OTHE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION

DEBRA GREEN,	:	January Term, 2000
Plaintiff	:	
	:	No. 685
v.	:	
	:	Commerce Case Program
SATURN CORP.,	:	
Defendant	:	Control No. 110155
	:	Control No. 030914

OPINION

This dispute revolves around the alleged misrepresentation that the interior of Saturn's 1996 model year automobile had been treated with Scotchgard and the importance placed on this misrepresentation. This Opinion addresses two motions. The first is a motion for class certification filed by Plaintiff Debra L. Green ("Motion for Certification"), while the second is a motion for summary judgment filed by Defendant Saturn Corporation ("Motion for Summary Judgment"). For the reasons set forth in this Opinion, the Court is denying the Motion for Certification and granting the Motion for Summary Judgment.

FINDINGS OF FACT

1. Plaintiff Debra L. Green is an individual residing at 216 West Mount Airy Avenue, Philadelphia, Pennsylvania. Complaint at ¶ 4.

2. Defendant Saturn Corporation ("Saturn") is a wholly owned subsidiary of General Motors Corporation incorporated under the laws of the State of Delaware. Saturn's corporate headquarters is located at 1420 Stephenson Highway, Troy, Michigan. Complaint at ¶ 5.

3. In conjunction with its automobile sales, Saturn allegedly drafts and disseminates uniform marketing materials to be displayed in Saturn dealer showrooms. Complaint at ¶ 5. Saturn also drafted and disseminated a 1996 Owner's Handbook ("Handbook"), which describes its 1996 model year automobile ("1996 Saturn") in greater detail. Id.

4. The portion of the Handbook addressing "Fabric Protection" states as follows:

> Your Saturn has upholstery and carpet that has been treated with Scotchgard® Fabric Protector, a 3M product. It protects fabric by repelling oil and water, which are the carriers of most stains. Even with this protection, you still need to clean your upholstery and carpet often to keep it looking new.

Defendant's Response Memorandum to Motion for Certification Ex. 7 at 318. The Handbook also states that Saturn "reserves the right to make changes in the product after [the Handbook is printed] without further notice. Id. at Preface.

5. The Complaint alleges that uniform marketing materials displayed at Saturn dealerships informed potential buyers that Saturn's vehicles were treated with Scotchgard. Complaint at ¶ 18. In addition, the Plaintiff contends that "[i]n some instances, the dealers also orally represented prior to purchase that Saturn's 1996 model year automobile had been treated with a stain resistant chemical such as Scotchgard" and made use of the Handbook to inform potential purchasers of the supposed Scotchgard treatment. Id.

6. Saturn's 1996 Warranty & Owner Assistance Information ("Warranty") stated that "[a]ny defects still present at the time the vehicle is delivered to you are covered by the warranty," and specifically covered upholstery and carpeting. Complaint at ¶ 21. The Warranty also

cautioned that "[d]amage caused by . . . the application of chemicals . . . subsequent to manufacture, etc., is not covered." Id.

7. In July 1996, the Plaintiff purchased a 1996 Saturn SDN from Saturn of West Chester, located at 700 Westtown Road, West Chester, Pennsylvania. Complaint at ¶ 4. At the time, the Plaintiff was "very interested in fabric protection" and knew that she "wanted a car that was definitely fabric treated." Defendant's Response Memorandum to Motion for Certification Ex. 1 at 50-51. The Plaintiff was willing to pay additional money to ensure that her vehicle was treated with a fabric protection chemical. Id. at 54.

8. The Plaintiff recalls seeing a posterboard display that "referred in some fashion to fabric protection" but does not remember that this display mentioned Scotchgard. Defendant's Response Memorandum to Motion for Certification Ex. 1 at 21, 63. The Plaintiff did not see any other written materials referring to fabric protection prior to purchasing her 1996 Saturn and does not have any recollection of a specific discussion about fabric protection treatment. Id. at 21, 51-52.

