

The Search For Meaning

Sometimes You Get More Than You Paid For

by Lawrence Savell

One of the law's more peculiar traits is its often-confusing propensity to give new meanings to commonly used terms. Take, for example, the word "construction," which in normal parlance usually means to build something. As a legal term, however, it has the additional definition of the process (or art) of determining the correct sense, meaning, or explanation of potentially obscure or ambiguous terms or provisions in a contract, statute, or other oral or written agreement or statement.

The case of *Chandler vs. Gapinski*, decided on February 26, 1998 by the Court of Appeals of Wisconsin, involved the legal construction of an ambiguous contract for the restoration of a collector car.

According to the court, Jerry Chandler contracted with Larry Gapinski, d.b.a. L&L Custom Performance, to restore Chandler's 1955 Chevrolet Bel Air. Ultimately, Chandler was apparently unsatisfied with L&L Custom's work, and sued for breach of contract.

A bench (non-jury) trial was held. The relevant excerpts of L&L Custom's estimate and repair order, signed by both parties, directed L&L Custom to "Disassemble. Strip. Restore body and underside to original all steel configuration" for "\$5,000-\$5,500." Chandler testified that the phrase meant that the car would be restored to show quality. Gapinski acknowledged that L&L Custom did not restore the 1955 Chevy to show quality. Gapinski testified that he understood that Chandler's "top dollar figure" was \$6,000 to restore the car so "that he could take [it] to the car shows on weekends..." Both parties' experts testified that the estimated amount was consistent with a cosmet-

ic restoration, not a restoration to show quality. There was also considerable expert testimony that the restoration was worth significantly more than the contractual estimate.

The trial court concluded that there was no breach of contract because Chandler "got what [he] bargained for." It therefore dismissed Chandler's complaint. Chandler appealed.


In its decision, the Court of Appeals affirmed the judgment for L&L Custom.

The Court of Appeals began its analysis by noting that whether a contract is ambiguous is a question of law (as opposed to a question of fact). Appellate courts review questions of law without being bound by the determination made by the trial court. If a contract is ambiguous, the fact-finder (here, the trial court) resorts to extrinsic evidence (facts beyond the language of the contract) to determine the parties' intent. "Because the trial court was the fact-finder, this court will not reverse its factual findings unless they are clearly erroneous."

"The contract's operative phrase is: 'Restore body and underside to original all steel configuration.' Based on our independent analysis, we conclude that the trial court correctly decided that the contract was ambiguous. We then reviewed the trial court's factual determinations of the parties' intent from the extrinsic evidence. The parties did not use the phrase 'show quality,' or 'cosmetic restoration' in their contract. Consequently, we are not persuaded that the trial court's determination that Chandler 'got what [he] bargained for' was predicated on clearly erroneous facts, in view of the contract's phraseology and estimated amount, or that the court's determination is inconsistent with the expert tes-

timony that the value of L&L Custom's restoration was worth significantly more than what it charged Chandler."

"Because we conclude that the contract was ambiguous and that the trial court, as fact-finder, did not clearly err when it determined that L&L Custom did not breach the parties' contract, we necessarily reject Chandler's alternative contention that L&L Custom did not substantially perform its obligations. We also reject Chandler's claim that the trial court dismissed his complaint on the basis of a waiver [that he gave up a claim by not pursuing it promptly and fully]. Although the trial court was 'mystified' about why Chandler did not mention his dissatisfaction to Gapinski on one of several occasions when they were together, the trial court's dismissal was not predicated on waiver."

The best way to protect your rights in dealings with others is by having a contemporaneous written contract, signed by both parties. In the restoration context, such a contract should minimally include, as seen here, whether the objective is "show quality" status or merely cosmetic enhancement, exactly what work is to be done, the deadline for its completion, and the total cost (either a specific amount or within a narrow range). The precise nature of your particular project may require the inclusion of other significant details. 

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