehicle.

Hand Printed Name and Signature of Dealer or Agent

Printed Firm Name

Dealer No.

Date

County

State

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:

Notary Signature

Notary Printed or Typed Name

My Commission Expires

(SEAL)

Hand Printed Name and Signature(s) of Buyer(s)

LIEN OR ENCUMBRANCE - ENTER IN OWNER'S APPLICATION FOR TITLE.

This form contains the conforming odometer statement and must have the hand printed name and signature of both the buyer and seller.

Verify Authenticity. Face should have a purple background. Back should contain a watermark that is visible when held at a 45 degree angle.