

## BRIEF

Although this is a dispute between one customer and a local vendor, this is an issue of public interest. I work as a consultant and develop online marketing strategies for local businesses. For island owners striving in the middle of the Pacific, potential customers rely on the Internet and company websites. The public's faith in the **WARRANTY** of online marketing is critical to their business success. Promises made by FunCars violates principles of Truth in Advertising. Their behavior is Bait & Switch marketing. This action can diminish the reputation of other Kaua'i businesses.

## HISTORY

- I. SOUGHT long-term lease for specialized vehicle for my wife and me: well maintained with roof rack. Have professional obligations and am an Avid Surfer.
- II. BEGAN search in May 2014; made agreement with FunCars early June. **Exhibit 1**
- III. ARRIVED July 2nd. Vehicle not as promised. High season: no alternatives long term; Greater cost short term.
- IV. RENTAL CAR market is like the airline industry. Best prices and options for those who book early in advance.
- V. NO ALTERNATIVES in this price range. This constitutes Bait & Switch

## INJURY

- I. July, August, September, most October - no rack as promised. Diminished value.
- II. Could not transport wife or additional passengers. **Exhibit 2**
- III. Forced to rent surfboards or soft top rack. Soft top rack leaked water in vehicle.
- IV. Board inside vehicle was dangerous, as it slipped around.
- V. Protecting & maintaining vehicle with board inside was challenging, as board "sweats." Difficult and time consuming. FunCars would charge for damage to vehicle.
- VI. FunCars switched vehicles late October. **Exhibit 3**
- VII. Rear hatch lift corroded. Broke quickly. FunCars refused to repair. Diminished value. Yet repaired defective AC/Heater switch in November. **Exhibit 4**

## EFFORTS TO REMEDY

- I. Continued search for alternative vehicle. Wasted time.
- II. FunCars promised to switch. Didn't occur until about November.
- III. Asked rack be switched from the other Element. Denied.
- IV. Offered to support costs to add rack around August 2nd. Denied.

## RENTAL AGREEMENTS

- I. Two pages initiated 7/2/14. Version 11/03/13. **Exhibit 5**
- II. Two pages, initiated 10/16/14. Version 11/03/13. **Exhibit 6**
- III. Five pages, template. Version 12/25/14. **Exhibit 7**

## RELIEF SOUGHT

Diminished value, additional costs and labor: \$2,320

Costs and fees: \$35 - filing; \$75 - service.

Full return of \$200 deposit.


Reimbursement for gas on two occasions tank not full: 10/16 - \$27; 1/21 - \$12.25: [\$39.25]

## Exhibit 1

FunCars website in June 2014. Screen shot taken in January 2015.

Advertise for **Avid Surfer**: offer features of **roof rack**, **well-maintained vehicle** within and without, and with a **full tank** of gas. Expectations listed in Rental Deposit. No disclaimer suggesting vehicle would not be as described. FunCars created an **Implied Promise**.

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WELCOME! VEHICLES STEP 1: GET A QUOTE STEP 2: MAKE A RESERVATION

### SUVs

FEATURED, SUVs, VEHICLES — BY FUN CARS ON




A Honda Element may be just the way to go if you are an avid surfer Or bicyclist! The rear seats fold up creating plenty of space and the floor can be washed down. The Element also has a roof rack for your gear. All of our vehicles are well-maintained within and without. They look and smell good! You will receive your vehicle clean and with a full tank of gas.

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We use eco-friendly interior and exterior professional car cleaning products by Eco-Touch on our vehicles!

LET'S FIND YOUR DREAM HAWAII HOME

### Rental Deposit Price: \$200.00

We require a \$200 deposit to secure reservations. Cancellations e-mailed with a minimum of six days advance notice will be refunded the entire deposit. Cancellations with less than six days advance notice will be charged a cancellation fee. This will be \$100 for rentals with a daily rate of less than \$50 or a \$200 cancellation charge for rentals with a daily rate of \$50 or greater. Otherwise, this security deposit is not applied toward the cost of the rental. Instead, the deposit is held in case the vehicle is not returned to our location in the same condition that it was rented out (in good mechanical and same body condition, and with a full tank). Vehicles returned with excessive dirt will also incur a surcharge. If all conditions are met, security deposit will be returned within 10 days of vehicle return. **Please note, if you have been rough on the vehicle, additional charges may apply in excess of the security deposit. Please, please don't be rough on our vehicles.**

## Exhibit 2

Front view showing surfboard in vehicle





## Exhibit 3

View of the two Honda Elements at FunCars location



## Exhibit 4

Photo of corroded rear hatch support. Heavy hatch could not remain lifted or open.

