CASE LAW UPDATE: CONTRACTS/COMMERCIAL LAW

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ENFORCEABILITY OF VARIOUS PROVISIONS IN CONTRACTS

Roy Karon & Peddler LLC v. Elliott Aviation, et al., No. 18-1199 (Jan. 10, 2020)

Issue: What must be shown to avoid the effects of a contractual forum-selection cause: fraud *in general* or fraud that relates *specifically* to the clause?

Facts: Karon's company leased an aircraft to another company so company personnel can travel and provide training to financial institutions. The defendants are Iowa corporations. 2014: Karon wants to upgrade the company plane and contacts defendant to work out an arrangement:

Parties find a used 2000 Citation X plane being sold by a company in Kansas that one of the Elliot defendants used to work for. 'Let me handle the negotiations,' he says to the Plaintiff, 'I know these guys and can get a lower price for you.' Comes back with $6mil price. Plaintiff: I'm maxed out at $5.8mil. Eventually, that amount is agreed to by Elliot and the Kansas company, but all the fees, training, and service programs add up to a final price of $6.7mil. Purchase agreement signed on June 2, and three weeks later, the upgraded plane is transferred to the Elliot Defendants, then to Karon, who then pays Elliot Defendants a $100k brokerage fee.

Purchase Agreement details: Elliot Defendants and Karon agree the contract is "made and entered into and will be performed wholly within the State of Kansas, and any dispute arising under, out of, or related in any way to this Agreement, the legal relationship between [the parties', or the transaction that is subject of this Agreement will be governed and construed under the laws of the State of Kansas, USA, exclusive of conflicts of laws." Disputes adjudicated in Kansas. Parties waive objection to venue of Kansas courts. Also, if one provision of agreement becomes null or unenforceable, the rest is still upheld.

Several months later, Karon finds out that he likely overpaid for the plane and he learns that the actual price paid by Elliot Defendants was $5.4mil. He demands $400k, which is refused.

Procedural History: Lawsuit filed in Polk County on Feb. 23, 2018 alleging breach of oral contract, fraudulent misrepresentation, failure to disclose, breach of fiduciary duty against Elliot Defendants. Elliot responds with motion to dismiss based in part on Kansas law and the Kansas forum selection clause that was agreed upon. The District Court agrees that the case should be dismissed without prejudice based on the improper venue. Likening it in some respects to arbitration clauses in contracts where the plaintiff is also alleging fraudulence in the inducement of the contract, if there is no specific fraud related to the provision on forum selection, and only a general claim of fraudulence in the inducement, the forum selection clause can still be enforced.

Analysis: U.S. Supreme Court has previously held that a claim of fraud in the inducement of the entire contract did not vitiate an arbitration clause referring any controversy or claim arising out of or relating to the agreement to arbitrate. *Prima Paint Corp v. Flood & Conklin Manufacturing Co.*, 388 U.S. 395 (1967). Later, the Iowa Supreme Court followed this rule on the state level in *Dacres v. John Deere Ins.*, 548 N.W.2d 576 (Iowa 1996). In 1976, U.S. Supreme Court applied the *Prima Paint* rule in forum-selection clauses. *Scherk v. Alberto-Culver Co.*, 417 U.S. 506 (1974). A number of states follow that lead in ruling that forum-selection clauses are enforceable unless the fraud goes specifically to the clause. The Court's opinion cites 17 different states. As few as three or as most as five states hold a minority view: a plaintiff's claim that the contract as a whole was entered into fraudulently can potentially render the forum-selection clause unenforceable. The Restatement (Second) of Conflict of Laws is consistent with the majority approach. (In dicta, the Court reaffirms the *Thompson v. Kaczinski* scope-of-the-risk standard for torts). The approach to give forum-selection clauses their apparent intended effect, "makes sound policy sense" for large commercial transactions: the parties were represented; easily doing away with them can cause unpredictability and inefficiency – you would be arguing the merits first (i.e., why there is unfairness) then the jurisdiction second, and that's seemingly backwards.

The plaintiff further argued that Iowa, being home to the plaintiff and the Elliot Defendants, had much greater ties to the controversy. Maybe it is greater to the personal parties, but the subject matter of the contract, the upgraded plane, was located in Kansas and that's where the plaintiff physically obtained it. There's no weighing test to apply, says the Court. Following the Restatement, it would be a "rare situation where the chosen state would be a seriously inconvenient place for the trial and that trial in the state of the forum would be more convenient."

