

## Whose Law Is It Anyway?

When purchasing or selling a collector car, you should memorialize your agreement in a written contract, signed by both parties. The contract should contain all the important points, including the vehicle and any related property involved, the price, and any representations about its quality or lineage.

You may want to consider (or, if the other side has inserted it, you should understand) a provision setting forth the particular law by and the particular court in which any dispute the contract must be litigated.

Why? For one reason, a party may prefer a court which is geographically nearby, more convenient for him or her and less convenient for another party who may live or work far away. In addition, a party may perceive that a local court might be more “friendly” to a local resident than to a resident of a “foreign” state.

Furthermore, the laws of different states vary substantively. There may be some jurisdictions where the law is perceived to favor plaintiffs or buyers, and thus is less appealing to defendants or sellers, or vice versa.

Courts often wrestle with issues of whose law applies, including determining the applicability and scope of contractual provisions allegedly addressing this subject. A recent case involving the sale of a collector car was *Schuster vs. Dragone Classic Motor Cars, Inc.*, decided on September 17, 1999, by the United States District Court for the Southern District of New York.

According to the Court, plaintiff Myron Schuster collects antique automobiles. In 1997, one of the defendants, to induce Schuster to invest or lend money to acquire some rare automobiles, made allegedly false representations to Schuster. The defendants executed a promissory note payable to Schuster, which provided that “The Laws of New York State shall apply. The venue for any litigation shall be the Federal District Court, Southern District of New York or New York State Supreme Court, New York County.” The defendants defaulted.

Previously, in 1995, one of the defendants sold a 1939 Bugatti Type 57 to Schuster. To induce Schuster to purchase it, the defendants falsely represented that the engine merely had valve problems and that it would be repaired and the car delivered in perfect working order. In reality, as the defendants knew, the vehicle had a cracked engine block, a thrown rod, and a sleeve in one of the cylinders.

Schuster sued the defendants for both matters in the United States District Court for the District of

Connecticut. The case was transferred to the Southern District of New York. The defendants moved to dismiss, on grounds including that the provision in the note required application of New York law.

The Court disagreed and denied the defendants’ motion. “First, the promissory note has nothing whatever to do with the 1995 Bugatti transaction. The parties never agreed that New York law would govern that contract. Hence, the governing law clause has no bearing on the...cause of action.” The Court also disagreed that the provision should cover the action on the note, since the fraud claim was not based on the note but on the defendants’ fraud in inducing it.

The Court explained the criteria by which courts decide what law controls where no contractual provision applies. Generally speaking, “the applicable law is that of the state with the most significant relationship to the occurrence, taking into account the place where the injury occurred, the place where the conduct causing the injury occurred, the domiciles and places of business of the parties, and the place where the relationship between the parties, if any, is centered.” Courts consider the relevant policies of the forum, the relevant policies of other interested states, the protection of justified expectations, the basic policies underlying the relevant field of law, certainty and predictability, and ease in the determination and application of the law to be applied.”

“In the last analysis, the only...factor cutting in favor of New York law is the protection of justified expectations to the extent that it may be argued that the parties’ agreement to a New York governing law clause in the promissory note suggests an expectation that New York law would apply to their relationship. But the argument ultimately is unpersuasive. The governing law clause has no bearing at all on the sale of the Bugatti. Its relevance to the 1997 loan transaction is limited by the fact the parties selected New York law to govern only the note; there is no suggestion that they agreed that their entire relationship would be governed by New York law. Moreover, the expectation of the parties, at least in the absence of a definitive selection of New York law for all purposes, is but one weight in the scales. Given Connecticut’s interest in regulating conduct within its borders, the relative insignificance of New York’s interest in applying its law to the issues here, and the fact that the parties’ relationship was centered in Bridgeport, Connecticut, this Court holds that Connecticut law governs the claims at issue on this motion.”



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