

SUPREME COURT OF OREGON

Liles v. Damon Corp., 345 Or. 420

198 P.3d 926 (2008) · No. SC S054734; CA A129113; CC 033086 · Decided December 11, 2008

SUMMARY

The Supreme Court of Oregon interpreted Oregon's Lemon Law requirements for when a statutory remedy is available to a consumer. The court held that the manufacturer's receipt of direct written notification and its opportunity to correct the alleged defect are not necessarily prefiling requirements, and affirmed relief for the plaintiffs because the manufacturer had opportunities to repair the motor home's defects before the trial court determined the remedy was available.

CASE DETAILS

COURT	Supreme Court of Oregon
WRITING FOR THE COURT	Durham, J.; De Muniz, Chief Justice; Gillette, Justice; Durham, Justice; Balmer, Justice; Kistler, Justice; Walters, Justice
JURISDICTION	Oregon
DECIDED	December 11, 2008
DOCKET	SC S054734; CA A129113; CC 033086
DISPOSITION	reversed
PROCEDURAL POSTURE	Plaintiffs sought review of the Oregon Court of Appeals' reversal of a circuit-court judgment granting relief under Oregon's Lemon Law.
STANDARD OF REVIEW	The court reviewed the statutory interpretation issue by examining statutory text and context and viewed the evidence in the light most favorable to plaintiffs, who prevailed at trial.
PRECEDENTIAL VALUE	Published Oregon Supreme Court opinion; precedential
PARTIES	Dale L. Liles, Karen Marie Liles v. Damon Corporation

TOPICS

- consumer protection
- statutory interpretation
- remedies
- appellate procedure

PRACTICE AREAS

- consumer protection
- statutory interpretation
- appellate procedure
- remedies

QUESTIONS PRESENTED

1. Whether ORS 646A.402(3) requires the manufacturer's opportunity to correct the alleged defect to occur after the consumer's direct written notification.
2. Whether the written-notification and opportunity-to-correct conditions under ORS 646A.402(3) must be satisfied before the consumer files a Lemon Law action.
3. Whether plaintiffs satisfied the opportunity-to-correct condition when Damon had attempted repairs before receiving written notice and was given access to the vehicle after suit was filed.

HOLDINGS

1. No. ORS 646A.402(3) does not require the manufacturer's opportunity to correct the defect to occur after the consumer gives direct written notification. The opportunity must concern the same defect for which the consumer seeks the statutory remedy, but it may occur before or after the written notification.
2. No. The written-notification and opportunity-to-correct provisions of ORS 646A.402(3) are conditions governing whether the court may grant the statutory remedy, not procedural prerequisites that must be completed before the action is filed.
3. Yes. Damon had an ample opportunity to correct the motor home's water-leak defects before the circuit court determined that the Lemon Law remedy was available.

KEY QUOTATIONS

“Notably, the statute does not state that the consumer's written notification and the manufacturer's opportunity for correction are prefiling requirements—that is, required procedural steps that must occur before the filing of the action.” (929-930)

“That distinctive terminology refers to conditions that the court must assess when it exercises its authority to grant or deny the requested remedy; it does not create a prefiling requirement.” (930)

“The filing of the action did not cut off defendant's opportunity to correct the defects in plaintiffs' vehicle.” (931)

FACTUAL BACKGROUND

The Lileses purchased a motor home manufactured by Damon Corporation on December 30, 2002. Beginning in April 2003, they repeatedly reported water leaks and other problems to Damon representatives and the selling dealer, and the dealer made numerous unsuccessful repair attempts. Damon directed plaintiffs to submit the motor home to another repair facility on December 9, 2003, but that repair also failed. Plaintiffs' attorney sent Damon written Lemon Law notice on December 23, received by Damon on December 29, and plaintiffs filed suit on December 30; after filing, plaintiffs made the vehicle available to Damon, but Damon took no further corrective action.

PROCEDURAL HISTORY

Plaintiffs filed an action seeking replacement of a motor home under Oregon's Lemon Law. After a bench trial, the circuit court found that plaintiffs had satisfied the statutory requirements and granted relief. The Court of

Appeals reversed, holding that written notification and the manufacturer's opportunity to correct had to occur sequentially and before filing suit. The Oregon Supreme Court reversed the Court of Appeals and affirmed the circuit-court judgment.

DISPOSITION

reversed

CASES CITED

- Liles v. Damon Corp., 210 Or. App. 303, 314, 150 P.3d 432 (2006)

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