

STATE OF NORTH CAROLINA **FILED** IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

GUILFORD COUNTY 2016 JAN 11 P 4: 15 16-CvS 2717

CARMAYER, LLC, GUILFORD COUNTY, C.S.C.

Plaintiff, *Jm*)

v. )

KOURY AVIATION, INC., BRADFORD )  
A. KOURY and THOMAS )  
HURLOCKER, )

Defendants. )

**COMPLAINT**  
**(Jury Trial Demanded)**

Plaintiff Carmayer, LLC (“Carmayer”), by and through its undersigned counsel, asserts for its complaint against Koury Aviation, Inc. (“Koury Aviation”), Bradford A. Koury (“Koury”) and Thomas Hurlocker (“Hurlocker”) (collectively, “Defendants”) the following:

1. Carmayer is a North Carolina limited liability company with its principal office located in Greensboro, Guilford County, North Carolina.
2. Upon information and belief, Koury Aviation is a North Carolina corporation with its principal place of business in Guilford County, North Carolina.
3. Upon information and belief, Koury is and, at all relevant times, was the President of Koury Aviation and a citizen and resident of Alamance County, North Carolina.
4. Upon information and belief, Hurlocker is and, at all relevant times, was an agent, employee or representative of Koury Aviation and a citizen and resident of Guilford County, North Carolina.

**FACTUAL BACKGROUND**

5. In or about August of 2014, one of Carmayer’s managing members, Rocco Scarfone (Scarfone”), met and communicated with Koury on multiple occasions about the

prospect of Scarfone forming a company (which became Carmayer) to purchase an airplane and rent it out through Koury Aviation as a business venture.

6. Koury represented to Scarfone, among other things, that:
  - (a) he was an expert in the area of aircraft purchasing, inspections, evaluations, management and leasing under a Part 135 Certificate;
  - (b) He would assist Scarfone in the selection, inspection and purchase of an airplane that was capable of being rented by Koury Aviation (on Carmayer's behalf) on a Part 135 Certificate;
  - (c) He would properly advise Scarfone (on behalf of Carmayer) and recommend and assign qualified Koury Aviation representatives (like Hurlocker) to inspect and also advise Scarfone whether to purchase, specifically, a 1976 Cessna 421C, Serial No. 421C0163 airplane (the "Cessna 421");
  - (d) The Cessna would fill a required niche in the Koury Aviation fleet of planes:
  - (e) Due to the expertise of Koury and Koury Aviation, the company formed by Scarfone would earn net profits of approximately \$44,000.00 to \$160,000.00 per year from renting out the Cessna on a Part 135 Certificate; and
  - (f) A spreadsheet prepared by Koury regarding net profits from renting out the Cessna was accurate.

7. After Scarfone identified the Cessna as a potential purchase, Koury recommended to Scarfone that Hurlocker be the person to inspect and advise Scarfone (on behalf of Carmayer) as to whether to purchase the Cessna.

8. Koury represented to Scarfone (on behalf of Carmayer) that Hurlocker was absolutely qualified to inspect the Cessna and advise Carmayer on whether it was an appropriate plane to purchase and rent through Koury Aviation on a Part 135 Certificate.

9. Carmayer's members/managers advised Defendants and Defendants knew that Carmayer (and its members/managers) had no knowledge about airplanes and were totally relying on Defendants to properly perform work for Carmayer and properly and reasonably advise them whether to purchase the Cessna and rent it on a Part 135 Certificate.

10. Defendants knew that Carmayer's members/managers placed special trust and confidence in Defendants to look out for Carmayer's best interests with regard to the purchase, inspection, evaluation, management and lease of the Cessna.

11. On or about September 12, 2014, Carmayer entered into a contract to purchase the Cessna (the "Purchase Agreement").

12. Pursuant to the Purchase Agreement, Carmayer informed Defendants that a pre-buy inspection was to be performed by Carmayer and a fresh annual inspection performed by the sellers of the Cessna.

13. In order to make sure that the Cessna was the appropriate plane to purchase and rent out under a Part 135 Certificate, Scarfone (on behalf of Carmayer) specifically asked Koury and Hurlocker to take whatever steps they needed to take to inspect the Cessna and advise Carmayer in that regard.

14. As a result, Hurlocker advised Scarfone (on behalf of Carmayer) that he was communicating directly with the Seller of the Cessna and its representatives in order to gather the information needed about the Cessna to properly advise Carmayer.

