



# News FROM IIADA

6/26/2020

## **Administrative Office.**

P.O. Box 356  
West Branch, IA 52358  
Phone 319-643-5403  
Fax: 319-643-5403  
Email: iiada2@netins.net

## **Auction News**

Dealer's Choice AA  
[www.dcaa.com](http://www.dcaa.com)

Plaza Auto Auction  
[www.plazaaa.com](http://www.plazaaa.com)

Tri-State AA – Cuba City  
[www.tsaaonline.com](http://www.tsaaonline.com)

Manheim Omaha AA  
[www.manheim.com](http://www.manheim.com)

Adesa Des Moines  
[www.adesa.com](http://www.adesa.com)

Manheim-Minneapolis-MAA  
[www.manheim.com](http://www.manheim.com)

Manheim Northstar  
[www.manheim.com](http://www.manheim.com)

Des Moines Auto Auction  
[www.dsmaa.com](http://www.dsmaa.com)

SUPPORT FOR THE MIDWEST  
AUTO AUCTIONS IS GREATLY  
APPRECIATED.

## **IIADA ADMINISTRATIVE OFFICE**

Contact information: Todd Thein, Executive Director  
Phone: Office (319) 643-5403, Cell (319) 521-7333.  
E-Mail: [iiada2@netins.net](mailto:iiada2@netins.net)  
Mailing Address: P.O. Box 356, West Branch, Iowa 52356

## **IIADA Legislative Session Wrap Up – Legislative Liaison James Piazza**

The 2020 Regular Session of the Eighty-eighth General Assembly wrapped up its work Sunday June 14th. The session is uniquely marked by a suspension due to the Coronavirus pandemic. On March 9, 2020, Governor Reynolds declared a state of emergency to address the COVID-19 outbreak and the session remained postponed from March 16 through June 3rd. The Legislative Services Agency reported on May 14th the ongoing fiscal ramifications to the state reporting that from March 19 through May 5 Sales/Use Tax revenues had decreased by 4.1% compared to the same dates last year. “The negative tax revenue consequences of the business closures, restrictions on gathering, and other aspects of the pandemic, combined with the Iowa Department of Revenue’s withholding and sales tax remittance deferral program, are likely to increase in the coming weeks and months.” It is estimated that Iowa will take in \$7.8 billion in fiscal year 2021, a \$61 million drop or 0.8% decrease from the current year.

Federal legislation allocates an estimated total of \$2.530 billion to the State of Iowa not including direct stimulus payments to taxpayers and non-grant funding. Iowa implemented Covid related economic stimulus programs such as the Paycheck Protection Program (PPP) and the Iowa Small Business Relief Grants Program administered by the Iowa Economic Development Authority. Legislation has been enacted regarding exemptions from state income taxes for certain relief payments and grants.

In the final two weeks of the session the legislature passed a \$7.78 billion budget for the state which is largely flat from the previous year. The DOT budget bill of \$383.9 million is a decrease of \$14.1 million from the current year.

#### Legislation of Concern to the IIADA which Passed

HF2644 - Appropriations to the Motor Vehicle Division of the DOT - \$26,552,992.

<https://www.legis.iowa.gov/legislation/BillBook?ga=88&ba=HF2644>

SF2091 – Exemptions Related to Odometer Statements

<https://www.legis.iowa.gov/legislation/BillBook?ga=88&ba=SF2091>

This bill allows a certificate of title to be issued for a motor vehicle without an odometer statement if the vehicle falls within certain federally recognized exemptions. The bill also allows a licensed motor vehicle dealer to have in its possession as inventory for sale a used motor vehicle acquired by the dealer for which the dealer does not possess an odometer statement by the transferor if the federally recognized vehicle exemptions apply or if a certificate of title has been issued for the vehicle in the name of the dealer. The federally recognized vehicle exemptions referenced by the bill include the following: a vehicle that has a gross vehicle weight rating of more than 16,000 pounds, a vehicle that is not self-propelled, a vehicle that was manufactured in a model year beginning at least 10 years before January 1 of the calendar year in which the vehicle is transferred, a vehicle sold directly by the manufacturer to any agency of the United States in conformity with contractual specifications, and a new vehicle prior to its first transfer for purposes other than resale.