9. Saturn of West Chester, the dealership through which the Plaintiff purchased her 1996 Saturn, offered customers fabric protection treatment as an after-market dealer option independent of Saturn itself. Defendant's Response Memorandum to Motion for Certification Ex. 2 at ¶ 5. The Saturn of West Chester showroom had promotional materials referring to this dealer option, including large cardboard displays. Id. at ¶ 6.

10. Saturn contends that none of its advertisements included any reference to Scotchgard or any other fabric protection chemical. Defendant's Response Memorandum to Motion for Certification at 4.

11. The Plaintiff concedes that she was intent on purchasing a 1996 Saturn and would have done so even if she had been required to pay additional money for the a stain resistant chemical application option. Defendant's Response Memorandum to Motion for Certification Ex. 1 at 26, 29-30, 53-54.

12. In October 1996, Saturn sent a letter to 1996 Saturn owners informing them that their vehicles had not, in fact, been treated with Scotchgard:

> A misprint has been identified on page number 318 of the 1996 Saturn Owner's Handbook, under the section title "Fabric Protection." The 1996 Saturn Owner's Handbook incorrectly states that the 1996 Saturn vehicle's upholstery and carpet have been treated with Scotchgard® Fabric Protector. . . .
>
> Saturns in 1996 were manufactured using upholstery fabrics constructed with polyester fibers, and carpet fabrics constructed with fibers made from nylon. Both polyester and nylon are synthetic (man-made) petroleum based products. We believe them to provide inherent durability, wearability, cleanability and stain resistant qualities. For these and other reasons Scotchgard® Fabric Protector or equivalent stain resistant products have not been applied to the upholstery and fabric. We recognize that some customers realize a benefit in using products like Scotchgard® Fabric Protector or its equivalent. If you have chosen to use this type of product, always follow the manufacturer's warnings and instructions. . . .

Defendant's Response to Motion for Certification Ex. 16.

13. The Plaintiff contends that the value of Saturn or its dealers applying a stain resistant chemical such as Scotchgard to the carpet and upholstery of a 1996 Saturn is between $300 and $400. Complaint at ¶ 26.

14. The Plaintiff has initiated the instant class action suit and has asserted claims for violations Pennsylvania's Unfair Trade Practices Consumer Protection Law ("UTPCPL"),[1] violations of the consumer protection laws of other states and breach of express warranty. Complaint at ¶¶ 27-39.

15. In the Motion for Certification, the Plaintiff seeks certification of a class comprising "[a]ll persons who purchased or leased Saturn 1996 model year automobiles, excluding defendant, its parent entities, subsidiaries, affiliates, and its agents or employees."[2] Motion for Certification at 1.

DISCUSSION

The claims set forth in the Complaint raise individual questions as to the Class members' awareness of and reliance on Saturn's alleged misrepresentation that the 1996 Saturns had been treated with a fabric protection chemical. Because these questions cannot be fairly and efficiently addressed through a class action, the Motion for Certification is denied. In addition, the Plaintiff's own admissions establish that she did not rely on Saturn's alleged misrepresentations in purchasing her 1996 Saturn and that any representations as to Scotchgard or other fabric protection did not form part of the "basis of the bargain" for her vehicle selection. As a result, the Motion for Summary Judgment is granted.

I. Because the Claims Presented in the Complaint Raise Individual Issues, the Motion for Certification must Be Denied

[1] 73 Pa. C.S. §§ 201-1-201-9.3.

[2] The class proposed by the Plaintiff is referred to as the "Class."

