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## LEGAL UPDATE

Legal Services Division



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### IOWA SUPREME COURT DECISION — ANTIQUE CAR RESTORATION AND THE IOWA MOTOR VEHICLE SERVICE TRADE PRACTICES ACT

**Purpose.** *Legal updates are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update is intended to provide legislators, legislative staff, and other persons interested in legislative matters with summaries of recent meetings, court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although an update may identify issues for consideration by the General Assembly, it should not be interpreted as advocating any particular course of action.*

#### **Poller v. Okoboji Classic Cars, LLC**

**Filed June 4, 2021**

**No. 19-0875**

[www.iowacourts.gov/courtcases/9964/embed/SupremeCourtOpinion](http://www.iowacourts.gov/courtcases/9964/embed/SupremeCourtOpinion)

**Facts and Procedural Background.** Al and Deb Poller, residents of New Jersey, own a 1931 Chevrolet sedan (Chevy). Okoboji Classic Cars, LLC (OCC) is located in Spencer, Iowa, and restores antique cars. In November 2013, Mr. and Mrs. Poller contacted OCC via email and stated they wanted OCC to restore the Chevy but conditioned the project on OCC providing them with a quote for the total cost of the restoration. On November 6, 2013, an employee of OCC responded to the email by stating that OCC does not provide customers with estimates of the total cost; however, the employee did inform Mr. and Mrs. Poller that OCC performs restorations for \$65.00 per hour plus the cost of materials. Shortly after receiving this response from OCC, Mr. and Mrs. Poller shipped the disassembled Chevy and its parts to OCC.

On December 27, 2013, Mr. and Mrs. Poller visited OCC to discuss the restoration. During the meeting, Mr. and Mrs. Poller informed OCC that they wanted OCC to complete the restoration by August 15, 2014. Also during the meeting, Mr. and Mrs. Poller paid OCC \$10,000 as a down payment on the restoration. Mr. Poller alleged that during the meeting, an employee of OCC said that the restoration would probably cost between \$35,000 and \$40,000, with additional possible costs of \$5,000 to \$10,000.

During 2014, OCC communicated via email with Mr. and Mrs. Poller about the restoration and asked for their input on various aspects of the restoration. In July 2014, Mr. Poller requested monthly invoices from OCC to document the work OCC completed. In August 2014, OCC provided Mr. and Mrs. Poller with six invoices showing the application of the \$10,000 down payment and a remaining balance of \$39,560.27.

In fall 2014, OCC continued working on the restoration. On September 11, 2014, Mr. and Mrs. Poller paid OCC \$15,000; on October 6, 2014, they paid OCC \$10,000; and on November 13, 2014, they paid OCC \$10,000. In December 2014, Mr. Poller and his son visited OCC to see the Chevy. However, OCC asserted an artisan's lien, placed the Chevy in storage, and refused to permit them to view the Chevy until the outstanding balance was paid. OCC finished the restoration on December 31, 2014. OCC indicated Mr. and Mrs. Poller's outstanding balance was \$66,705.70.

Mr. and Mrs. Poller brought several claims against OCC, including a claim for breach of contract and claims alleging several violations of the Motor Vehicle Service Trade Practices Act (MVSTPA) codified at Iowa Code chapter 537B. OCC brought a counterclaim against Mr. and Mrs. Poller for breach of contract. The district court held that Mr. and Mrs. Poller breached the contract with OCC and that OCC did not violate the MVSTPA. The court of appeals affirmed the district court's ruling. Mr. and Mrs. Poller applied to the Iowa Supreme Court (Court) for further review.

**Issues.**

1. Whether the MVSTPA applies to the restoration services OCC provided to Mr. and Mrs. Poller.
2. If the MVSTPA does apply to the restoration services, whether OCC violated the MVSTPA.
3. Whether violations of the MVSTPA affect the enforceability of a contract.

**Holding.** The Court held that the MVSTPA does apply to the restoration services OCC provided to Mr. and Mrs. Poller, OCC did violate the MVSTPA, and OCC's violations of the MVSTPA rendered OCC's contract with Mr. and Mrs. Poller unenforceable.

**Analysis.**

**The MVSTPA and Restoration Services.** The MVSTPA governs transactions between consumers and suppliers for repairs to a motor vehicle that is used primarily for farm or personal use. Under the MVSTPA, "consumer" means "a person contracting for, or intending to contract for, repairs or service upon a motor vehicle used primarily for farm or personal use." The MVSTPA defines "motor vehicle" as "a motor vehicle as defined in section 321.1 which is subject to registration." Iowa Code section 321.1(42)(a) defines "motor vehicle" as "a vehicle which is self-propelled and not operated upon rails." A supplier under the MVSTPA is "a person offering to contract for repairs or service upon a motor vehicle."

Mr. and Mrs. Poller argued the MVSTPA governs the transaction in this case because the Chevy is a motor vehicle. Mr. and Mrs. Poller cited *In re Bailey*, 326 B.R. 750 (Bankr. S.D. Iowa 2004), to support the proposition that the term "motor vehicle" includes an inoperable vehicle that can be made operable by reassembling or repairing its parts. In terms of the "which is subject to registration" portion of the definition of motor vehicle, Mr. and Mrs. Poller argued that, upon completion of the restoration, the Chevy will be subject to registration in New Jersey. Mr. and Mrs. Poller asserted that the word "is" includes the future tense because of Iowa Code section 4.1(33), which states "[w]ords in the present tense include the future."