Plaintiffs then make a point that they would be terribly inconvenienced if they could only bring their case under Kansas law: there's a two or three year statute of limitations for this case. It's now been over 5 years since the contract. To that argument, Justice Mansfield has a counter: even if the case were tried

in Iowa, applying Kansas law, Kansas's statute of limitations would likely prevent the plaintiff from successful litigation anyway.

Holding: A general allegation of fraud-in-the-inducement of a contract will generally not prevent that same contract's forum-selection clause from being enforced.

Dissent (Justice Appel): Don't look to arbitration clauses as controlling precedent. There is a strong legal public policy argument in favor of arbitration that does not exist in the consideration of forum selection clauses. Instead of relying so much on *Prima Paint*'s holding (a "beast released . . . [that] has turned out to be something of a wild animal that the Supreme Court has been unable to track down and cage"), look to the traditional state common law that allows for recission of a contract, or portions of the contract, in an Iowa court, so long as there is personal and subject matter jurisdiction over the parties and controversy. This is especially important when cases deal with torts, like fraud, which are more than mere disputes of private arrangements but can impact broader society. "Iowa courts should be open for business to consider tort claims notwithstanding a private agreement to the contrary."

Ommen & Watkins v. Milliman, Inc. et al., No. 18-0335 (April 3, 2020)

Issue: Is a court-appointed liquidator of an insolvent business, pursuing a common law tort claim against a third-party contractor, bound by an arbitration provision in a preinsolvency agreement between the insolvent business and third-party contractor?

Facts: While it was operating its health insurance busines, CoOportunity Health entered into a contract with a third-party who provides actuarial consulting services. The contract included a provision that stated: "In the event of any dispute arising out of or relating to the engagement of Milliman by [CoOportunity], the parties agree that the dispute will be resolved by final and binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association."

A year later, CoOportunity is insolvent and a liquidator, the plaintiff, brought a tort damage case against the actuarial consultants, Milliman, Inc., for professional negligence, breach of fiduciary duty, and reckless, willful, or intentional misconduct.

Procedural History: In the lawsuit, Milliman, Inc. filed a motion to dismiss and compel arbitration. The district court denied it, finding that the claims of the liquidator did not arise out of or related to the original contractor, that the original contract had been disavowed by the liquidator, and that the Iowa Liquidation Act precluded arbitration of the liquidator's claims against Millman, Inc., and finally, that the McCarran-Ferguson Act reverse preempted the Federal Arbitration Act as applied to this matter.

Analysis: Milliman, Inc. has been the party in several similar cases throughout the country, and courts that have heard this issue have unanimously required liquidators to honor the same arbitration provision in pursuing similar claims against Milliman. The context is with the national favoring of arbitration clauses. The FAA even prohibits states from enforcing aspects of a particular contract at the same time as declaring its arbitration clause as unenforceable. But is there an intention or preference to compel a nonsigning party to follow that provision? In a previous case, the Iowa Supreme Court held that a public agency, prosecuting a potential violation of the Iowa Civil Rights Act against a company, was not bound by an arbitration clause in a contract between the company and the employee whose

rights may have been violated. See *Rent-A-Ctr., Inv. V. Iowa Civil Rights Comm'n*, 843 N.W.2d 727 (Iowa 2014). It is easily distinguishable from this situation because the Iowa Civil Rights Commission did not step into the shoes of the employee – it has its own statutory guidelines and violations under its jurisdiction.

In another case, *Roth v. Evangelical Lutheran Good Samaritan Society*, 886 N.W.2d 601 (Iowa 2016), the Court regarded a wrongful-death claim as a "claim that stands in the shoes of the decedent, not as an independent claim." The decedent had signed an agreement with Evangelical Lutheran containing an arbitration clause. After death, the decedent's personal representative was bound by the arbitration clause.

The Court found the situation with the liquidator of CoOportunity to be more like the personal representative bringing a wrongful death claim. The liquidator, like the personal rep, was acting on the behalf of the original signor. The signor suffered damages, they both allege, and we are seeking those damages for them. It is irrelevant that the claim presented by the liquidator is a tort claim (and not a claim of breach of contract). Afterall, the arbitration clause itself clearly intended to be broad: it says, "In the event of *any dispute* arising out of or relating to the engagement." So as long as the claim "simply touches" matters covered by the provision, enforce the arbitration clause. And the negligence alleged certainly appears to have occurred during the time that Milliman, Inc. was doing its actuarial consulting work for CoOportunity.