The purpose behind allowing class action suits is "to provide a means by which the claims of many individuals could be resolved at one time, thereby eliminating the possibility of repetitious litigation and providing small claimants with a method to seek compensation for claims that would otherwise be too small to litigate." DiLucido v. Terminix Int'l, Inc., 450 Pa. Super. 393, 397, 676 A.2d 1237, 1239 (1996) (citing Bell v. Beneficial Consumer Discount Co., 465 Pa. 225, 231, 348 A.2d 734, 737 (1975)). See also Lilian v. Commonwealth, 467 Pa. 15, 21, 354 A.2d 250, 253 (1976) ("[t]he class action in Pennsylvania is a procedural device designed to promote efficiency and fairness in the handling of large numbers of similar claims"). For a suit to proceed as class action, Pennsylvania Rule of Civil Procedure 1702 requires that five criteria be met:

> (1) the class is so numerous that joinder of all members is impracticable;
> (2) there are questions of law or fact common to the class;
> (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class;
> (4) the representative parties will fairly and adequately assert and protect the interests of the class under the criteria set forth in Rule 1709; and
> (5) a class action provides a fair and efficient method for adjudication of the controversy under the criteria set forth in Rule 1708.

Pa. R. Civ. P. 1702 ("Rule 1702").[3] The burden of proving each of these elements is initially on the moving party, although this burden "is not heavy and is thus consistent with the policy that decisions in favor of maintaining a class action should be liberally made." Cambanis v. Nationwide Ins. Co., 348 Pa. Super. 41, 45, 501 A.2d 635, 637 (1985) (citing Bell v. Beneficial Consumer Discount Co., 241 Pa. Super. 192, 205, 360 A.2d 681, 688 (1976)). Once the moving party has established that each of

[3] It has been noted that "the requirements for class certification are closely interrelated and overlapping . . . ." Janicik v. Prudential Ins. Co., 305 Pa. Super. 120, 130, 451 A.2d 455 (1982) (citations omitted).

the elements is satisfied, "the class opponent shoulders the burden, which has shifted, of coming forward with contrary evidence challenging the prima facie case." D'Amelio v. Blue Cross of Lehigh Valley, 347 Pa. Super. 441, 449, 500 A.2d 1137, 1141 (1985) (citations omitted).

In the instant case, the Plaintiff has failed to satisfy the second and fifth elements set forth in Rule 1702. Specifically, Complaint does not presents question of fact and law that are common to the Class, and there is no support for the assertion that a class action is a fair and efficient method to address the Plaintiff's grievances.

A sustainable class action requires a plaintiff to show commonality of issues:

> The common question of fact means precisely that the facts must be substantially the same so that proof as to one claimant would be proof as to all. This is what gives the class action its legal viability. If . . . each question of disputed fact has a different origin, a different manner of proof and to which there are different defenses, we cannot consider them to be common questions of fact within the meaning of Pa.R.C.P. 1702.

Allegheny County Housing Auth. v. Berry, 338 Pa. Super. 338, 342, 487 A.2d 995, 997 (1985) (citation omitted). See also D'Amelio, 347 Pa. Super. at 452, 500 A.2d at 1142 ("[w]hile the existence of individual questions is not necessarily fatal, it is essential that there be a predominance of common issues shared by all class members which can be justly resolved in a single proceeding"). A court must also determine that a class action would constitute a fair and efficient method of resolving the issues in dispute, a conclusion that presupposes finding that "common questions of law or fact predominate over any question affecting only individual members." Pa. R. Civ. P. 1708.[4]

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[4] Pennsylvania Rule of Civil Procedure 1708 requires a court to look at the following whether evaluating whether a class action is a fair and efficient method of adjudication:

(1) whether common questions of law or fact predominate over any question affecting

The Plaintiff contends that she has satisfied both the commonality and the fairness and efficiency requirements and lists numerous allegedly common questions of law and fact:

- Whether Saturn's conduct violated Sections 201-2(4)(v), (ix) and (xiv) of the UTPCPL[5] and the corresponding sections of other states' consumer protection laws;
- Whether the failure to treat the 1996 Saturns with a stain resistant chemical such as Scotchgard adversely affects or will affect the vehicles' durability;
- Whether Saturn breached the Warranty;
- Whether Saturn's conduct proximately caused injury to the Class; and