15. At all times relevant hereto, Hurlocker and Koury were acting individually and as employees and/or agents of Koury Aviation.

16. In late September and early October 2014, Hurlocker represented to Scarfone (on behalf of Carmayer) that he was working closely with a pilot in Tulsa, Oklahoma (where the Cessna was located) and that he would identify to Carmayer all of the issues concerning the Cessna, including those related to airworthiness, the status of the annual inspection, needed repairs and renting the Cessna on a Part 135 Certificate.

17. In early October 2014, Carmayer arranged and paid for Hurlocker to fly to Tulsa and do whatever he needed to do to inspect and properly advise Carmayer.

18. Koury knew that Hurlocker was going to Tulsa and what he was supposed to be doing there in Tulsa on behalf of Carmayer.

19. On or about October 7, 2014, Hurlocker communicated with Scarfone (on behalf of Carmayer) and told Scarfone that the Cessna was an excellent plane to purchase and rent under a Part 135 Certificate and, further, that the plane needed approximately \$28,000.00 in repairs in order to get it ready for Part 135 certification.

20. Defendants represented to Carmayer's members/managers that Hurlocker and Koury Aviation were the best choice to make all of the necessary and required repairs and, further, represented that the Cessna would be Part 135 certified by the end of November 2014.

21. Carmayer told Defendants that they were totally relying on their expertise concerning the purchase of the Cessna and its readiness for Part 135 certification and, as a result of: (a) the representation that a fresh annual inspection had been performed; and (b) the representations of Defendants identified above (including by Koury that the Cessna was a great plane to rent out on a Part 135 Certificate), Carmayer negotiated a lower price (based on the estimate of repairs) and then agreed to pay \$165,000.00 for the purchase of the Cessna.

22. At no time before Carmayer purchased the Cessna, did Defendants or any of them advise Carmayer or either of its member/managers that neither Hurlocker nor Koury had any expertise in inspecting Cessna airplanes or getting them Part 135 certified.

23. Had Defendants or any of them reasonably, properly and/or truthfully advised Carmayer, Carmayer would have sought further expert advice and evaluation of the Cessna before deciding to purchase the Cessna

24. Carmayer then paid Koury Aviation to have the Cessna flown back to Greensboro so that the repairs identified by Hurlocker could be made and the Cessna Part 135 certified by the end of November 2014.

25. From October 2014 through the end of May 2014, Defendants continued to represent to Carmayer that the Cessna was a perfect aircraft to rent under a Part 135 Certificate and that once the repairs were made, it would start to be rented and Carmayer would receive \$44,000.00 to \$160,000.00 in net profit per year.

26. In addition, in late November or early December 2014, though the Cessna was not yet ready for Part 135 certification, Defendants represented to Carmayer that the Cessna was

airworthy and that it was safe to fly for Carmayer's members and their family members and business associates.

27. In fact, the Cessna was not airworthy and was not safe to fly and Defendants were negligent and/or grossly negligent in their representations that the Cessna was airworthy.

28. As a result, between December 2014 and May 2015, members of Carmayer and their family members and business associates flew approximately five (5) times in the Cessna when it was not airworthy and thereby placed all of their lives in grave danger.

29. During the period of November 2014 through May 2015, Defendants showered Carmayer with excuses as to why the Cessna was not yet Part 135 certified, knowing that the member/managers of Carmayer did not know any better and that they had placed special trust and confidence in Defendants to properly, reasonably and truthfully advise them.

30. In April 2015, Koury specifically advised Carmayer that it would be just a couple of more weeks before the Cessna was Part 135 certified and rented out a lot and thereby making Carmayer the net profits previously promised.

31. In June of 2015, the Cessna was presented to the Federal Aviation Administration (the "FAA") for Part 135 certification.

32. The FAA told Defendants that they needed to show the FAA that the prior owners of the Cessna had followed all of the Cessna directives.

33. Defendants did not explain to Carmayer and Carmayer had no way of knowing (independent of Defendants) that this meant that the Cessna could not be put on a Part 135 Certificate until hundreds of thousands of dollars of work was done to the Cessna.

34. Instead of so properly advising Carmayer, Defendants then told Carmayer that the Cessna should be delivered down to Air Wilmington in Wilmington, North Carolina because they were especially equipped to perform the last remaining repairs needed for Part 135 certification.

35. Prior to the delivery of the Cessna to Air Wilmington, Defendants had continuously represented that the Cessna was airworthy and easily placed on a Part 135 Certificate.

