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# Automotive News

## LEGAL FILE

## Fla. Mitsubishi dealership's bid for arbitration in retail sales case upheld

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The Florida Court of Appeal has upheld a Mitsubishi dealership's bid for arbitration in a lawsuit accusing the store of submitting false information in support of a couple's loan application for a 2014 Outlander.

The fact that Kendall Mitsubishi in Kendall, Fla., fired the responsible employees, apologized in writing to the couple, and took back the vehicle doesn't invalidate the arbitration provisions in their retail buyer's order, the court held.

Jose and Vanessa Arrasola bought the Outlander in June 2014, giving the dealership a check for the \$1,500 down payment, according to the court. They also gave the store financial documents, including an IRS form 1099 that reflected income to their family business from its largest customer.

### Fraudulent W-2s

Their suit contends the dealership prepared fraudulent W-2s and paystubs reporting "fictitious income" by the Arrasolas and submitted the fraudulent forms with auto loan applications. The fraud was discovered when a prospective lender contacted the Arrasolas' customer to confirm their income.

The Arrasolas returned the Outlander to the store on July 9, 2014. The next day, the general sales manager wrote a letter of apology confirming that the Arrasolas weren't involved in the fraud and stating that the store had fired the finance manager and salesperson responsible. The letter, as quoted in the court decision, said those employees had taken "matters into their own hands" without the store's knowledge.

The Arrasolas considered the transaction terminated at that point, according to court papers. Later, however, they were contacted by a collections company.

Their suit against the dealership seeks damages for fraud, violations of Florida consumer protection laws and related claims.

Kendall Mitsubishi disputes the allegations, according to its defense lawyer, Craig Blinderman of Aventura, Fla.

A Miami-Dade County Circuit Court judge granted the dealership's request to send the case to arbitration based on the retail buyer's agreement.

### Arbitrator must decide

The Court of Appeal panel agreed in a unanimous opinion written by Judge Vance Salter, saying an arbitrator must decide whether the contract is valid and whether the Arrasolas may litigate rather than arbitrate their claims.

The Arrasolas acknowledged signing the retail buyer's order and don't contend that the store fraudulently

induced them to sign the arbitration provisions, the court said.

Blinderman said the dealership wants to ensure that the dispute is resolved “in the appropriate forum” and that arbitration will be more streamlined than a court trial

But plaintiffs’ lawyer Andrew Bernhard of Miami said the contract gives the dealership the right to choose the arbitrator and that arbitration gives the Arrasolas “less of a chance to push back” on whether the contract is unconscionable.

Bernhard also said the ruling shouldn’t give dealerships “just one more reason to get a signature on an arbitration agreement.”

The Arrasolas are still deciding how to proceed, he said.



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