

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 08-13324

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT NOVEMBER 17, 2009 THOMAS K. KAHN CLERK
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D. C. Docket No. 07-80665-CV-KLR

ERIC HUNTER,
CHRISTOPHER TENORE,
MICHELLE TENORE,
on behalf of themselves and
all others similarly situated,

Plaintiffs-Appellants,

versus

BEV SMITH, LLC,
d.b.a. Bev Smith Ford,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Florida

(November 17, 2009)

Before TJOFLAT, BLACK and COX, Circuit Judges,

PER CURIAM:

The plaintiffs Tenore purchased a 2006 Ford Expedition from defendant Bev Smith on August 26, 2006 via a retail installment sales contract. The contract included a clause which stated that Bev Smith did not issue loans and that the purchase was conditioned on the Tenores' acquisition of funding from a financial institution. If the Tenores were unable to obtain such funding, Bev Smith had the right to rescind the contract. The Tenores left their 2005 F150 pickup truck with Bev Smith as a trade-in, and took possession of the Expedition subject to these contract provisions.

The next day, plaintiff Hunter purchased and took possession of the F150 pickup truck from Bev Smith pursuant to a retail installment contract containing provisions identical to those in the Tenores' contract.

The Tenores were unable to obtain financing for the Expedition, so Bev Smith exercised its right to rescind the Tenores' contract. The Tenores returned the Expedition and asked Bev Smith to return their pickup truck. Bev Smith repossessed the truck, and delivered it to the Tenores.

Hunter and the Tenores thereafter brought this action. Their multi-count complaint sought legal and equitable relief under the Truth in Lending Act, the Equal Credit Opportunity Act, the Fair Credit Reporting Act, the Florida Motor Vehicle Retail Sales Finance Act, the Florida Consumer Collection Practices Act,

the Florida Deceptive and Unfair Trade Practices Act, and for breach of contract. Bev Smith moved the district court to dismiss the complaint for failure to state a claim for relief. The district court granted the motion, and entered judgment for Bev Smith. Hunter v. Bev Smith Ford, LLC, 2008 WL 1925265 (S.D. Fla. Apr. 29, 2008).

Hunter and the Tenores now appeal, claiming error in the district court's dismissal of their claims under the Truth in Lending Act, the Equal Credit Opportunity Act, and Florida's Deceptive and Unfair Trade Practices Act. They present essentially the same arguments they presented in the district court in opposition to Bev Smith's motion to dismiss. After considering the Appellants' arguments, we find them without merit. Accordingly, the judgment of the district court is

AFFIRMED.