36. During the period of October of 2014 through September of 2015, Carmayer incurred and paid tens of thousands of dollars to Hurlocker and Koury Aviation based upon Defendants' various misrepresentations as stated above.

37. In June of 2015, when the Cessna was first delivered to Air Wilmington by Defendants, Air Wilmington representatives advised Defendants that the Cessna was not airworthy and could not be placed on a Part 135 Certificate without spending hundreds of thousands of dollars.

38. Upon learning this key information from Air Wilmington, Defendants withheld that key information from Carmayer and, instead, induced Carmayer to incur an additional \$100,000.00 in repair bills for the Cessna, all of which were necessary for the aircraft to be inspected and to be airworthy.

39. Defendants continued to represent to Carmayer that the Cessna would be placed on a Part 135 Certificate shortly and that the reason for the delay was that Air Wilmington determined that the fresh annual inspection that was supposed to be performed by the seller of the Cessna when it was purchased by Carmayer, in fact, was not performed.

40. Upon investigation with Air Wilmington, Carmayer learned that Air Wilmington had advised Defendants about the tremendous cost necessary for a Part 135 Certificate on the Cessna and that there were several indicia that Defendants should have identified in October of 2014 which would have led to questions as to whether the fresh annual inspection had, in fact, been performed by the seller of the Cessna.

41. As a result of the actions, misrepresentations and concealments of Defendants, Carmayer has lost use of the Cessna and net profits from the renting of the Cessna and the members/managers of Carmayer experienced the threat of imminent death from flying in the Cessna when it was not airworthy.

**FIRST CLAIM FOR RELIEF**  
**(Negligent Misrepresentation)**

42. The allegations set forth in Paragraphs 1 through 41 of this Complaint are re-alleged and incorporated herein as if fully set out.

43. Defendants made numerous misrepresentations to Carmayer for the purpose of advising Carmayer about a business venture concerning the rental of the Cessna on a Part 135 certificate.

44. Defendants owed Carmayer a duty to ensure that: (1) the Cessna was "airworthy," (2) that the Cessna was an appropriate plane to purchase; (3) that the Cessna was capable of being put on a Part 135 Certificate; and (4) that the Cessna could be put on a Part 135 Certificate by the end of November 2014, without a significant expense of money for repairs.

45. Defendants failed to exercise reasonable care by failing to advise Carmayer about the true condition of the Cessna, that it should not have been purchased and that it was not ready for prompt Part 135 certification.



46. Defendants made the following misrepresentations, among others, regarding the Cessna:

- (a) that Koury was an expert in the area of aircraft purchasing, inspections, evaluations, management and leasing under Part 135 Certificates;
- (b) that Koury and Hurlocker knew what was required in order to put the Cessna on a Part 135 Certificate and would assist Carmayer in that regard;
- (c) that Defendants were qualified to inspect the Cessna and advise Carmayer regarding the purchase of the Cessna;
- (d) that the Cessna was a perfect aircraft to lease out on a Part 135 Certificate and that it would fill a required niche in the Koury Aviation fleet of planes; and
- (e) Due to the expertise of Koury and Koury Aviation, Carmayer would earn net profits of approximately \$44,000.00 to \$160,000.00 per year from renting out the Cessna on a Part 135 Certificate; and
- (f) A spreadsheet prepared by Koury regarding net profits from renting out the Cessna was accurate.

47. In the course of their business, Defendants made the above representations and provided Carmayer with information.

48. Defendants knew that Carmayer was relying upon the representations and information provided for guidance in its business.

49. The above representations made by Defendants and information provided to Carmayer were false and inaccurate.

50. Defendants failed to exercise reasonable care in obtaining the information provided to Carmayer and making the above misrepresentations to Carmayer.

51. Carmayer could not, with the exercise of due diligence, learn the truth of Defendants' negligent misrepresentations and Defendants knew that Carmayer was justifiably relying on Defendants reasonably, properly and truthfully advising them.

52. As a proximate result of the actions of Defendants, Carmayer has sustained damages in excess of \$25,000.00.

**SECOND CLAIM FOR RELIEF**  
**(Unfair and Deceptive Trade Practices)**

53. The allegations set forth in Paragraphs 1 through 52 are re-alleged and incorporated herein as if fully set out.

54. The acts of Defendants, including but not limited to the negligent misrepresentations and concealments identified above, were in and affecting commerce.

