

GM Loses Bid To Decertify Class In Safety-Sticker Row

By Kurt Orzeck

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Law360, Los Angeles (May 17, 2016, 8:48 PM ET) -- The Eleventh Circuit on Tuesday refused to decertify a class of Cadillac drivers in Florida suing General Motors LLC over allegedly misleading safety-rating stickers on their cars, ruling the plaintiffs didn't have to prove that every class member was deceived upon seeing the sticker.

Affirming a district judge's decision to grant plaintiffs' motion for class certification, the appeals judges said plaintiffs only had to show whether a sticker that inaccurately states a vehicle had received perfect safety ratings would delude an objectively reasonable observer.

The car owners say they lost money buying 2014 Cadillac CTS sedans with stickers indicating the vehicles had earned National Highway Traffic Safety Administration ratings when they hadn't yet been rated at all. GM claimed a Florida district court wrongly granted class certification despite a kaleidoscope of individual issues.

The Eleventh Circuit on Tuesday said the lower court didn't abuse its discretion. A manufacturer's misrepresentation might allow it to command a price premium and overcharge customers systematically, according to the appeals judges.

"Because a vehicle with three perfect safety ratings may be able to attract greater market demand than a vehicle with no safety ratings, the misleading sticker arguably was the direct cause of actual damages for the certified class even if members individually value safety ratings differently," the decision said.

Geri Siano Carriuolo and Peter Bracchi filed their complaint against GM in June 2014 and sought to represent a class of Tennessee drivers in addition to those in Florida. Both claim to have purchased Cadillacs that came with "Monroney" stickers showing that the cars achieved five-star safety rankings for frontal crash and rollover safety from the NHTSA.

However, the buyers say the stickers were entirely false and that the cars had not received a rating from the agency.

U.S. District Judge James I. Cohn certified the Florida class with only Florida Deceptive and Unfair Trade Practices Act claims in July. GM quickly followed up with **an appeal** of the certification, mainly

contending that the individual dealers from where the consumers bought the cars were at fault.

GM argued in February that while some buyers may have researched the ratings in detail, others, such as those who ordered their cars online, would never have even seen the sticker.

But the Eleventh Circuit on Monday ruled that even if an individual class member valued the vehicle equally with or without the accurate sticker, they could have lost negotiating leverage if a vehicle with perfect safety ratings was worth more on the open market.

"As long as a reasonable customer will pay more for a vehicle with perfect safety ratings, the dealer can hold out for a higher price than he would otherwise accept for a vehicle with no safety ratings," the appeals court said.

Geoff S. Stahl of Liggio Law, which is representing the plaintiffs, told Law360 on Tuesday that they were "very gratified" by the appeals court's decision.

"We thought the opinion was well-reasoned, and we are thrilled to send notice to the class," Stahl said.

Attorneys and representatives for GM didn't immediately respond to requests for comment on Tuesday.

Circuit Judges Stanley Marcus, Charles R. Wilson and Robin S. Rosenbaum sat on the panel for the appeals court.

Plaintiffs are represented by Jeffrey M. Liggio and Geoff S. Stahl of Liggio Law, Patrick J. Vallely of Shapiro Haber & Urmy LLP and Don Fountain of Clark Fountain La Vista Prather Keen & Littky-Rubin LLP.

GM is represented by Laurie M. Riley, Thomas A. Casey Jr. and David G. Radlauer of Jones Walker LLP.

The case is Geri Siano Carriuolo et al. v. General Motors Co., case number 15-14442, in the U.S. Court of Appeals for the Eleventh Circuit.

--Additional reporting by Jody Godoy and Kali Hays. Editing by Catherine Sum.