

1 Negatu Molla (Bar No. 006254)
2 BOWMAN AND BROOKE LLP
3 Suite 1600, Phoenix Plaza
4 2901 North Central Avenue
5 Phoenix, Arizona 85012
6 Telephone: (602) 643-2300
7 Facsimile: (602) 248-0947

8 Attorneys for Defendant ARIZONA RV CENTERS, LLC
9 d/b/a Camping World RV Sales

10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF ARIZONA**

12 Albert and Ann Marie Lee,
13
14 Plaintiffs,

15 vs.

16 Four Winds International Corporation
17 d/b/a Mandalay Luxury Division,
18 Caterpillar, Inc., Earnhardt Ford Sales
19 Company d/b/a Earnhardt RV, Arizona
20 RV Centers, LLC d/b/a Camping
21 World RV Sales and [GEMB Lending]
22 E*Trade Consumer Finance
23 Corporation,

24 Defendants.

CASE NO. CV-08-1765-PHX-GMS

**DEFENDANT ARIZONA RV CENTERS,
LLC'S MOTION FOR SUMMARY
JUDGMENT**

25 Defendant Arizona RV Centers, LLC, pursuant to Rule 56 of the Federal Rules of
26 Civil Procedure and Rule 56.1 of this Court's Local Rules of Civil Procedure, hereby
27 moves the Court for an order granting summary judgment in its favor and dismissing
28 Plaintiffs' claims against it with prejudice and on the merits. Arizona RV Centers brings
this motion on the grounds that Plaintiffs' sole theory of liability against it is that it is liable
as successor to Defendant Earnhardt Ford Sales Company, the RV dealer from whom
Plaintiffs purchased the motorhome at issue in this breach-of-warranty case. Because the
undisputed facts establish that Arizona RV Centers did not assume Earnhardt Ford's

1 liabilities when it purchased the assets associated with Earnhardt Ford's RV business, there
2 exists no genuine issue of material fact, and Plaintiffs' corporate-successor claims against
3 Arizona RV Centers fail as a matter of law.

4 This motion is based on the memorandum of law, statement of material facts, and
5 affidavit of Brent Moody, which are filed herewith, and on all the files, records, and
6 proceedings herein.

7
8 Dated: September 9, 2009

BOWMAN AND BROOKE LLP

9
10 By: /s/ Jesse Anderson

Negatu Molla

Suite 1600, Phoenix Plaza

2901 North Central Avenue

Phoenix, Arizona 85012

Attorneys for Defendant

Arizona RV Centers, LLC

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF MAILING

I hereby certify that on the 9th day of September, 2009, I caused the attached document to be electronically transmitted to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

The Honorable G. Murray Snow
401 W. Washington
Phoenix, AZ 85003
snow_chambers@azd.uscourts.gov

Shalev Amar, Esq.
Pryor Ramirez & Amar LLC
40 W. Baseline Road, Suite 203
Tempe, AZ 85283
Attorneys for Plaintiffs
samar@pryorandamar.com
Attorneys for Plaintiffs

Susan C. Salmon, Esq.
Quarles & Brady LLP
One S. Church Avenue, Suite 1700
Tucson, AZ 85701-1621
ssalmon@quarles.com
Attorney for Defendant Caterpillar, Inc.

Daniel W. Bir
Sedgwick, Detert, Moran & Arnold, LLP
801 South Figueroa Street
19th Floor
Los Angeles, CA 90017
daniel.bir@sdma.com
Attorney for Defendant Caterpillar, Inc.

/s/ Jeannette Felix