

Buyer Beware

I recently sold my 2012 Ducati 848 Evo with 11,153 miles. It was in excellent condition and always properly serviced. The buyer called two months after the sale, saying the cam drive belt failed and caused substantial damage to the valves. He claimed I owe him for repair costs because I did not maintain the belt properly. Am I responsible for repairs on the bike two months after his purchase? Can he collect from me?

— David J

In the absence of a written contract of sale or promises made by you, the purchaser will not likely have a valid claim.

Your local state law determines questions of warranty on the sale of vehicles. I am not aware of any states with laws which include “implied warranty” on private sales of a motorcycle. The buyer purchased the bike “as is,” meaning he accepted it with whatever defects may

have existed at the time of delivery.

A private sale is “as is,” unless the seller and buyer enter into a written purchase agreement clearly stating any additional responsibilities.

You should not respond to the purchaser in this situation. Any written reply can be misconstrued to imply promises or warranty which were not a part of the deal. Also in some states, a response can possibly create a contract that did not exist or extend the applicable time limit that may apply if the buyer elects to file a lawsuit. There is nothing to be gained by asserting your position in correspondence or conversations after the sale.

Do not reply to his calls or letters other than asking him not to call again if you happen to answer the phone.

Based on the year and mileage described, we can estimate the purchase price was below \$8,000. That means it would cost the purchaser more than

the net value of his claim to employ an attorney to file a lawsuit against you. His only viable avenue to attempt collection may be in small claims court, without an attorney. If that procedure is followed, you will receive a summons from the court system which provides a specific time within which you must reply.

If you are served with lawsuit papers, you will need to write a response denying the claim. In most court systems, you will need to file the original with the court and mail a copy to the other party before the time limit expires. The judge or magistrate will set a hearing date at which both sides will appear and tell their side, very much like the TV reality show “Judge Judy.” Most judicial officers have knowledge of the law and exercise good common sense.

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