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only individual members;
(2) the size of the class and the difficulties likely to be encountered in the management of the action as a class action;
(3) whether the prosecution of separate actions by or against individual members of the class would create a risk of
(i) inconsistent or varying adjudications with respect to individual members of the class which would confront the party opposing the class with incompatible standards of conduct;
(ii) adjudications with respect to individual members of the class which would as a practical matter be dispositive of the interests of other members not parties to the adjudications or substantially impair or impede their ability to protect their interests;
(4) the extent and nature of any litigation already commenced by or against members of the class involving any of the same issues;
(5) whether the particular forum is appropriate for the litigation of the claims of the entire class;
(6) whether in view of the complexities of the issues or the expenses of litigation the separate claims of individual class members are insufficient in amount to support separate actions;
(7) whether it is likely that the amount which may be recovered by individual class members will be so small in relation to the expense and effort of administering the action as not to justify a class action.

Pa. R. Civ. P. 1708(a).

[5] 73 Pa. C.S. §§ 201-2(4)(v), (ix) and (xiv).

C Whether the Class members have been damages and to what degree.

Motion for Certification Memorandum at 16.

As noted by several Pennsylvania appellate court decisions, a private UTPCPL plaintiff, whose right to act arises under UTPCPL Section 9.2, must show that he or she was damaged as a result of a defendant's unlawful act.[6] Weinberg v. Sun Co., __ Pa. __, __, 777 A.2d 442, 446 (2001) (Section 9.2 "clearly requires, in a private action, that a plaintiff suffer an ascertainable loss as a result of the defendant's prohibited action"). This requires a private plaintiff to show "a causal connection between the unlawful practice and a plaintiff's loss." DiLucido v. Terminix Int'l, Inc., 450 Pa. Super. 393, 401-02, 676 A.2d 1237, 1241 (1996). The Pennsylvania Supreme Court recently remarked that the causation requirement found in all private UTPCPL actions required the resolution of "questions of fact applicable to each individual private plaintiff" that would be "numerous and extensive." Weinberg, __ Pa. at __, 777 A.2d at 446. Cf. Prime Meats, Inc. v. Yochim, 422 Pa. Super. 460, 471, 619 A.2d 769, 774 (1993) (because a fraud claim requires a showing that the plaintiff acted in reliance on the

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[6] In its entirety, UTPCPL Section 9.2(a) reads as follows:

> (a) Any person who purchases or leases goods or services primarily for personal, family or household purposes and thereby suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment by any person of a method, act or practice declared unlawful by section 3 of this act, may bring a private action to recover actual damages or one hundred dollars ($100), whichever is greater. The court may, in its discretion, award up to three times the actual damages sustained, but not less than one hundred dollars ($100), and may provide such additional relief as it deems necessary or proper. The court may award to the plaintiff, in addition to other relief provided in this section, costs and reasonable attorney fees.

73 Pa. C.S. § 201-9.2.

defendant's misrepresentation, which "would normally vary from person to person, this cause of action is not generally appropriate for resolution in a plaintiff class action").

The same is true for the Plaintiff's false advertising and misrepresentation claims in this case. Here, the Plaintiff would have the burden of establishing that the damage suffered by each member of the Class was caused by the Defendants' alleged misrepresentations that the vehicles were treated with Scotchgard or another fabric protector. This would require reviewing the reasons of each Class member for purchasing his or her vehicle and determining whether Saturn's Scotchgard representations had any effect on the Class member's decision. Such an undertaking would involve a painstaking survey of each Class member's transaction, each of which appears to have taken place under different circumstances, and belies the argument that common questions exist and predominate over individual questions.[7]

The Plaintiff repeatedly alleges that Saturn consistently and uniformly misrepresented through its marketing efforts that the 1996 Saturns were treated with a stain resistant chemical such as Scotchgard. These efforts included uniform marketing materials touting the 1996 Saturns' stain resistant qualities, the statement in the Handbook regarding Scotchgard and oral representations made by Saturn representatives. Motion for Certification Memorandum at 4. Even if Saturn made such efforts, however, it would not relieve the Class members from having to show that each of them relied on these representations in purchasing their 1996 Saturns. Accordingly, the Plaintiff's false advertising and misrepresentation claims raise individual issues and cannot be addressed on a classwide basis.

