

DISTRICT COURT OF APPEAL OF FLORIDA, FOURTH DISTRICT

General Motors LLC v. Bowie

58 So. 3d 934 (Fla. 4th DCA 2011) · Decided April 20, 2011

SUMMARY

The Florida Fourth District Court of Appeal held that Florida's Lemon Law does not authorize recovery of attorney's fees incurred during arbitration when the consumer's lawsuit seeks only those fees. The court interpreted section 681.112, Florida Statutes, to provide attorney's fees only in an action involving recoverable damages, reversed the fee award, and remanded.

CASE DETAILS

COURT	District Court of Appeal of Florida, Fourth District
WRITING FOR THE COURT	May, J.; Hazouri, J.; Ciklin, J.
JURISDICTION	Florida
DECIDED	April 20, 2011
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	General Motors LLC appealed a final judgment awarding the vehicle owner attorney's fees, expert witness fees, and taxable costs under Florida's Lemon Law.
STANDARD OF REVIEW	De novo review applies because the issue involves statutory interpretation.
PRECEDENTIAL VALUE	Published and precedential Florida Fourth District Court of Appeal opinion.
PARTIES	General Motors LLC v. Bowie

TOPICS

consumer protection

statutory interpretation

remedies

appellate procedure

standard of review

PRACTICE AREAS

consumer protection

lemon law

appellate litigation

QUESTIONS PRESENTED

1. Whether attorney's fees incurred during arbitration of a Florida Lemon Law refund claim constitute damages recoverable under section 681.112, Florida Statutes.
2. Whether section 681.112 authorizes an action solely to recover attorney's fees incurred in pursuing the refund option through arbitration.

HOLDINGS

1. Attorney's fees incurred in pursuing the refund option through Lemon Law arbitration are not damages recoverable under section 681.112, Florida Statutes.
2. Section 681.112 does not authorize an action brought solely to recover attorney's fees incurred in arbitration of the refund option.

KEY QUOTATIONS

“The plain language of the statute allows a consumer to “file an action to recover damages” and provides for attorney’s fees to a prevailing consumer, but only in “such action.” The plain language does not authorize an action solely for attorney’s fees.” (at 935)

“But, “damages” under section 681.112 do not include attorney’s fees incurred in pursuing the refund option through arbitration.” (at 936)

FACTUAL BACKGROUND

The vehicle owner experienced trouble with a car and pursued relief under Florida's Lemon Law. The manufacturer offered to repurchase the car and provide a full refund, but the owner rejected the offers because they did not include attorney's fees. After arbitration, the owner filed suit solely to recover attorney's fees incurred in pursuing the refund option, and the trial court awarded those fees.

PROCEDURAL HISTORY

After the manufacturer offered to repurchase the vehicle and provide a refund, the owner rejected the offer because it did not include attorney's fees. She pursued arbitration, then filed an action under section 681.112, Florida Statutes, seeking attorney's fees incurred in the arbitration and in litigating the fee claim. The circuit court granted partial summary judgment for the owner and entered a final judgment awarding \$19,350 in attorney's fees, plus expert witness fees and taxable costs. The Fourth District reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The final judgment awarding attorney's fees, expert witness fees, and taxable costs was reversed, and the matter was remanded for further proceedings consistent with the opinion.

CASES CITED

- Am. Honda Motor Co., Inc. v. Cerasani, 955 So. 2d 543, 545 (Fla. 2007)
- Gelinas v. Forest River, Inc., 931 So. 2d 970, 975 (Fla. 4th DCA 2006)
- King v. King Motor Co. of Fort Lauderdale, 780 So. 2d 937, 941 (Fla. 4th DCA 2001)
- Gen. Motors Corp. v. Sanchez, 16 So. 3d 883, 884-85 (Fla. 3d DCA 2009)
- Hubbel v. Aetna Casualty & Surety Co., 758 So. 2d 94, 97 (Fla. 2000)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/florida-district-court-of-appeal-of-florida-fourth-district/2011/general-motors-llc-v-bowie-lxojwlsa>