SF619 – Modifying Provisions to certain Service Contract Providers, fees and penalties including Motor Vehicle Service Contracts

<https://www.legis.iowa.gov/legislation/BillBook?ga=88&ba=SF%20619>

Senate File 619 combines the regulation of motor vehicle service contracts (MVSC), currently under Iowa Code chapter 516E, and residential service contracts (RSC), currently under Iowa Code chapter 523C. Under SF 619, both MVSCs and RSCs will be regulated under Iowa Code chapter 523C and Iowa Code chapter 516E will be repealed. The existing oversight framework will remain in its current form. Fees increase for MVSC forms from \$10 to \$50.

#### Legislation of Concern to the IIADA which Died

SF436 – Salvage Title and Non-Disclosure of Damage – FAILED FOR 2019-2020

<https://www.legis.iowa.gov/legislation/BillBook?ga=88&ba=SF436>

IIADA opposed the legislation as written and drafted an amendment as a compromise position which did not receive support and the bill failed to be taken up for debate. We anticipate a new bill will be brought up next year.

SF2265 and HSB676 – Registration and titling of motor vehicles by any county treasurer and modifying fees retained by county treasurers.

<https://www.legis.iowa.gov/legislation/BillBook?ga=88&ba=SF2265>

SF2334 and HF2408 – A bill relating to the surrender or transfer of registration plates and cards to a county treasurer, documentary fees charged by motor vehicle dealers, and motor vehicle franchise obligations.

<https://www.legis.iowa.gov/legislation/BillBook?ga=88&ba=SF2334>

This legislation will likely be brought forward again next year.

**DOT NEW: New policy memo - expanded acceptance of printed names**

Iowa DOT Vehicle Services has just issued Policy Memo 20-09 that provides for the expanded acceptance of printed names on Vehicle Services forms and processes. This memo is in response to a change in federal code in 49 CFR 580.3. In summary, we are allowing that a printed name affixed on most forms or documents may be hand-printed, device-printed or electronically printed. This policy change is designed to help dealers, customers and others complete forms more conveniently and should help improve legibility. Please note that while this policy results from the federal government's odometer disclosure rules, it does not change anything else in Iowa DOT policy regarding acceptance of e-signatures that is defined in Policy Memo 19-07.

We are making changes as needed to specific Iowa DOT forms that reference hand-printed names but there may be a slight delay in getting these posted.

Please see <https://iowadot.gov/mvd/ctmanual/memos/PM-20-09.pdf> for full details and for the exceptions to this policy. Please review and let us know of questions or concerns.

**IIADA SCHOLARSHIP DONATIONS NEEDED:**

With the uncertainty for the time frame of the Annual Meeting, we are looking at other ways to generate monies for the 11 scholarship applicants this year. We are encouraging members to donate cash instead of items for the Scholarship Auction this year. Thank you for your support. Please send your donation to the IIADA P.O. Box 356 West Branch, Iowa

**IIADA NEWS LETTER NOW AVAILBLE ON THE IIADA WEBSITE:**

Log on to [www.iowaiada.com](http://www.iowaiada.com) select the ABOUT IIADA link and you will be able access to previous newsletters.

**IIADA 2020 ANNUAL MEETING:**

The IIADA Board of Directors continue to monitor the COVID19. Once the Social Distancing ban is removed the IIADA Board of Directors will set the time, date, and location for the Annual Meeting. We will be updating the Members as information becomes available.



**Auction News**

Adesa – Sioux Falls

[www.adesa.com](http://www.adesa.com)

Manheim Kansas City

[www.manheim.com](http://www.manheim.com)

Greater Rockford AA

[www.graa.net](http://www.graa.net)

Quad City Auto Auction

[www.qcaa.com](http://www.qcaa.com)

Lincoln Auto Auction

[www.lincolnauction.com](http://www.lincolnauction.com)

**IIADA EVENTS:**

2020 Annual Meeting

TBA - 2020

**NIADA EVENTS:**

June 15-18, 2020

NIADA Convention

Las Vegas – MGM Grand

**KEEP US INFORMED**

DON'T FORGET TO LET

IIADA KNOW IF YOUR

E-MAIL, ADDRESS OR

PHONE NUMBER CHANGES

**Are You Ready to ZOOM?**

With the state opening up to 50% capacity the Community Colleges that provide venues for the 5 hour dealer education classes have gotten creative. Several colleges will offer virtual classes while others will offer traditional classes with a limited number of seats available. Where possible, select Community Colleges will offer a combination of live and virtual. Check with your Community College for local options.