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[7] The fact that the Class may have over 285,000 member promises that this experience would be both excruciatingly painful for the Court and ridiculously burdensome for the Class.

The Plaintiff's express warranties are equally problematic. Any one of the following may be regarded as an express warranty:

> (1) Any affirmation of fact or promise made by the seller to the buyer which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods shall conform to the affirmation or promise.
> (2) Any description of the goods which is made part of the basis of the bargain creates an express warranty that the goods shall conform to the description.
> (3) Any sample or model which is made part of the basis of the bargain creates an express warranty that the whole of the goods shall conform to the sample or model.

13 Pa. C.S. § 2313 ("Section 2313"). As is readily apparent, the focus is on whether the alleged warranty has become part of the "basis of the bargain."

In general, all of the statements of the seller become part of the basis of the bargain "unless good reason is shown to the contrary." Section 2313 cmt. 8. It is important, however, that the buyer at least be aware of the seller's representation prior to the transaction's consummation:

> In actual practice affirmations of fact made by the seller about the goods during a bargain are regarded as part of the description of those goods; hence no particular reliance on such statements need be shown in order to weave them into the fabric of the agreement. Rather, any fact which is to take such affirmations, once made, out of the agreement requires clear affirmative proof.

Section 2313 cmt. 3. See also 1 James J. White & Robert S. Summers, Uniform Commercial Code (5th ed. 2000) § 9-5 (stating that the circumstances under which post-transaction representations become express warranties are limited); 3 Ronald A. Anderson, Uniform Commercial Code (3rd ed. 1985) § 2-313:39 ("[w]hen a buyer is not influenced or induced to make the purchase because of the particular statement, that statement is not a basis for the bargain"). But see Section 2313 Pennsylvania Bar Ass'n note (1)(c) ("the qualification that affirmations, etc. create a warranty if made 'as a basis of'

the bargain, appears to be substantially the same as the 'reliance' qualification in § 12 of the Uniform Sales Act").[8]

Here, the disparate and distinct ways and times that the Class members became aware of the Scotchgard representation, if they did at all, complicates the Court's ability to determine whether this representation became a "basis of the bargain" for the Class as a whole. It appears that some Class members received and read the Handbook before purchasing their vehicles while others did not. Some allegedly were given oral representations from Saturn dealers and saw posterboard advertisements,

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[8] Saturn argues that the "basis of the bargain" requirement is akin to a mandate that the Plaintiff show reliance on Saturn's representations. There appears to be some merit to this argument. See Dormont Mfg. Co. v. ITT Grinnell Corp., 323 Pa. Super. 17, 20-21, 469 A.2d 1138, 1140 (1983) (concluding that a plaintiff generally must show that it relied on a defendant's contemporaneous affirmation, promise, description or sample if such representations are to considered a basis of the bargain). It is clear, however, that the degree of any reliance required is not a strong one:

> [The basis of the bargain requirement] is essentially a reliance requirement and is inextricably intertwined with the initial determination as to whether given language may constitute an express warranty since affirmations, promises and descriptions tend to become part of the basis of the bargain. It was the intention of the drafters of the U.C.C. not to require a strong showing of reliance. In fact, they envisioned that all statements of the seller became part of the basis of the bargain unless clear affirmative proof is shown to the contrary.

