Check, Please!

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A typical car has around 30,000 parts precisely fitted together. Each part serves a unique role in the operation of the vehicle, and the result is a machine capable of traveling at speeds, in some cases, in the hundreds of miles per hour. Even the most impressive cars, however, ultimately depend on their drivers. Distraction, inexperience, and plain old hurry cause more wrecks than engine trouble ever will. In the same way, contract forms designed to document auto finance transactions may be carefully written, but their effectiveness and enforceability ultimately depend on the people using them. As a recent Kentucky case proved, sloppy execution endangers even the best forms.

Chris Randall bought a car from TT of C. Louisville, Inc. He signed a retail installment sale contract and a bill of sale, both of which included arbitration provisions and language near their respective signature lines directing the buyer's attention to the arbitration provisions. Following the sale, the RISC was assigned to American Credit Acceptance, LLC. Randall later sued the dealership and American Credit, alleging violations of the Truth in Lending Act and Kentucky law. He also claimed that certain signatures in the RISC and the bill of sale had been forged. The defendants moved to compel arbitration. The U.S. District Court for the Western District of Kentucky ultimately granted the motion, but not before addressing a bevy of contract problems that could have undermined the parties' agreement to arbitrate.

According to the court, in order to have all provisions in a written document treated as part of a contract, the contract signature must appear at the end of the document. If the signature appears prior to the end of the document, the only way for language appearing below the signature to be included is if that language is specifically incorporated into the contract by reference.

The bill of sale that Randall signed included a signature line at the bottom of the first page stating that he agreed that the contract included all of the terms and conditions on the front and back of the document, including the arbitration provision on the back page, that the bill of sale and the RISC constituted the entire agreement, and that he had read the agreement, agreed to its terms, and received a copy. Below this language was the following: "BUYER ACKNOWLEDGES THAT IF THIS BOX IS CHECKED, THIS AGREEMENT CONTAINS AN ARBITRATION PROVISION." Next to that phrase was a checkbox that was unchecked. Below the unchecked box was Randall's signature. The court found that even though the language above the signature line would have incorporated the terms of the arbitration clause by reference, the fact that the box was unchecked meant that the arbitration clause was not incorporated and that Randall's signature on this line did not indicate his assent to arbitration. Despite the document's multiple attempts to ensure an enforceable arbitration agreement, the dealer's failure to check the box rendered the arbitration clause in the bill of sale useless.

Similarly, the RISC that Randall signed included a signature line on the front page and an arbitration clause on the back page. Text appearing above the signature line referred to the existence of an arbitration clause on the back but did not specifically state that Randall agreed to the arbitration clause or that the arbitration clause was incorporated into the RISC. Therefore, the court concluded that signing on this line did not mean that Randall assented to the arbitration clause found on the back of the document.

Fortunately for the defendants, the front of the RISC also included a box called “Agreement to Arbitrate” with its own signature line where the buyer indicated his assent to the arbitration clause found on the back of the RISC. Randall’s signature appeared on a signature line inside this box, and because Randall’s lawsuit did not challenge the validity of this particular signature, the court ordered the parties to arbitrate.

In light of this case and others like it, dealers and finance companies should review their training and document signing procedures to ensure that their employees are crystal clear on how transaction documents must be properly completed. They should also have RISC and bill of sale forms reviewed to minimize the risk of important terms being excluded from the agreement with the buyer. An unchecked box or a misplaced signature line may be the difference between arbitration and litigation in court.

Randall v. TT of C. Louisville, Inc., 2022 U.S. Dist. LEXIS 26897 (W.D. Ky. February 15, 2022).