

51,935

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

LYNN LAFRAZIER, on behalf of  
herself and all others  
similarly situated,  
Plaintiff,

CIVIL NO. 3:96CV00307 (JVC)

v.

SHAWMUT BANK CONNECTICUT, N.A.  
and ZEE BUICK GMC TRUCK, INC.,  
Defendants.

RULING ON PLAINTIFF'S MOTION FOR CLASS CERTIFICATION

This is an action for damages alleging violations of the Truth In Lending Act, 15 U.S.C. §1640 and Conn. Gen. Stat. §36a-676 et seq. ("TILA"), the Connecticut Unfair Trade Practices Act ("CUTPA"), Conn. Gen. Stat. §42-110a et seq., and the Connecticut Retail Installment Sales Financing Act, Conn. Gen. Stat. §§ 36a-770 et seq. ("RISFA").<sup>1</sup> The plaintiff, Lynn LaFrazier, claims that the defendants, Shawmut Bank Connecticut, N.A. (Shawmut) and Zee Buick GMC Truck, Inc. (Zee Buick), violated the TILA, CUTPA and RISFA by improperly excluding charges for vendor's single interest insurance ("VSI") from certain auto finance charges.<sup>2</sup> The plaintiff now moves for class certification. Because the court concludes that the plaintiff's action is barred by the 1995

<sup>1</sup> 15 U.S.C. 1640(c) provides, in relevant part:  
Charges or premiums for insurance, written in connection with any consumer credit transaction, against loss of or damage to property against liability arising out of the ownership or use of property, shall be included in the finance charge unless a clear and specific statement in writing is furnished by the creditor to the person to whom the credit is extended, setting forth the cost of the insurance...

<sup>2</sup> The plaintiff also alleges that the defendants violated RISFA by failing to deliver the VSI insurance policy to the plaintiff.

TILA amendments, specifically 15 U.S.C. § 1649, the plaintiff's motion for class certification is denied and the matter hereby dismissed.

#### FACTS

Examination of the complaint, pleadings, exhibits and affidavits attached thereto reveals the following material facts. On March 14, 1995, the plaintiff purchased a used Buick from the defendant Zee Buick GMC Truck, Inc. ("Zee Buick"). The plaintiff financed her purchase, and in so doing, signed a retail installment contract/truth in lending disclosure statement (the "contract"), issued by the defendant, Shawmut Bank of Connecticut, N.A. ("Shawmut").<sup>3</sup> The contract contained a \$50.00 charge for vendor's single interest insurance ("VSI") coverage, "supplied and arranged for" by defendant Shawmut.<sup>4</sup>

On February 26, 1996, the plaintiff commenced this action alleging that the VSI policy issued by Shawmut provided coverage for repossession insurance, and that therefore, Shawmut's "instruct[ions] [to] car dealers" to exclude the \$50.00 VSI

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<sup>3</sup> The plaintiff alleges and Shawmut and Zee Buick concede, that "Shawmut is engaged in the business of...purchasing installment contracts executed by consumers to finance the purchase of motor vehicles." Pursuant to that business, the plaintiff alleges that "[Zee Buick] submitted credit applications to Shawmut for approval, Shawmut approved the applications, [Zee Buick] completed retail installment contracts in accordance with Shawmut's instructions on forms provided by Shawmut, and Shawmut purchased the retail installment contracts from [Zee Buick]...

<sup>4</sup> "Vendor's single-interest insurance (or 'VSI')...[refers]...to [the] protection of tangible property against normal property damage... Official Federal Reserve Board Staff Commentary to Regulation Z (implementing TILA), (12 C.F.R. part 226 Supp. I) (emphasis added).

premium from the finance charge violated the TILA.<sup>5</sup>

In her complaint, the plaintiff seeks to certify a class consisting of all persons: 1) who "entered into a retail installment contract that is dated on or after a date one year prior to [February 26, 1995] and [that] was assigned to Shawmut;" 2) whose "transaction was documented as a consumer credit transaction; 3) who was "charged for VSI; and 4) whose "VSI charge was included in the amount financed and/or excluded from the finance charge." <sup>6</sup>

### DISCUSSION

#### I. TILA claim

The September 30, 1995, amendments to the TILA, 15 U.S.C. § 1605 et seq., Pub. L. 104-29, place certain limitations on liability. 15 U.S.C. § 1649 provides, in relevant part, that:

For any consumer credit transaction subject to this subchapter that is consummated before September 30, 1995, a creditor or any assigned of a creditor shall have no civil, administrative, or criminal liability under this subchapter for...

(3) any disclosure relating to the finance charge imposed with respect to the transaction if the amount of percentage actually disclosed--

(A) may be treated as accurate for purposes of this title if the amount disclosed as the

<sup>5</sup> Although "[s]ome comprehensive insurance policies may include a variety of additional coverages, such as repossession insurance and holder-in-due course coverage, [t]hese types of coverage do not constitute single-interest insurance...and premiums for them do not qualify for exclusion from the finance charge...." Official Federal Reserve Board Staff Commentary to Regulation Z, (12 C.F.R. part 226 Supp. I) (emphasis added).

<sup>6</sup> These criteria apply to the plaintiff's federal TILA claim. The two additional criteria for the state claims include: 1) persons with a contract dated on or after February 26, 1993; and 2) persons whose contract lists a dealer with a Connecticut address.

finance charge does not vary from the actual  
finance charge by more than \$200;

15 U.S.C. § 1649.

The 1995 TILA amendments includes exceptions to its  
liability limitations. Specifically, 15 U.S.C. § 1649 (b)  
provides that:

Subsection (a) of this action shall not apply to--  
(1) any individual action or counterclaim brought under  
this subchapter which was filed before June 1, 1995;  
(2) any class action brought under this subchapter for  
which a final order certifying a class was entered  
before January 1, 1995;  
(3) the named individual plaintiffs in any class action  
brought under this subchapter which was filed before  
June 1, 1995; or  
(4) any consumer credit transaction with respect to  
which a timely notice of rescission was sent to the  
creditor before June 1, 1995.

15 U.S.C. § 1649.

In the instant case, filed on February 26, 1996, the  
plaintiff alleges that in her March 14, 1995 retail installment  
contract, Shawmut and Zee Buick improperly excluded the \$50.00  
charge for VSI coverage from the finance charge. Because the  
TILA amendments preclude holding a creditor liable for finance  
charge disclosures that vary from the actual finance charge by  
less than \$200.00, and because no exception to 15 U.S.C. § 1649  
applies in this case, the court concludes that the plaintiff's  
motion for class certification must be denied.

## II. State Claims

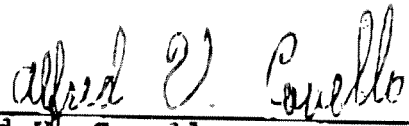
It is axiomatic that when all federal claims are eliminated  
prior to trial, a federal court should decline to exercise

jurisdiction over any remaining state law claims. Carnegie-Mellon University v. Cobill, 484 U.S. 343, 350 (1988); DiLaura v. Power Authority of New York, 982 F.2d 73, 80 (2d Cir. 1992).

**CONCLUSION**

For the aforementioned reasons, the motion for class certification (document no. 6) is denied and the case is hereby dismissed.

SO ORDERED, this 30th day of July, 1996, at Hartford, Connecticut.



Alfred V. Covello  
United States District Judge