The liquidator argued that Iowa Code Sec. 507C.21(k) allowed him to disavow the contract. The Court won't endorse the view: "Permitting the liquidator to disavow the entire 2011 Agreement may run afoul of the FAA's mandate to place arbitration agreements on an equal footing with other contracts." Milliman, Inc. had performed the work it was contracted to do in the 2011 Agreement, though there were certainly disagreements about whether the work was effective or not. And how could the liquidator disavow the contract while also having to necessarily acknowledge that there was a contract in the first place in which the negligence first arose from? So now, the liquidator cannot at this point disavow.

Finally, the liquidator argues that another federal law (McCarran-Ferguson Act) allows reverse preemption, where state law preempts federal law, in situations involving the regulation of insurance businesses, and therefore, relying on the FAA arbitration mandate would be unwarranted because it's preempting the Iowa Liquidation Act. The Court disagrees again with the liquidator: Iowa's Liquidation Act does not require the liquidator to bring a legal action. It's entirely consistent with Iowa law to require the liquidator to be confined to arbitration in seeking remedies for disputes.

The district court should have compelled the arbitration that CoOportunity and Milliman, Inc. agreed to be bound by in the agreement they signed back when CoOportunity was operating its business.

Holding: A court-appointed liquidator is bound by arbitration clauses agreed upon by its predecessor with third-party companies as long as the disputes, even those based in tort, have some bearing on the contract between the parties.

Dissent (Justice Appel): Justice Appel takes issue with the available procedures in the (forced) arbitration process and the constraints the majority opinion is putting on Iowa's insurance regulatory remedies. "The majority holds that a private insider agreement between the insurer and its consultants, which

dramatically limits the potential liability of the consultants to the detriment of policyholders and the public, is binding on the state's chief regulator, the insurance commissioner, in a liquidation proceeding under Iowa Code chapter 507C even though the insurance commissioner was not a party to the private insider agreement."

Munger, Reinschmidt & Denne, LLP v. Plante, No. 19-0519 (March 6, 2020)

Issue: To what extent will a court reevaluate the risk of a contingency fee contract with a client and a lawyer from the position of hindsight?

Facts: After a car accident with a city bus left a motorist in critical condition, the family, including the injured person's wife sought legal representation from a Sioux City law firm. Contingency fee contract provides attorneys with 1/3 of recovery. 16 months later, the case settles for $7.5 million prior to a suit being filed. But the clients do not pay the $2.5 million fee to the lawyers because they felt the fee was unreasonable, in violation of Iowa Rule of Professional Conduct 32:1.5(a). Law firm sues.

Procedural History: District court agrees with the law firm: the fee was reasonable at the time of its inception.

Analysis: Iowa R. Prof. C 32:1.5(a) prohibits a lawyer from collecting an unreasonable fee or an unreasonable amount for expenses. Nonexclusive factors to consider in determining reasonableness are provided by the Rule:

> (1) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly.
>
> (2) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer.
>
> (3) The fee customarily charged in the locality for similar legal services.
>
> (4) The amount involved and the results obtained.
>
> (5) The time limitations imposed by the client or by the circumstances.
>
> (6) The nature and length of the professional relationship with the client.
>
> (7) The experience, reputation, and ability of the lawyer or lawyers performing the services.
>
> (8) Whether the fee is fixed or contingent.

The clients argue that, now knowing the outcome and the course of the case, we can look back to see whether the fee is unreasonable or not. The Court declines that invite. First, the validity of contingency fees has long been recognized. Those arrangements perform three valuable functions: avoids the upfront fee to persons otherwise unable to afford counsel; gives lawyers an incentive to maximum clients' success; and spreads the risk of loss from only the client to both the client and attorney, who is better able to assess risk of the case. But there are recognized exceptions to the enforcement of the contingent fee agreement. Large fees unearned by either effort or a significant period of risk are unreasonable, for example. There has been at least one case where the Court found the contingency

