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## Dealers' lawsuit against TrueCar could head to trial

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Over the past four years, TrueCar has changed its business model and leadership team to improve its relationship with dealers, but 2015 litigation accusing the company of false advertising could head to trial this year.

Car buyers were attracted to TrueCar based on the promise of no surprises at the dealership. In 2015, 108 dealers filed a [lawsuit](#) accusing TrueCar of falsely advertising haggle-free car-buying. The

dealers argued that TrueCar's false advertising decreased their sales and hurt their reputations. The plaintiff dealers do not subscribe to TrueCar.

TrueCar asked for a summary judgment in July. Kevin Castel, a judge in the U.S. District Court in the Southern District of New York, last week denied TrueCar's motion for summary judgement regarding its potential violation of the Lanham Act, a federal false-advertising statute that prohibits businesses from deceptively advertising their products and services.

The advertisements created a noncompetitive marketplace, said Len Bellavia, the dealers' attorney and founding partner at Bellavia Blatt & Crossett in Mineola, N.Y.

Consumers were led to dealerships with false information, and dealers who did not subscribe to TrueCar lost sales based on consumers' confusion, Bellavia said.

Castel also said that the negotiation-free advertisement "describes a bait-and-switch transaction wherein a consumer is enticed to a dealership based on the prospect of a negotiation-free buying experience and guaranteed savings, only to be faced with negotiation and a different price than promised."

A trial date has not been set, but Bellavia expects trial to begin within six months.

### **Still meritless?**

Shortly after the lawsuit was filed four years ago, TrueCar called it meritless. The company noted that no consumers are parties to the lawsuit and said it has invested "substantial resources" in its compliance efforts and has "proactively engaged in dialogues about our business model with various regulatory authorities and dealer associations across the country."

A TrueCar spokeswoman said Monday that the company "stands by its prior statements concerning this matter, including those made in 2015 when the litigation was first filed."

But Bellavia sees the trial as a step toward victory for the dealers.

"I think it is potentially a victory for both TrueCar subscribing dealers and nonsubscribing dealers. Both groups of dealers find TrueCar to be objectionable and really unfriendly to consumers because invariably consumers are upset and disappointed," he said.

TrueCar giving up its profits may be warranted to discourage the company from issuing false advertisements in the future, according to Castel's opinion and order. TrueCar charged dealers \$299 for each transaction between 2014 and late 2016, Bellavia said. The dealers will seek that profit for each of the tens of thousands of transactions TrueCar made during that time frame, plus interest, he said.

John Stephenson, TrueCar's outside legal counsel at the time, advised the company against using phrases such as "negotiation-free" or "no-haggle," but TrueCar did not follow his advice, according to court documents.

## **Face-lift**

Since 2015, TrueCar has worked to [improve its image](#). TrueCar CEO Scott Painter resigned that year, with former Autotrader executive Chip Perry taking his place. The company has rolled out new advertising messaging that is more dealer-centric and eliminated language that implied that dealers may overcharge customers.

TrueCar also stopped allowing customers to anonymously view vehicle pricing without submitting their contact information and eliminated a Web page that listed competing dealerships' prices.

"In the past, [TrueCar] had been tilted significantly in a way that dealers found was harmful to them," Perry told *Automotive News* in May. "We were able to find win-win improvements that enabled the site to continue to perform well for consumers while being much more positive for dealers."