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VZBV BRINGS LEGAL ACTION AGAINST VW DEALER

The case may have important implications for the law governing legal guarantee rights.

- vzbv is claiming a refund of the full purchase price on behalf of a consumer.
 - If the dealer refuses to provide a guarantee the consumer is entitled to rescind the purchasing agreement.
 - vzbv is seeking clarification of the legal guarantees rights in contract law.

On 23 November 2017, the Federation of German Consumer Organisations (Verbraucherzentrale Bundesverband – vzbv) started proceedings at the Bremen regional court for the recovery of money from a Volkswagen (VW) dealer. The claim had been assigned to vzbv by a consumer hit by the diesel scandal. The consumer had previously rescinded his purchase agreement as the car dealer had been unable to guarantee that the technical fix offered by VW would not have any adverse effect on his vehicle.

"We hope to get a fundamental clarification from the court. The question is whether consumers can be reasonably expected to allow VW to retrofit their vehicles if the fix itself could cause other damage and the dealer is not prepared to accept responsibility if it does," explained Klaus Müller, vzbv Executive Director.

On vzbv's advice, the consumer had asked his dealer to provide a guarantee for the retrofit solution offered by Volkswagen, in case it caused damage to his vehicle. Volkswagen had already given vzbv a far-reaching 'guarantee'. However, the dealership refused to give the requested guarantee. Nor did it offer a replacement vehicle. In vzbv's view, this meant the consumer was entitled to rescind the purchasing agreement.

VZBV IS SEEKING CLARIFICATION OF A FUNDAMENTAL POINT

It is hoped that this case will provide a definitive ruling on whether consumers can claim they cannot reasonably be expected to accept a retrofitting solution if there are legitimate concerns about the technical fix being offered and the seller is not prepared to accept liability for any

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adverse effects. The case thus addresses a point of law that is currently unclear. “A positive outcome would be extremely important for consumer rights and for the law governing legal guarantees as a whole,” said Müller.

LEGAL COROLLARY OF POLITICAL ENGAGEMENT

vzvb has been working hard to achieve a positive outcome for all consumers ever since the VW scandal first came to light. A lack of appropriate legal instruments means the consumer advocate’s activities have largely been concentrated on political work.

Following lengthy discussions, vzvb managed to secure a far-reaching guarantee from VW. The action now being brought seeks to have the ‘value’ of this guarantee – namely whether consumers can enforce it against any dealer – tested in court.

Links: <https://www.vzvb.de/pressemitteilung/diesel-skandal-vw-legt-sich-auf-motorhaltbarkeit-fest>.

Further information

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