

CarMax Sale of Recalled Vehicle to Sean Kane
North Attleboro CarMax Store

On November 23, 2015, Sean Kane and his 15 ½ -year-old son Jake Kane went to the CarMax store in North Attleboro and attempted to purchase a 2011 Hyundai Sonata that CarMax advertised on their website had undergone a “rigorous 125+ point inspection,” and had qualified to be sold as a “CarMax Quality Certified” vehicle.

Sean explained that he wanted to buy a car for his wife and Jake (who would soon be getting his driver's license) to drive, including transporting the couple's other children, and that it was important for the car to be safe. He did not test drive the car. He showed the salesperson a vehicle history report from Autocheck, downloaded from the CarMax website, and asked whether there were any problems. The salesperson assured him that the car was all good. The Autocheck report indicated that a long list of potential problems checked out “OK,” with green checkmarks. Autocheck also indicated “no data available” regarding safety.

Sean asked specifically about safety. The salesperson said that the car was safe. Then, upon further prodding, he looked up the vehicle on the National Highway Traffic Safety website, which showed four unrepaired safety recalls. When asked about the safety of the vehicle with these open recalls, he was assured that they weren't safety-related. The salesperson added that three quarters of the vehicles on the lot had open recalls, but they were not safety problems and that if the recalls were safety related, they would not be able to sell the cars.

Then the salesman checked the car's status and said it was “on hold.” The next day, he told Sean that it had been sold to another consumer. According to Carfax, it is now registered to a buyer in Rhode Island.

On that date, according to data provided by Hyundai to the National Highway Traffic Safety Administration, and available to the public, including CarMax, the Sonata had four unrepaired safety recalls. For two of the defects, Hyundai warned “remedy [is] not yet available,” making it impossible for a consumer who bought the car to get the safety defects repaired, for an indefinite period.

- **Engine failure that can cause stalling in traffic, “increasing the risk of a crash.” “Remedy not yet available.”**
- **Brake light and switch defects that “increase the risk of a crash.” “Remedy not yet available.”**
- **Brake fluid leakage, “increasing risk of a crash.”**
- **Transmission defect – risk vehicle will roll away, “increasing risk of injury” to people exiting the car and bystanders.**

Link to the CarMax ad from their website for the Hyundai Sonata and the safety recall notices from the NHTSA Website:

http://carconsumers.org/pdf/CarMax_MA_Sonata_4recalls.pdf

On November 30, Sean and Jake returned to the same CarMax store. Sean expressed an interest in buying a 2012 Jeep Grand Cherokee that CarMax advertised on their website had undergone a “rigorous 125+ point inspection,” and had qualified to be sold as a “CarMax Quality Certified” vehicle.

He took the Jeep for a brief low-speed test drive of approximately one mile. Then he and Jake talked with the salesperson inside the store and again explained that he wanted to buy a vehicle for his wife and Jake (who would soon be getting his driver's license) to drive, including transporting the couple's other children, and that it was important for the car to be safe.

They asked whether the vehicle was safe and he was assured it went through the CarMax inspection. Only after asking about recalls did the CarMax employee look up the Vehicle Identification Number on the National Highway Traffic Safety Administration website which showed three unrepaired safety recalls. They asked whether the Jeep was safe to drive off the lot, and she said yes, but they should get the repairs done at a Jeep dealership. She then said that when the recalls are serious, they can't sell vehicles, and claimed that they had Mustangs they couldn't sell because of a recall involving air bags that can fragment and propel shrapnel.

They asked why CarMax didn't get vehicles repaired, and she indicated CarMax had too many vehicles to get the recall repairs done. However, she offered to replace the driver's window due to a chip, prior to delivery because it didn't meet the CarMax quality standards.

The Autocheck vehicle history report provided by CarMax showed that there were no problems with the vehicle. The “Safety Reliability and Recalls” tab for the Jeep showed no data.

Sean wrote a check for the purchase price and other costs, in the amount of \$29,885.69. One CarMax employee called the bank to insure adequate funds were available. Sean also provided information about his insurance carrier so that they could complete the registration process for him. He then was presented with documents to sign, including the purchase contract. After he signed the purchase contract and the odometer disclosure statement, he was presented another document that states:

**Important Information Regarding Your Purchase –
Manufacturer Recalls and Acknowledgment**

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“x Open Recall(s) reported by NHTSA

Your sales consultant also reviewed an AutoCheck Report with you. AutoCheck provides recall information from some manufacturers:

No Open Recalls Reported by AutoCheck

NHTSA and AutoCheck are independent from CarMax. CarMax does not warrant,

guarantee, or make any assurances about information from NHTSA or AutoCheck.

CarMax also recommends that you immediately contact an authorized manufacturer's dealer to confirm whether there are any open recalls on your vehicle.

If your vehicle is affected by a manufacturer's recall, CarMax urges you to have any recall work done by the manufacturer's authorized repair facility immediately following your purchase.

CarMax assumes no responsibility to investigate, disclose, or implement recalls.”

Along with this form, CarMax provided the summaries of each recall from the NHTSA website.

Sean and Jake left the dealership and was notified about two hours later that the vehicle was registered and ready for pickup. He was also told that CarMax made arrangements with an auto glass company to replace the driver's side window and they would call to set up a time to do the work. He drove it across the street and then it was towed on a flatbed truck to a secure location. The auto glass company called shortly after and arranged to replace the chipped glass at Sean's office the next morning. This was followed by a phone call from CarMax to check that the repair was made.

On the date the vehicle was purchased, according to data provided by Fiat Chrysler to the National Highway Traffic Safety Administration, and available to the public, including CarMax, the Jeep had three unrepaired safety recalls:

- **Visor may short-circuit and catch on fire, causing the interior of the Jeep to ignite**
- **Brake problem that could “cause a crash without warning”**
- **Intermittent fuel pump defect could cause engine to stall while driving and “cause a crash without warning.”**

Link to the CarMax ad for the Jeep from their website, and the safety recall notices from the NHTSA website:

http://carconsumers.org/pdf/CarMax_MA_recalled_Jeep_NoAttleboro.pdf

Link to the CarMax recall disclosure form for the Jeep:

http://carconsumers.org/img/CarMax_MA_2012-Jeep_disclosure_form.jpg

The safety recall repairs have not yet been performed on the Jeep, and it is being towed to and from the news conference.