

IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

Case No: 07-014682

DAIMLER CHRYSLER MOTORS
COMPANY, LLC,
Petitioner,

v.

G.V. TECH, INC.,
Respondent.

ORDER DENYING PETITIONER'S MOTION TO COMPEL RESPONDENT TO
COMPLY WITH THE DECISION OF THE FLORIDA NEW MOTOR VEHICLE
ARBITRATION BOARD.

Plaintiff, Daimler Chrysler Motors Company, LLC (hereinafter Chrysler) seeks an order from this court compelling respondent, G.V. Tech, Inc. (hereinafter Tech) to comply with the decision of the Florida New Motor Vehicle Arbitration Board. A brief procedural history is in order.

On May 30, 2007, the Arbitration Board issued a decision pursuant to Chapter 681, Fla. Stat. awarding Tech a refund for its 2005 Dodge Ram Truck. Chrysler timely sought an 'appeal' pursuant to the statute. Chrysler's only quarrel with the decision of the Arbitration Board was what it believed to be an erroneous calculation of the refund amount awarded. What Chrysler seeks to do is have the court require Tech to accept the decision of the Arbitration Board while Chrysler appeals the portion of the Board's decision it feels was in error.

F.S. 681.1095(12) provides:

An appeal of a decision by the board to the circuit court by a consumer or a manufacturer shall be by *trial de novo*. (Emphasis added)

What is really at issue here is whether this is a *review* de novo or a *trial* de novo. If the legislature had intended the circuit court to sit in an appellate capacity and use a standard of de novo review, it would have said so. Instead the legislature use *trial* de novo. The import of this is that the court does not have the authority to *review* the decision of the

Arbitration Board in a traditional appellate capacity. If either side challenges the decision of the Arbitration Board the remedy is a trial before the circuit court of all matters. The words 'trial' and 'de novo' are well defined. See, *Chrysler Corporation v. Pitsirelos*, 721 So.2d 710 (Fla. 1998)

What Chrysler is asking this court to *review* the decision of the board and correct what Chrysler perceives to be errors. The court has no authority to do so. Chrysler can accept the decision of the Board or it can appeal which is statutorily defined in F.S. 681.1095(12) as a trial de novo in circuit court. This court cannot review and/or correct the decision of the Arbitration Board. Thus, as long as Chrysler is 'appealing' the decision of the Arbitration Board, the only avenue open is a trial de novo on the merits in circuit court.

Accordingly, since Chrysler has chosen to appeal, the Motion to compel Tech to comply with the decision of the Arbitration Board is denied. Further the request for the court to find bad faith on the part of Tech is denied.

DONE AND ORDERED this 31st day of July 2007, in Fort Lauderdale, Broward County, Florida.

ROBERT B. CARNEY

JUL 31 2007

Robert B. Carney A TRUE COPY
Circuit Court Judge

Copies Furnished:
John J. Glenn, Esq. for the Petitioner
Rebecca Covey, Esq. for the Respondent