**DEALER EDUCATION CLASSES FOR JULY AND AUGUST**

**July 17, 2020 - Friday      Hawkeye Community College**

**Cedar Falls    101    12:00PM - 5:00PM**

**July 20, 2020 - Monday    Des Moines Area Community College**

**South Ridge Des Moines    101    12:00PM - 5:00PM**

**August 7, 2020 - Friday    Eastern Iowa Community College**

**Davenport    101    8:00AM - 1:00PM**

**August 17, 2020 - Monday North Iowa Area Community College**

**Mason City    101    12:00PM - 5:00PM**

**August 26, 2020 - Wednesday Des Moines Area Community College**

**South Ridge Des Moines    101    8:00AM - 1:00PM**

**August 27, 2020 - Thursday      Southeastern Community College**

**Burlington    101    8:00AM - 1:00PM**

**August 27, 2020 - Thursday      Indian Hills Community College**

**Ottumwa    102    12:00PM - 5:00PM**

**August 28, 2020 - Friday    Southeastern Community College**

**Burlington    102    8:00AM - 1:00PM**

**August 28, 2020 - Friday    Indian Hills Community College**

**Ottumwa    101    8:00AM - 1:00PM**

**CHECK ALL DEALER EDUCATION TIMES AND LOCATIONS AT**

**[www.iowaiada.com](http://www.iowaiada.com) (Dealer Education Tab)**



Spot Delivery > Article

June 2020

*Fraud/Misrepresentation*

## A Welcome Exception to 'Rule One'

**By Patricia E.M. Covington**

When dealership lawyers congregate (you remember congregating, don't you?), they swap stories of their clients' experiences in court defending suits brought by consumers. It usually isn't long before someone makes a wry reference to "Rule One."

What's Rule One?

Short answer - "Dealership loses."

That isn't always the case, of course, but if you read enough court opinions, it seems that courts, some more than others, tend to favor consumers over dealerships. That means that when a case comes along in which a dealer prevails against a consumer, it's a man-bites-dog headline.

Here's what I'm talking about.

Dawn Livingston-Hickethier bought a used 2011 Buick Regal from Janesville Kia. Shortly after the purchase, she noticed that the car was "running rough" and took it for an oil change.

After an additional oil change, the problem continued. At the third oil change, the mechanic told her that the timing chain was ready to fail due to excessive oil consumption and that the car could be dangerous to drive. She continued to drive the car, and it broke down.

She and her husband sued Janesville for fraud under Wis. Stat. § 218.0116(1)(c), (dm), and (e), unconscionable practices under Wis. Stat. § 218.0116(1)(f), and common law intentional misrepresentation in connection with the oil consumption issue and the dealership's sale of a car that was subject to a recall for seat wiring.

The trial court dismissed the complaint, finding no evidence that Janesville knew about the oil consumption problem and the seat wiring recall. The plaintiffs appealed the dismissal, but the Court of Appeals of Wisconsin affirmed the trial court's decision.

After determining that the fraud and intentional misrepresentation claims require evidence that Janesville made a knowing misrepresentation, the appellate court addressed whether the plaintiffs sufficiently alleged that Janesville knew about the oil consumption problem and the recall.

The appellate court found that the plaintiffs' allegations that Janesville knew or, in the exercise of reasonable care, should have known about the oil consumption problem were mere speculation, especially because a mechanic did not uncover the issue until the third oil change. In addition, the plaintiffs made no connection between the claim that the car was "running rough" shortly after the purchase and the car's excessive oil consumption. As for the recall, the appellate court agreed with Janesville that, under Wisconsin regulations, a dealership has no duty to discover or disclose recalls on vehicle makes for which it does not hold a franchise.

The appellate court then turned to the unconscionable practices claim for selling a car that was unsafe to drive. The appellate court found that the plaintiffs' allegations were insufficient to show that the car, when sold, was unsafe.