agreement led to an unreasonable fee: In *Hoffman*, a work comp insurer admitted liability prior to a petition (which entitled the attorney to 25% of the proceeds). A petition for partial commutation of the benefits was still filed afterward however for reasons having to do with the payment of the attorney's fee, which the client said was 1/3 of the total proceeds. But the recovery was "obtained independent from any action taken by [the attorney]" and was therefore unreasonable and unwarranted. On review, the Court stated at one point that, "While the fee agreement entered into by [the attorney] and [his client] may have been reasonable at the time of its inception, changes in the attending circumstances by the time the petition for partial commutation was filed rendered the thirty-three percent contingency fee unreasonable and excessive." So there is a perspective of hindsight that can be applied, says the clients in this case. Not so fast: we don't apply that perspective in every contingency claim. *Hoffman* is a narrow exception to the general rule because it involved a recovery of a claim that was in no manner due to the attorney's work. In this case, the record showed that the law firm did in fact do quite a bit of work and had a very good reputation for legal work that the Court says "no doubt . . . played a crucial role" in the settlement offer.

The clients argued that a recent case in New Jersey lent support to the unreasonableness argument, but the Court here stated that the contingency fee was unreasonable in light of the attorney's failure to adequately inform the client of the ramifications of the contract, which included three possibilities for a fee, the attorney receiving the greater of them at the end of the case, and one of them, the hourly rate, possibly even exceeding the client's recovery. Cases in Missouri and New York are also viewed with skepticism by the Court in their reevaluation analysis.

Holding: With rare exceptions, Rule 32:1.5(a)'s noncontingency fee factors are not to be used to reevaluate the reasonableness of legal contingency fee contracts after the conclusion of a case.

Note: The law firm in this case had offered the clients three options: (a) hourly fee basis; (b) 35% fee with firm advancing expenses of lawsuit; or (c) 33% with clients paying expenses. Clients chose option C.

T.H.E. Insurance Co. v. Glen & Estate of Booher, 18-1550 (June 5, 2020)

Issue: Is a claim of gross negligence for purposes of Iowa Code Chapter 85 incompatible/inconsistent with a liability policy covering accidents?

Facts: Stephen Booher worked on the Raging River ride at Adventureland. In June of 2016, he fell onto the conveyor belt of the ride and was wedged between a raft and the concrete sidewall. His head was rammed into the sidewall repeatedly, until the ride operator, Defendant Glen, finally stopped the ride. Mr. Booher dies from the injuries several days later.

T.H.E. Insurance, the liability carrier for Adventureland, and Mr. Booher's estate claim that Mr. Glen was grossly negligent in his work for various reasons. During litigation, T.H.E. Insurance sought a declaratory action. Their liability coverage extended to accidents. This situation, they argue, was not an accident, they were the expected result of Mr. Glen's decision to not stop the ride soon after Mr. Booher fell in.

Procedural History: District court ruled in favor of T.H.E.'s motion for summary judgment in holding that a claim of gross negligence was inconsistent (and outside the coverage of) with the liability coverage provisions of the policy. Under the policy, "occurrences" which include, "accidents, including continuous

or repeated exposure to substantially the same general harmful conditions" that are "unexpected and unintended" are covered.

Analysis: The Court first examines the relevant policy provisions:

Coverages include for certain "bodily injury" damages: specifically, those caused by an occurrence. An occurrence means an accident, including continuous or repeated exposure to substantially the same harmful conditions. But an occurrence does not include those that are "expected or intended from the standpoint of the insured." An insured includes an employee acting within the scope of their employment or in the conduct of Adventureland's business. An endorsement on the policy indicates additional coverage is available in situations of employee v. employee liability, which eliminates the exclusion of 'bodily injury' previously stated in those circumstances.

Mr. Booher's family argued that since, under the additional endorsement, he was an insured (an employee acting within the scope of his employment), his damages should be covered, even though it is somewhat inconsistent with the general coverage language, because ambiguities should be construed in favor of coverage. T.H.E. responded that the additional endorsement is meant to encompass the underlying policy, not take away from the meanings of the underlying policy, and so the meaning of the underlying policy that only certain bodily injuries are covered still prevails.

General rules of insurance policy contract interpretation are noted: construe provisions in the light most favorable to the insured; interpret the language from the standard of an ordinary person; ambiguities are interpreted against the insurer.