Sessa v. Riegle, 427 F. Supp. 760, 766 (E.D. Pa. 1977), aff'd, 568 F.2d 770 (3d Cir. 1978). See also 1 James J. White & Robert S. Summers, Uniform Commercial Code (5th ed. 2000) § 9-5 (where a plaintiff asserts a breach of written warranty claim based on an advertisement, the plaintiff "[a]t minimum . . . should have to testify that he (or his agent) knew of and relied upon the advertisement in making the purchase"); Matthew J. Duchemin, Whether Reliance on the Warranty is Required in a Common Law Action for Breach of an Express Warranty?, 82 Marq. L. Rev. 689 (1999) (discussing different court approaches to the role of reliance in forming the basis of the bargain); Steven Z. Hodaszy, Express Warranties Under the Uniform Commercial Code: Is There a Reliance Requirement?, 66 N.Y.U. L. Rev. 468 (1991) (arguing that the requirement and burden showing of reliance depends on the timing of the representation).

while other members of the Class were completely unaware of the supposed Scotchgard treatment, as represented in the Handbook and elsewhere. Unlike other cases, where members of the proposed class were treated in a uniform manner and got their information in the same way or from the same source, it would be difficult to assess whether the Scotchgard representations qualify as the basis of each Class member's bargain on a grand scale. Cf. Carpenter v. BMW of N. Amer., Inc., No. Civ. A. 99-CV-214, 1999 WL 415390, at *4 (E.D. Pa. Jun. 23, 1999) (questions as to whether defendant's representation concerning the origin of the five-speed automatic transmissions in the subject automobiles formed a "basis of the bargain" militated against class certification). As such, the Plaintiff's breach of express warranty claims raise individual issues that cannot be addressed on a classwide basis and prevent certification.

While the Plaintiff has presented several novel and creative procedures for resolving these issues and allowing certification, none of these appears to be particularly suitable. While other class action courts have made use of alternative dispute resolution methods, individual mini-trials, special masters and written proofs of claims, the diverse ways in which Class members encountered (or even failed to encounter) Saturn's alleged misrepresentation make these techniques inappropriate. In short, because none of the Plaintiff's claims is properly resolved through a class action, the Motion for Certification must be denied in its entirety.[9]

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[9] The Court has not addressed the possibility of certifying the claims based on the consumer protection laws of other states in detail. It is sufficient to note that the difficulties found in addressing Pennsylvania Class members are likely to be multiplied many times over when reviewing the subtle distinctions of laws of dozens of other jurisdictions. In any event, the Plaintiff's inability to sustain her individual claim, as discussed infra, would preclude certification of any portion of this action. See Citizens for State Hosp. v. Commonwealth of Pa.,123 Pa. Commw. 150, 553 A.2d 496 (1989), aff'd,

II. Because Saturn's Representations Were Not a Basis for the Plaintiff's Purchase and Did Not Cause Any Financial Harm to the Plaintiff, the Motion for Summary Judgment must Be Granted

Pennsylvania Rule of Civil Procedure 1035.2 allows a court to enter summary judgment "whenever there is no genuine issue of any material fact as to a necessary element of the cause of action." A court must grant a motion for summary judgment when a non-moving party fails to "adduce sufficient evidence on an issue essential to his case and on which he bears the burden of proof such that a jury could return a verdict in his favor." Ertel v. Patriot-News Co., 544 Pa. 93, 101-02, 674 A.2d 1038, 1042 (1996).

As discussed supra, two of the Plaintiff's UTPCPL claims require her to show that she suffered a loss of money or property as a result of Saturn's representation that her 1996 Saturn had been treated with Scotchgard or another stain resistant chemical. Similarly, the Plaintiff's breach of warranty claims require a demonstration that the Scotchgard representations formed a basis of the bargain for her 1996 Saturn purchase.[10] Because the Plaintiff has presented evidence of neither, the Motion for Summary Judgment must be granted.

