

Arbitration Clause in Vehicle Retail Installment Contract Applies to Buyers' Defamation Claim Against Salesperson

February 28, 2019 | [Latif Zaman](#)

The enforceability and scope of consumer arbitration clauses are hot-button legal issues. In a recent case, a Florida appellate court addressed the scope of claims covered by an arbitration clause in a retail installment contract between a dealership and Florida buyers and held that the clause applied to a defamation claim the buyers filed against one of the dealership's salespeople.

Sounds unusual, huh? Read on.

Olga and Stanislav Kulinsky bought a vehicle from Countyline Auto Center, Inc., pursuant to a retail installment contract. Countyline later mistakenly repossessed the car.

The Kulinskys sued Countyline for the inappropriate repossession and included a defamation claim based on the conduct of a Countyline salesperson. The Kulinskys alleged that the salesperson, who lived in the same condominium complex as the Kulinskys and many of their business customers, told other members of the condominium community that the vehicle was repossessed because the Kulinskys were in financial difficulty. The Kulinskys asserted that Countyline was vicariously liable for damages caused by the salesperson's defamatory statements.

The RIC contained an arbitration clause that covered, among other things, any claim or dispute in tort that "arises out of or relates to" the credit application, purchase, or condition of the vehicle. Countyline moved to compel arbitration. The trial court ruled that the defamation claim was an independent tort and did not fall within the scope of the arbitration agreement. Countyline appealed. The Court of Appeal of Florida reversed the trial court's ruling and remanded for entry of an order compelling arbitration of the Kulinskys' defamation claim.

The appellate court noted that the arbitration language expressly contemplated tort actions. The appellate court also determined that the addition of the words "relates to" broadened the scope of the arbitration provision to include all claims, including tort claims such as defamation, having a "significant relationship" to the contract. The appellate court found that there was a significant relationship between the Kulinskys' tort claim and the contract. The Kulinskys alleged that the defamation was based on statements allegedly made by Countyline's salesperson within the scope of his employment. The appellate court found that those statements related to the Kulinskys'

purchase of the vehicle and their ability to afford it, which in turn related to the credit application and the RIC that controlled the purchase. The appellate court also ruled that any ambiguity that existed concerning the scope of the arbitration clause should be resolved in favor of arbitration.

The court's decision indicates that Florida courts are willing to broadly interpret the scope of a consumer arbitration clause and that ambiguities concerning the scope of the clause will be resolved in favor of arbitration. Contract drafters should consider drafting consumer arbitration clauses with open-ended language that could allow a court to interpret the clause to apply to a wide range of scenarios, even scenarios as unusual as defamation claims by customers against employees.

Countyline Auto Center, Inc. v. Kulinsky, 2018 Fla. App. LEXIS 16684 (Fla. App. November 21, 2018).

Hudson Cook, LLP provides articles, webinars and other content on its website from time to time provided both by attorneys with Hudson Cook, LLP, and by other outside authors, for information purposes only. Hudson Cook, LLP does not warrant the accuracy or completeness of the content, and has no duty to correct or update information contained on its website. The views and opinions contained in the content provided on the Hudson Cook, LLP website do not constitute the views and opinion of the firm. Such content does not constitute legal advice from such authors or from Hudson Cook, LLP. For legal advice on a matter, one should seek the advice of counsel.

SUBSCRIBE TO INSIGHTS

HUDSON COOK

Hudson Cook, LLP is a national law firm representing the financial services industry in compliance, privacy, litigation, regulatory and enforcement matters.

7037 Ridge Road, Suite 300, Hanover, Maryland 21076
410.684.3200

hudsoncook.com

© Hudson Cook, LLP. All rights reserved. Privacy Policy | Legal Notice
Attorney Advertising: Prior Results Do Not Guarantee a Similar Outcome

