HUDSON COOK

Not All Third Parties Are Created Equal

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Motor vehicle purchase and finance transactions are rarely simple, even if they're routine from the perspective of the businesses involved. The typical motor vehicle retail installment transaction features the buyer, the seller, and, in most cases, the assignee of the retail installment sale contract. If the buyer trades in a vehicle and there's a lien on the trade-in, then add that lienholder. That's just the sale and financing. A lot more parties will likely get involved with the vehicle or the financing contract—anyone who services the vehicle or credit contract, anyone responsible under any voluntary protection product the buyer purchases, any warrantor other than the dealer, anyone who collects if the contract goes into default, and the list goes on.

The documents that govern a vehicle's sale and financing may apply to parties other than the buyer and the seller to some extent, but you can't assume that they'll always cover everyone you want them to cover. Two cases illustrate this fact—one where a contract's arbitration provisions applied to a party other than the buyer or seller and one where they didn't.

In a Maryland case, Jabari Lyles filed a class action complaint against the assignee of the vehicle RISC he entered into with Liberty Ford, alleging that the finance company breached the RISC and violated Maryland law in connection with its collection of payment convenience fees from customers. The finance company moved to compel non-class arbitration pursuant to an arbitration provision in the Buyer's Order that Lyles signed in connection with his car purchase, and the trial court granted the motion. The Appellate Court of Maryland affirmed.

The Buyer's Order contained a notice in bold and all capital letters on the front side of the 1-page document directing Lyles to see the reverse side and separate arbitration agreement. The reverse side contained an arbitration provision and referenced the separate arbitration agreement attached thereto and incorporated by reference therein. However, there was no record of a separate signed arbitration agreement between Lyles and Liberty Ford.

Lyles argued that he did not enter into a separate signed arbitration agreement with Liberty Ford, that any arbitration agreement he entered into was too indefinite to enforce, and that the finance company could not enforce the arbitration provision in the Buyer's Order because the integration clause in the RISC did not incorporate the Buyer's Order.

The appellate court found that the arbitration provision on the reverse side of the Buyer's Order was unambiguous, even if all the terms of arbitration were not stated. Moreover, the appellate court found that Lyles was bound by the terms of the separate arbitration agreement, which did contain specific arbitration terms, even though he did not see or sign it, because he signed the Buyer's Order that referred to the separate arbitration agreement and was, therefore, bound by the arbitration agreement's terms. The appellate court also found that the finance company could enforce the arbitration provision in the Buyer's Order, even though it was the assignee of only the RISC and not the Buyer's Order, because the documents were part of a single transaction and should be construed together. The appellate court relied on language in the RISC stating: "'This contract, along with all other documents signed by you in connection with the purchase of this vehicle, comprise the entire agreement between you and us affecting this purchase. ... Upon assignment of this contract: (i) only this contract and the addenda to this contract comprise the entire agreement between you and the assignee relating to this contract.'" The appellate court rejected Lyles's argument that the sentence regarding assignment of the contract compelled the conclusion that only the RISC, and not the Buyer's Order or the separate arbitration agreement, comprised the agreement between the finance company and him.

By contrast, in a California case, Isai Rivera and Helen Espinosa bought a new Ford vehicle from a dealership. They financed the purchase through a RISC that they signed with the dealership. The RISC included an arbitration provision. At the time of purchase, Rivera and Espinosa received a new vehicle limited warranty from Ford Motor Company. They did not buy an optional service contract from the dealership. When the vehicle experienced mechanical issues, Rivera and Espinosa took it to Ford of Ventura, Inc., an authorized service center. After the service center failed to fix the issues with the vehicle, Rivera and Espinosa sued FMC for violating California's Song-Beverly Consumer Warranty Act and sued Ford of Ventura for negligent repair. They did not sue the dealership where they bought the car. FMC moved to compel arbitration based on the arbitration provision in the RISC. The trial court granted the motion, concluding that FMC could enforce the arbitration provision as a third-party beneficiary of the RISC and pursuant to the doctrine of equitable estoppel. The plaintiffs twice moved for reconsideration, and the trial court denied the motions. The plaintiffs then sought a writ of mandate directing the trial court to vacate its orders granting the motion to compel arbitration and denying reconsideration.

The Court of Appeal of California issued the requested writ, concluding that FMC and Ford of Ventura were not third-party beneficiaries of the RISC and that the plaintiffs were not estopped from objecting to arbitration. The appellate court found no language in the RISC showing that the parties to that contract intended to benefit FMC or Ford of Ventura. The RISC's arbitration provision limited its scope to any claim or dispute between "you" and "us or our employees, agents, successors or assigns." "You" is defined as the buyers and "us" as the seller-creditor, i.e., the dealership. With respect to equitable estoppel, the trial court had found that the plaintiffs were equitably estopped from opposing arbitration because their claims were intertwined with the RISC. The appellate court disagreed. The appellate court found that FMC's warranty obligations to the plaintiffs existed independently of the RISC. It also found that Ford of Ventura's obligations to the plaintiffs arose from its repair services, not the RISC, because the plaintiffs did not allege that Ford of Ventura performed these services on behalf of the selling dealership or pursuant to any obligation imposed by the RISC. The RISC, in fact, showed that the plaintiffs declined to buy the optional service contract from the dealership.

Why did the finance company get to enforce the arbitration agreement in its case while FMC didn't get to enforce the one in its case? The difference is in the roles of the parties and the different contractual provisions that applied as a result. In the finance company's case, an integration clause in the RISC meant that an arbitration provision in the Buyer's Order was enough to bind the plaintiff in his dealings with the finance company, the assignee of the RISC. If FMC had been the assignee in the *Rivera* case, then the arbitration provision in that case would have applied to it. However, that arbitration provision limited its applicability to the buyer, the seller, and their employees, agents, successors, and assigns. FMC was the manufacturer and warrantor of the vehicle, not an assignee or a third-party beneficiary of the credit contract. As a result, FMC could not compel arbitration.

The lesson here is that not everyone involved in the sale, financing, or servicing of a vehicle has the rights or responsibilities of the buyer and seller. Careful drafting of your sale and financing documents is critical in extending the reach of your arbitration agreement to other parties.

Lyles v. Santander Consumer USA, Inc., 2024 Md. App. LEXIS 840 (Md. App. October 31, 2024); *Rivera v. Superior Court*, 2024 Cal. App. LEXIS 594 (Cal. App. September 23, 2024).

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