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529 Pa. 2, 600 A.2d 949 (1992) (dismissing action where named plaintiffs lacked standing); Brunda v. Home Ins. Co., 353 Pa.Super. 146, 156, 509 A.2d 377, 383 (1986), rev'd on other grounds sub nom. Cunningham v. Insurance Co. of N. Amer., 515 Pa. 486, 530 A.2d 407 (1987) ("[i]n the absence of a class plaintiff who could establish the typicality of his or her claim and the adequacy of his or her representation, the action could not proceed as a class action").

[10] As discussed supra, it is unclear whether Pennsylvania's Section 2313 requires a plaintiff to show reliance on the representation or whether a defendant has the burden of showing non-reliance. Because the Court is satisfied that both tests lead to the same outcome, however, it is not necessary to resolve this question here.

Of the alleged ways in which Saturn supposedly represented that its 1996 Saturns were treated with fabric protection chemical, the Plaintiff recalls seeing only a posterboard display prior to purchasing her vehicle and does not remember the exact contents or text of the display. Defendant's Exhibit 1 at 21, 63. According to the Plaintiff's own deposition, she was intent on purchasing a 1996 Saturn and would have done so even if she had been required to pay additional money for the a stain resistant chemical application option. Id. at 26, 29-30, 53-54.[11]

Given these facts, the Plaintiff is reduced to arguing that she must have thought that her vehicle was Scotchgarded because she otherwise would have requested the fabric protection option. This, however, does not support the argument that the Plaintiff relied on Saturn's Scotchgard representations in making her purchase or that the Scotchgard representations became part of the basis of her purchase. Indeed, if the Plaintiff would have purchased her 1996 Saturn regardless of whether fabric protection was standard or optional, the fact that Scotchgard or a similar treatment was not a standard feature had no impact on her decision whatsoever. As such, Saturn's fabric protection representations were not a basis of the Plaintiff's 1996 Saturn purchase, and her breach of warranty claims must fail. In like manner, there is no indication that the Plaintiff suffered a monetary loss caused by Saturn's fabric protection representations. As a result, the Motion for Summary Judgment must be granted.

CONCLUSIONS OF LAW

1. The class action will not provide a fair and efficient method for adjudicating this controversy.

[11] Indeed, the Plaintiff did not explore any possibilities other than purchasing a 1996 Saturn and remains quite happy with her choice of vehicles. Defendant's Response Memorandum to Motion for Certification Ex. 1 at 30-33.

2. Common questions of law or fact do not predominate over any question affecting only individual members.

3. The claims raised by the representative party are not typical of the claims belonging to, and necessary for, the protection of absent class members.

4. The Court need not determine whether the proposed class representative will fairly and adequately assert and protect the interests of the class.

5. The Court need not determine whether the Class is sufficiently numerous that joinder of all its members is impracticable.

6. The Plaintiff has failed to adduce sufficient evidence on issues essential to her case and on which she bears the burden of proof such that a jury could return a verdict in her favor.

For these reasons, the instant case is inappropriate for disposition as a class action, the Motion for Certification is denied and the Motion for Summary Judgment is granted.

BY THE COURT:

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JOHN W. HERRON, J.

Dated: October 24, 2001

THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION

DEBRA GREEN,	:	January Term, 2000
Plaintiff	:	
	:	No. 685
v.	:	
	:	Commerce Case Program
SATURN CORP.,	:	
Defendant	:	Control No. 110155
	:	Control No. 030914

ORDER

AND NOW, this 24th day of October, 2001, upon consideration of Plaintiff Debra Green's Motion for Class Certification and Defendant Saturn Corporation's response thereto, the Defendant's Motion for Summary Judgment and the Plaintiff's response thereto, oral argument before the Court and all other matters of record, and in accord with the Opinion being filed contemporaneously with this Order, it is hereby ORDERED and DECREED as follows:

1. The Plaintiff's Motion for Class Certification is DENIED; and

2. The Defendant's Motion for Summary Judgment is GRANTED.

BY THE COURT:

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JOHN W. HERRON, J.