Specific question 1: whether an act of gross negligence could potentially be within the scope of 'accident' as that term is used in the underlying policy. Under Iowa law, an accident is "an unexpected and unintended 'occurrence' so long as the insured does not expect or intend both it and some injury." *See, e.g., First Newton Nat'l Bank v Gen. Cas. Co. of Wis.*, 426 N.W.2d 618 Iowa 1988). Something expected is something with a substantial probability (highly likely or substantially certain) of happening that is either known or should have been known to the actor.

Under Iowa Code Chapter 85, gross negligence must "amount to wanton neglect for the safety of another." It occurs when the actor is indifferent as to whether an act will injure another. The actor need not intend for injury, but can expect an injury has a probable chance of occurring by the actor's act or failure to act. Gross negligence under Iowa Code Chapter 85 can be found when a coemployee acts in a fashion where injury is more probable than not within the scope of employment, and that can be accident. For example, if a coemployee acted without intent to harm and with the expectation that an injury was more likely than not, but not with the expectation that the injury was highly likely or substantially certain to result. Some, but not all, acts of gross negligence may not be accidents. It's a difference between "more likely than not" and "highly likely." Booher should have the opportunity to argue to a factfinder that there was gross negligence in this accident.

Specific question 2: whether an employee is covered under a policy provision that declares employees are insured when acting within the scope of employment, but not an insured for bodily injury purposes. Section one of the policy, which states what types of risks were covered, and section two of the policy, which states who is covered by those risks, are not in conflict. Section two does not give additional coverage, however. It is still constrained by the terms of Section one that defines the risks. The risk

involved here was bodily injury and for purposes of the lawsuit is constrained to whether the type of injury occurring to Mr. Booher is covered by that definition or not.

Holding: A claim of gross negligence for purposes of Iowa Code Chapter 85 may be covered by a liability policy for accidents where a coemployee acted or failed to act while having an expectation that an injury was more likely than not because of the act or failure.

UNAUTHORIZED OR PROBLEMATIC COMMERCIAL ACTS

33 Carpenters Construction, Inc. v. State Farm Life & Casualty Co., No. 18-1354 (Feb. 14, 2020).

Issue: Can a residential contractor acting as an unlicensed public adjuster, enforce a postloss contractual assignment of insurance benefits against the residential owner's insurance company?

Facts: After a storm in March of 2016, a rep for 33 Carpenters contacts homeowners to do an inspection. Finding hail damage, the rep presents homeowners with an agreement: 33 Carpenters will repair the damage in exchange for the insurance proceeds from State Farm. The agreement authorizes 33 Carpenters to act on behalf of the homeowners re: submission, adjustment, and payment of the claim. Homeowners make a damage claim to State Farm, which does its own inspection (present at that was 33 Carpenters, but not homeowners). State Farm pays out $22,198, and 33 Carpenters starts repair. Later, 33 Carpenters prepared a Supplement: new repairs totaling an additional $24,869 are needed. In Feb. of 2017, Clausens sign another document assigning insurance claim and cause of action with State Farm to 33 Carpenters. Several weeks later, 33 Carpenters sues State Farm for breach of contract because State Farm did not pay all benefits due and owing under the policy.

Procedural History: After 33 Carpenters sued, State Farm filed MSJ claiming contract between 33 Carpenters and homeowners was unenforceable because 33 Carpenters was not a licensed public adjuster as required under Iowa Code chapter 522C. 33 Carpenters resisted, arguing (1) only the Iowa Insurance Commissioner can enforce chapter 522C provisions, or alternatively (2) its actions were not in violation of the statute: it either did not negotiate or advocate for the homeowners prior to the assignment or it was arguing for itself after the assignment. District court grant MSJ: assignment was invalid due to 33 Carpenters acting as an unlicensed public adjuster.

Analysis: Iowa Supreme Court has never held that Iowa courts lack the authority to adjudicate contractual assignments of insurance claims. Rather, it is a routine function of the courts. Relying on, among other cases for precedence, *UE Local 893/IUP*, 928 N.W.2d 51 (Iowa 2019), which rejected an argument that only an agency charged with enforcing a regulatory statute had primary jurisdiction over a contract-enforcement action, the Court extends its reasoning to this situation. Other Iowa cases holding that contracting entered into by parties lacking a required license are void as against public policy include situations with an unlicensed attorney entering into a client engagement; an unlicensed grain dealer; among others.