55. Defendants knowingly, willingly and intentionally deceived Carmayer in order to induce Carmayer to purchase the Cessna, incur inspection, repair, hangar, maintenance, management fees and other fees actually paid and to be paid to Defendants or for their benefit.

56. Defendants knew that they were in a position of superior knowledge as compared to Carmayer and they used that position of superior knowledge to deceive and cause damages to Carmayer.

57. Defendants knew that they were in a fiduciary relationship with Carmayer.

58. The acts of Defendants constituted unfair and deceptive trade practices as these terms are defined within Chapter 75 of the North Carolina General Statutes.

59. As a result of these wrongful acts of Defendants, Carmayer has been damaged in an amount in excess of \$25,000.00, and Carmayer is entitled to recover from Defendants, jointly and severally, its damages, which sum is to be trebled, plus Carmayer's reasonable attorney's fees.

**THIRD CLAIM FOR RELIEF**  
**(Breach of Fiduciary Duty)**

60. The allegations set forth in Paragraphs 1 through 59 are re-alleged and incorporated herein as if fully set out.

61. Defendants knew that Carmayer placed in them special confidence and trust to properly, completely, reasonably and truthfully advise Carmayer and to properly perform the duties they agreed to do for Carmayer with regard to the Cessna.

62. Defendants breached their fiduciary duties to Carmayer and, as a result, Carmayer is entitled to recover from Defendants, jointly and severally, the damages caused by Defendants' breach of fiduciary duties, plus punitive damages.

**FOURTH CLAIM FOR RELIEF**  
**(Negligence)**

63. The allegations set forth in Paragraphs 1 through 62 of the Complaint are re-alleged and incorporated herein as if fully set out.

64. Defendants owed Carmayer a duty to, among other things: (a) reasonably, truthfully and properly advise Carmayer about their expertise or lack thereof with regard to the Cessna and renting it out on a Part 135 Certificate; and (b) reasonably, truthfully and properly advise Carmayer about the costs and time necessary to rent out the Cessna on a Part 135 Certificate.

65. Defendants breached their duties to Carmayer, including as alleged herein.

66. Defendants failed to exercise ordinary care in their dealings with and representations to Carmayer with regard to the Cessna.

67. As a result of Defendants' negligence, Carmayer is entitled to recover from them, jointly and severally, the damages proximately caused thereby in an amount in excess of \$25,000.00.

**FIFTH CLAIM FOR RELIEF**  
**(Gross Negligence)**

68. The allegations set forth in Paragraphs 1 through 67 are re-alleged and incorporated herein as if fully set out.

69. Defendants' actions as alleged herein in, among other ways, allowing and even encouraging Carmayer to fly in the Cessna with its principals, family members and business associates, was shocking to the conscience and placed such persons in threat of imminent death.

70. Defendants' actions were willful and wanton and constituted gross negligence and were for their own personal financial gains.

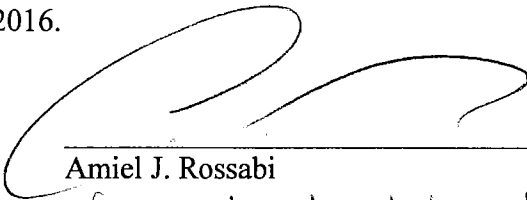
71. As a result of Defendants' gross negligence, Carmayer is entitled to recover from Defendants, jointly and severally, damages in an amount in excess of \$25,000.00, plus punitive damages.

WHEREFORE, Plaintiff prays to the Court as follows:

1. That this Court find Defendants jointly and severally liable and enter a judgment in favor of Plaintiff for damages in excess of \$25,000.00 and as shall be proven at trial;

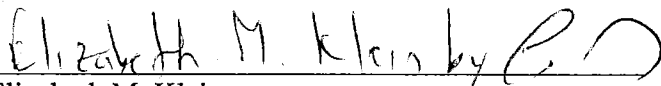
2. That this Court treble damages and award Plaintiff its reasonable attorney's fees under Chapter 75 of the North Carolina General Statutes;
3. That this Court award Plaintiff punitive damages against Defendants, jointly and severally;
4. That the costs of this action, including reasonable attorney's fees as allowed by law, be taxed against Defendants;
5. That a trial by jury be had on issues so triable; and
6. For such other and further relief as the Court deems just and proper.

This the 11th day of January, 2016.



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Amiel J. Rossabi



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Elizabeth M. Klein

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