

## LAW 360

# NYC Car Dealers Sue City Over \$3M Consumer Violation Fine

By [Reenat Sinay](#)

Law360 (May 21, 2019, 9:34 PM EDT) -- A group of affiliated car dealerships petitioned a New York state court Tuesday to vacate fines of nearly \$3.2 million levied against them earlier this year in administrative proceedings that found they ripped off vulnerable customers by using deceptive and illegal trade practices.

Administrative Law Judge Alessandra F. Zoragniotti of the Office of Administrative Trials and Hearings [determined in January](#) that Queens-based Major World, one of New York City's largest used-car dealerships, along with several related dealerships, targeted low-income and largely Hispanic and non-English-speaking consumers with tactics such as falsifying their credit applications and saddling them with overpriced loans.

The dealerships brought the action against the city's Department of Consumer Affairs, the DCA's commissioner, the city of New York and OATH for what they said were "grossly excessive" fines of \$3,164,875 for consumer protection law violations that were "not supported by substantial evidence."

"In deciding this wildly excessive proceeding commenced by the DCA, primarily for political purposes to gain new legislation, the [administrative law judge] from OATH made several fundamental errors of law as to the violations challenged in this proceeding," they said. "The fines imposed ... were grossly excessive and should shock the court since the [administrative law judge] used an antiquated methodology of multiplying violations."

The DCA filed its suit against Major World in 2017 seeking more than \$30 million in fines and to revoke Major World's dealership license. OATH's January decision found that Major World racked up thousands of violations of DCA rules by misrepresenting the condition of the used cars it sold and charging consumers for unauthorized service contracts, among other deceptive tactics.

Judge Zoragniotti declined to revoke Major World's license and rejected the DCA's request that the company create a restitution fund to compensate potential unnamed consumers in the future.

While the OATH proceedings were ongoing, the DCA and Major World reached a settlement last year that required the used-car dealership to pay nearly \$142,000 in restitution to 40 consumers directly and \$68,000 to cover outstanding loans incurred as a result of its actions, according to the department.

In the current suit, the Major World dealerships alleged Tuesday that OATH made errors of law in determining that they failed to provide Spanish-speaking customers with adequate translations of documents, in imposing a separate penalty for each of those documents rather than per transaction, and in choosing to apply the maximum penalty of \$350 per violation.

The dealerships also contended that OATH inaccurately found tens of thousands of DCA violations because the department only provided enough evidence to support just over 60 of those charges.

They further asserted that their warranties and guarantees are not misleading, arguing that the terms are plain and merely state consumers' rights, rather than trying to trick customers into thinking they've waived their rights.

Representatives for the parties did not immediately respond to requests for comment Tuesday.

The dealerships are represented by Steven J. Harfenist and Andrew C. Lang of [Harfenist Kraut & Perlstein LLP](#) and Russell Shanks of [Cyruli Shanks Hart & Zizmor LLP](#).

Counsel information for the respondents was not immediately available Tuesday.

The case is In the Matter of the Application of Major World Chevrolet LLC et al., case number 155119/2019, in the Supreme Court of the State of New York, County of New York.

--Additional reporting by Linda Chiem. Editing by Janice Carter Brown.