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September 4, 2007

Clay County Circuit Court  
Clay County Circuit Clerk  
11 S. Water Street.  
Liberty, MO 64068

**Re: *Duff, William v. Officer Frazier, et al.,***  
***Case No. 07CY-CV06125***

Dear Clerk:

Please find enclosed the original and one copy of *Defendants' Motion to Dismiss Plaintiff's Replevin Claim* for filing in the above-referenced case.

We would appreciate your returning a file stamped copy to our office in the enclosed self-addressed, stamped envelope. Thank you for your attention to this matter.

Sincerely,

JEREMIAH W. (JAY) NIXON  
Attorney General

A handwritten signature in cursive script that reads "Emily A. Dodge".

Emily A. Dodge  
Assistant Attorney General

EAD:sm

cc: William D. Duff



by statute. MO. REV. STAT. §301.210.4 (2007). The sale of a motor vehicle without assignment of the title is fraudulent and a void transaction. Section 301.210.4; Bonnell v. Mahaffey, 493 S.W.2d 688, 690-91 (Mo. App. 1973). The statute is strictly enforced; as Plaintiff did not receive the title to the vehicle from the seller, he received no right or title to the automobile. Id. As Plaintiff was not the owner of the Buick and had no legal right to its possession, his replevin claim fails as a matter of law. Turman v. Schneider Bailey, Inc., 768 S.W.2d 108, 112 (Mo. App. W.D. 1988).


Moreover, the officers' detention of the Buick was not wrongful, but was a legally authorized exercise of the officers' law enforcement duties. See Mitchell v. Village of Edmundson, 891 S.W.2d 848, 850 (Mo. App. E.D. 1995).

#### Conclusion

WHEREFORE, Defendants request that the Court dismiss Plaintiff's replevin claim with prejudice, and for such other and further relief as the Court deems just and proper in the premises.

Respectfully submitted,

JEREMIAH W. (JAY) NIXON  
Attorney General

BY:   
EMILY A. DODGE  
Assistant Attorney General  
Missouri Bar No. 53914

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was mailed, postage prepaid

this 4th day of September, 2007 to:

William D. Duff  
108 NW 101 PL.  
Kansas City, MO 64155

  
Assistant Attorney General