Arguing that the MVSTPA does not govern the transaction in this case, OCC asserted that *Nelson v. Merchants Bonding Co.*, 425 N.W.2d 433 (Iowa Ct. App. 1988), states that a collection of automotive parts does not constitute a motor vehicle under Iowa Code section 321.1(42)(a). Additionally, OCC argued that the Chevy was not subject to registration because Iowa Code section 321.18 states that it will not be subject to registration until it is "driven or moved upon a highway. . . ." OCC also cited to an affidavit from a former state legislator who declared that the MVSTPA was not intended to apply to the restoration of dismantled vehicles that are incapable of operating on the roadway.

The Court held that the MVSTPA governs the transaction in this case. Citing *In re Bailey*, the Court found that the Chevy was a motor vehicle under the MVSTPA because it was not a mere collection of parts, it was nearly complete. The Court also found that the "which is subject to registration" portion of the definition of motor vehicle was satisfied because it was "designed to separate automobiles from other vehicles such as ATVs, golf carts, and riding lawn mowers." There was undisputed testimony that the Chevy would be subject to registration in New Jersey. Additionally, the Court refused to consider the affidavit of the former state legislator because a prior Court case indicates that "statements by individual legislators in litigation are inadmissible on the question of legislative intent." *Rhoades v. State*, 880 N.W.2d 431, 447 (Iowa 2016).

**OCC's Violations of the MVSTPA.** The Court held that OCC violated the MVSTPA by failing to inform Mr. and Mrs. Poller of the right to an estimate prior to commencing the restoration. The Court reasoned that Iowa Code section 537B.3 "establishes a two-tiered framework for documentation." If a customer authorizes repairs in writing, the supplier is required to use a form that is substantially similar to the form provided in Iowa Code section 537B.3(1). If, as was the case here, a customer authorizes repairs orally, Iowa Code section 537B.3(3) requires the supplier to "inform the consumer of the right to receive a written or oral estimate." OCC did not provide Mr. and Mrs. Poller with an estimate for the restoration. The Court acknowledged that it is difficult for OCC to provide an estimate prior to commencing restoration. However, the Court stated OCC could comply with this particular part of the MVSTPA by requiring all authorizations for restoration to be made in writing which would allow OCC to decline to provide an estimate in many cases and instead "state an hourly labor charge for the work" under Iowa Code section 537B.3(2)(b).

The Court also held that OCC violated the MVSTPA by failing to obtain a preapproval of charges related to disassembly and reassembly of the Chevy. Under Iowa Code section 537B.6(5), it is a deceptive act or practice for a supplier to "[f]ail to disclose prior to the commencement of any repairs or service, that a charge will be made for

disassembly, reassembly, . . . or any other work not directly related to the actual performance of the repairs or service.” The Court acknowledged there was correspondence between OCC and Mr. and Mrs. Poller regarding the restoration of the Chevy. However, the Court found that OCC did not get permission in advance “for reassembly, disassembly, and other work not related to the restoration of the car[.]”

**Effect of a Violation of the MVSTPA on the Enforceability of a Contract.** The Court acknowledged that a contract was formed between OCC and Mr. and Mrs. Poller and the terms of that contract were contained in the November 6, 2013, email from OCC. Under the terms of the contract, Mr. and Mrs. Poller still owed OCC \$66,705.70 for the restoration. The Court then analyzed whether OCC’s violation of Iowa Code section 537B.3 rendered the contract unenforceable. Mr. and Mrs. Poller cited cases indicating that contracts formed in violation of consumer protection statutes are not enforceable. OCC argued Mr. and Mrs. Poller’s public policy argument was not valid because there is no strict liability provision within the MVSTPA that prohibits charges for services that violate the MVSTPA. The Court held that a contract formed in violation of Iowa Code section 537B.3 is not enforceable. The Court reasoned that if a contract formed in violation of Iowa Code section 537B.3 was enforceable, “the salutary terms of the statute would not be enforceable and could easily be evaded.” The Court stated that such a holding is necessary “in order to give [Iowa Code section 537B.3] teeth . . . .”

The Court then analyzed whether Mr. and Mrs. Poller are entitled to damages under the MVSTPA. Pursuant to Iowa Code section 537B.6, a violation of Iowa Code section 537B.3 is a deceptive act or practice under the Iowa Consumer Fraud Act. The Iowa Consumer Fraud Act provides that a consumer who suffers actual damages may bring a claim under Iowa Code section 714H.5(1). The Court found that Mr. and Mrs. Poller did not suffer actual damages. This was because OCC could not enforce the contract with Mr. and Mrs. Poller to collect the outstanding balance, and Mr. and Mrs. Poller had paid OCC only \$45,000 — the same amount they expected to pay. Further, although OCC violated Iowa Code section 537B.6(5) by failing to obtain a preapproval of certain charges, the Court found that Mr. and Mrs. Poller did not show that they would not have approved these charges in advance if given the opportunity. Because Mr. and Mrs. Poller were not entitled to actual damages, the Court held they also were not entitled to exemplary damages or attorney fees. The Court also held that Mr. and Mrs. Poller were not entitled to a return of the \$45,000 they paid to OCC because “[s]uch payments were voluntarily made and show acquiescence in the underlying violations . . . .” Additionally, the Court held that Mr. and Mrs. Poller were entitled to possession of the Chevy because the outstanding balance cannot be enforced, and as a result, there is no basis for a lien.

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