

BMW Hit With Class Claims Over Motorcycle Gear Displays

By Jeannie O'Sullivan

Law360 (July 8, 2019, 3:02 PM EDT) -- BMW of North America LLC was slammed with a proposed class action Friday alleging the company placed its customers in harm's way by selling motorcycles with defective gear indicators that heightened the risk of accidents and posed other safety issues.

In a complaint filed in New Jersey federal court, customer Daniel Casey says the gear indicators intermittently displayed the wrong gear or didn't display any gear at all and have been the subject of "numerous" customer complaints. The faulty gears came with F, K, G, R, HP2 and S series BMW motorcycles manufactured between 2003 and this year, according to the suit.

"BMW has long known about the problem but has not notified consumers," the complaint says.

The complaint accuses BMW, which has headquarters in Woodcliff Lake, New Jersey, of breaching express and implied warranties and includes claims for unjust enrichment and under the Magnuson-Moss Warranty Act. Casey seeks to represent a nationwide class and wants monetary damages, punitive damages, court costs and expenses and attorney fees.

Casey, a resident of Washington state, purchased a new 2016 F700GS BMW motorcycle from South Sound Motorcycles in Tacoma in February 2016, according to the complaint. He relied on representations by BMW, including promotional materials and other information, "that he was receiving a safe and usable product."

None of those materials disclosed that the motorcycles have defective gear indicators, Casey claims. But had they done so, he says, he wouldn't have bought the motorcycle.

The gear indicator began showing the wrong gear or no gear in May 2017, the complaint says. The "unpredictable" malfunctions sometimes become operable when Casey restarts the motorcycle, but other times the malfunction persists, according to the complaint.

The problems with Casey's motorcycle persist despite four repairs, one lasting roughly seven weeks, according to the complaint.

Casey claims the faulty gear indicator impedes him from properly judging accelerating power and torque delivery, places the motorcycle in incorrect gear while in cruise control, reduces gas mileage and causes "excessive strain" on the motor, among other things.

The complaint points to consumer complaints about the gear indicators that appear on BMW online forums, as well as reports made to directly dealers or the company itself.

"As demonstrated by the complaints regarding the gear indicators, BMW and its dealerships were fully aware of the defective nature of the gear indicators," the complaint says.

An attorney for Casey declined to comment. Representatives for BMW didn't immediately respond to a request for comment.

Casey is represented by Janine Pollack and Adam Gonnelli of Sultz Law Group PC and Bonnie Walsh of Walsh PLLC.

Counsel information for BMW was unavailable.

The case is Casey v. BMW North America LLC, case no. 2:19-cv-14761, in U.S. District Court for the District of New Jersey.

--Editing by Abbie Sarfo.