The Iowa Insurance Commissioner, and not the Court, certainly has the authority to impose penalties on companies acting as a public adjuster without a license, but the statute does not say that the

commissioner enforces or declares void contractual assignments they enter into. That *is* the court's function.

Was the lower court's function properly exercised in this case? Iowa's legislature has provided several protections to the public concerning these matters. First, public adjusters need to be licensed, as this serves the intention of curtailing unethical and abusive practices, often during especially vulnerable situations like after natural disasters. State Farm argued that what 33 Carpenters attempted to do here is exactly that type of practice needing protection against. Courts in New York and Texas have previously held that contracts entered into by an unlicensed public adjuster are void as contravening public policy. Secondly, the Court also looks to Iowa Code Chapter 103A which provides very clearly that *residential contractors* entering into a contract in which that same contractor has represented or negotiated on behalf of, or offered or advertised to represent or negotiate on behalf of, an owner or possessor of residential real estate on any insurance claim on roof or exterior repairs, is void. The prohibitions against public adjusting in both statutes, in the Court's comparison, tracks well with one another, and overall leads to the holding that contracts entered into by a residential contractor acting as an unlicensed public adjuster are void under Iowa Code Sec. 103A.71(5).

The Court provides evidence for why in this specific instance 33 Carpenters was acting as an unlicensed public adjuster: the company rep directed the homeowners to file a claim with State Farm; the rep attended the inspection of the property by State Farm without even the homeowners being there; its website representations advertise that the company will advocate on the homeowners behalf; it negotiated the claim on behalf of the homeowners. It also solicited the business of the homeowners without invitation.

Yes the lower court correctly found 33 Carpenters was acting as an unlicensed public adjuster and the contract assignment is void.

Holding: Contracts entered into by a residential contractor acting as an unlicensed public adjuster are void under Iowa Code Sec. 103A.71(5).

Note: Iowa legislature, like several other states, recently enacted Insured Homeowner's Protection Act, effective July 1, 2019, which statutorily voids postloss assignment contracts between an insured and a residential contractor unless specified conditions are met.

Poller v. Okoboji Classic Cars, LLC (Iowa Ct. App. 2020)

Issue: Is antique car restoration work covered under the requirements of Iowa Code Chapter 537B (the Motor Vehicle Service Trade Practices Act)?

Facts: Plaintiffs sought to restore a 1931 Chevy by sending the disassembled vehicle to Defendant, a company in Iowa. Plaintiffs requested an estimate of the cost, but only received an hourly rate and to do the work on a 'time-and-materials basis.' Total charge ends up being $112,396.15. Plaintiffs sue, alleging a violation of Iowa Code Chapter 537B, and Defendant counterclaims on a breach-of-contract.

Procedural History: District court ruled defendant did not violate Chapter 537B, and Plaintiffs owed an additional $67,396.15 for the restoration.

Analysis: 537B states that if a consumer authorizes in writing repairs or service upon a vehicle prior to the repairs or service being done, they also have a right to an estimate from the mechanic ("servicer"). If the nature of repairs or service is unknown, supplier can give an hourly labor charge for the work.

The Defendant argued that "vehicle restoration differs from vehicle repair" and they should not be held to the requirements of 537B. At the district court level, the argument was not really pursued, as the focus of the case became more about whether the Plaintiffs had sufficient proof of their damages. The appellate court's majority opinion said, "We assume without deciding that the chapter applies to a vehicle restoration shop." The majority (agreed on by the concurring opinion from Justice Vaitheswaran) finds that you first have to prove actual damages as a result of an alleged prohibited practice, and here, there were authorizations made by the customers to the work performed by Okoboji Classic Cars. The Plaintiffs had been told by the company that estimates were not provided per company policy. Knowing that, the Plaintiffs still shipped the disassembled vehicle to get restored.

The concurring opinion agrees, but wants to make it clear that, as a matter of law, vehicle restoration projects do come under the jurisdiction of Iowa Code Chapter 537B, and that if a customer requests an estimate for known repairs or services (e.g., a vehicle restoration project), they need to receive one. Failure to provide that, in Justice Vaitheswaran's view, is a violation of 537B. And failure to provide that is tantamount to a deceptive act or practice under 537B. Still, you have to prove actual damages even with a violation of an act, and failure to provide sufficient proof of that will doom a plaintiff's case.

Holding: It has not been conclusively decided whether antique car restoration work is subject to the requirements of Iowa Code Chapter 537B.