Just as an aside, note that the claims relied upon here - fraud, intentional misrepresentation, and unconscionable practices - are particular favorites of lawyers who make a living representing consumers in suits against dealers. Unlike a claim for breach of contract, where a winning party generally cannot be awarded punitive damages or attorneys' fees (absent a provision in the contract saying that they can be awarded), claims like the ones the plaintiffs asserted in this case may support a consumer's demand for punitive damages and, under some state laws, an award of some multiple (twice or three times, for example) of the consumer's actual damages, as well as attorneys' fees.

Seeing a dealer successfully defend a case like this one is really refreshing. Maybe Rule One needs to be followed by a qualification with an asterisk - "Well, maybe not every single time."

*Livingston-Hickethier v. Janesville Kia*, 2020 Wisc. App. LEXIS 118 (Wis. App. March 17, 2020).



Approved Benefit Providers

[www.iowaiada.com](http://www.iowaiada.com)



**Associations Marketing Group, Inc.**  
Expertise in Health Benefits

Access Systems

Advanced Business Products

AutoJini.com

Auto- Owners Insurance

Associations Marketing Group, Inc.

Automotive Finance Corporation – AFC.

Citizens Community Credit Union

CU Direct (CUDL)

The Cyclone Agency.

Erikson Solutions Services, LLC

Frazer-Dealer Management Software.

First Interstate Bank

Follow-Up Plus

Globe Acceptance, Inc.

Greater Iowa Credit Union

Innovative Dealer Services

Payteva

Preferred Warranties, Inc.

ProSource Finance.com

Veridian Credit Union

Reynolds & Reynolds Inc.

S & C Automotive, Inc.

U Drive Acceptance Corp.

Green State Credit Union

Wilson Distributor Service





automotive

Your Best Option

S&C AUTOMOTIVE, INC.  
3828 70<sup>TH</sup> STREET  
URBANDALE, IA 50322  
PHONE - (515) 276-9622  
FAX - (515) 276-8472  
www.scautomotive.com  
doug.eckhart@scautomotive.net

«AddressBlock»



•ECP Auto Armor Exterior & Interior Appearance Protection

•Final Coat Eco-friendly Corrosion Protection

•Extended Service Agreements

•GAP and Diminished Vehicle Value Protection

•Reinsurance & Retro Programs

•Certified Pre-owned Warranty Program

•Crystal Fusion Windshield Treatment

•Complete Line-up of Vehicle Car Wash and Detailing Products

•Complete Line-up of Vehicle After-market Accessory Installation

IIADA Member & Approved  
Provider for 20+ Years

MEET APPROVED BENEFIT PROVIDER:

S&C AUTOMOTIVE

Our company has been serving Franchised and Independent Auto Dealers since 1977 with valued added vehicle appearance, aftermarket and F&I protection products and services. Founded by Steve and Chris Eckhart, S&C Automotive started with a 1000 sq. ft building that solely installed rust protection for a handful of Des Moines auto dealers and has grown into a diversified corporation that does business in multiple states and provides an array of automotive products and services that range from a dealerships body shop to the F&I office (and every department in-between).

Our current ownership team (Doug, Robert, Brian and Bruce Eckhart) believes that providing industry leading products, backed up with outstanding service is the key to continued success in an ever-changing automotive landscape.

S&C Automotive offers both installation of appearance protection and aftermarket accessories at our Urbandale location for dealerships that wish to sub-let. Our company also provides complete sales and installation training on a variety of appearance protection and F&I products at our client's dealerships, or they can send their employees to get hands on sales and/or application training in our training center here in Urbandale. In addition, our Appearance Protection and F&I Product Providers also offer professional training at their corporate headquarters in Chicago, IL.

We currently have four Market Area Managers covering Iowa, all of whom can help Independent Dealers increase their PVR (Profit per Vehicle Retail) with value-added F&I and Appearance Protection Products. Just think what an additional \$500 profit per vehicle could do for the bottom-line on 15-20 vehicle sales per month.

We are proud to be a 20+ year member and approved benefit provider to the IIADA and look forward to serving Iowa Auto Dealers for many years to come. S&C Automotive is your best option for increased profits with valued added products and services.

Contact S&C Automotive: Office: 515-276-9622 Fax: 515-276-9472 email: [doug.eckhart@scautomotive.net](mailto:doug.eckhart@scautomotive.net) Website: [www.scautomotive.com](http://www.scautomotive.com)