

Auto Co. Accuses Conn. Revenue Dept. Of Fumbling Depos

By **Aaron Keller**

Law360 (September 18, 2025, 4:09 PM EDT) -- An auto wholesaler accusing Connecticut's tax commissioner of levying a double tax on warranties attached to vehicles sold out of state wants the Department of Revenue Services sanctioned for failing to properly prepare two witnesses for Sept. 12 depositions.

In a Tuesday **sanctions bid**, A Better Way Wholesale Autos Inc. said the two witnesses admitted they were unprepared despite being chosen by the state. The witnesses, a junior in-house DRS tax attorney and a DRS tax appellate officer, said they had neither seen the notice that required their depositions nor the list of 16 topics they were supposed to address, according to the auto wholesaler.

"They were entirely unprepared to provide any information about many of the relevant subjects," the wholesaler argued. "Defendant's end-run around the court and the rules governing the discovery process could not have been more egregious."

One witness said she was "not capable" of discussing 12 of the 16 topics at issue, while the other said she was not prepared to testify about 11 of the 16 topics, the wholesaler said.

"This complete failure to prepare regarding the majority of the topics identified in the notice frustrates the purpose of the ... deposition, impedes the discovery process, forces unnecessary expense, and wastes the time and resources of plaintiff, its counsel, and the court," the wholesaler continued, noting that discovery has closed.

The wholesaler wants the state to pay attorney fees connected to the allegedly failed deposition, and also wants a judge to order an additional deposition within 30 days and to ban DRS from offering evidence on the skipped topics unless a new deposition occurs.

The sanctions bid was embedded in the auto wholesaler's response to a DRS motion to quash the deposition notice and for a protective order. According to an amended notice of deposition dated Sept. 3, the wholesaler wanted to ask about the total taxes assessed against it during a three-year audit period, the basis of the audit, and information about Connecticut's sales and use taxes on warranty contracts and auto service agreements, generally.

It also wanted to ask about DRS' communications with other state agencies on the interstate commerce implications of the tax, why the tax was economically justified, and how DRS was defining certain terms, such as "motor vehicle."

In an Aug. 29 **motion to quash** the notice of deposition, DRS accused the auto wholesaler of digging into confidential information and trying to learn its legal strategy.

"This notice deposition clearly seeks information concerning legal arguments that the commissioner may raise in this matter and confidential information that is statutorily protected from disclosure," DRS argued.

"As said requests pertain to legal arguments that the commissioner may raise in this matter, the only individual that the commissioner could put forth as a witness would be his litigation counsel," the agency added.

The auto wholesaler disagreed in a Sept. 8 **objection**, arguing it neither sought to depose a state lawyer nor wanted "information protected by the attorney-client privilege or any other privilege."

Whoever was to be deposed "need not be the person most knowledgeable about the facts," the wholesaler said. But the deponent "must be adequately prepared to testify including by, if necessary, debriefing those with knowledge," it argued.

A Better Way Wholesale Autos Inc. **filed the lawsuit** in July 2024 to challenge a DRS tax assessment on warranties for vehicles sold to out-of-state customers.

The complaint said DRS levied a \$477,000 assessment based on \$4.2 million in sales between March 2016 and February 2019. The assessment is wrong, the wholesaler argued, because Connecticut taxes vehicle sales based on the buyer's home state. By taxing the warranty as an in-state purchase while allowing another state to tax both the vehicle and the warranty, Connecticut has created an unconstitutional double tax on the warranty, the wholesaler said.

The case is scheduled for a three-day trial in mid-December.

Counsel for A Better Way Wholesale Autos and a DRS spokesperson both declined to comment on Thursday.

A Better Way Wholesale Autos Inc. is represented by Ross H. Garber of The Garber Group LLC, Kenneth A. Votre of Votre & Associates PC and Matthew Gibbons of Holon Law Partners LLP.

Commissioner Mark Boughton is represented by Louis Bucari, Erica McKenzie, Ben Mileski and Roman Musilli of the Litigation Division of the Connecticut Department of Revenue Services.

The case is A Better Way Wholesale Autos Inc. v. Mark D. Boughton, Commissioner of Revenue Services, case number HHB-CV24-6088282-S, in the Superior Court of the Judicial District of New Britain, Connecticut.

--Additional reporting by Maria Koklanaris. Editing by Patrick Reagan.