

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

August 26, 2024

Lyle W. Cayce
Clerk

No. 23-30480

TESLA, INCORPORATED; TESLA LEASE TRUST;
TESLA FINANCE, L.L.C.,

Plaintiffs—Appellants,

versus

LOUISIANA AUTOMOBILE DEALERS ASSOCIATION, *In itself and on behalf of its members, executive committee, and BOARD OF DIRECTORS;* GREGORY LALA, *In his official capacity as Chairman of the Louisiana Motor Vehicle Commission;* ALLEN O. KRAKE, *In his Official capacity as a Commissioner of the Louisiana Motor Vehicle Commission and his private capacity;* V. PRICE LEBLANC, JR., *In his Official capacity as a Commissioner of the Louisiana Motor Vehicle Commission and his private capacity;* ERIC R. LANE, *In his Official capacity as a Commissioner of the Louisiana Motor Vehicle Commission and his private capacity;* KENNETH MIKE SMITH, *In his Official capacity as a Commissioner of the Louisiana Motor Vehicle Commission and his private capacity;* P.K. SMITH MOTORS, INCORPORATED; KEITH P. HIGHTOWER, *In his Official capacity as a Commissioner of the Louisiana Motor Vehicle Commission and his private capacity;* KEITH M. MARCOTTE, *In his Official Capacity as a Commissioner of the Louisiana Motor Vehicle Commission and his private capacity;* WESLEY RANDAL SCOGGIN, *In his Official capacity as a Commissioner of the Louisiana Motor Vehicle Commission and his private capacity;* SCOTT A. COURVILLE, *In his Official Capacity as a Commissioner of the Louisiana Motor Vehicle Commission;* DONNA S. CORLEY, *In her Official capacity as a Commissioner of the Louisiana Motor Vehicle Commission and her private capacity;* TERRYL J. FONTENOT, *In his Official capacity as a Commissioner of the Louisiana Motor Vehicle Commission and his private capacity;* T & J FORD, INCORPORATED; MAURICE C.

GUIDRY, *In his Official capacity as a Commissioner of the Louisiana Motor Vehicle Commission and his private capacity*; GOLDEN MOTORS, L.L.C.; RANEY J. REDMOND, *In his Official capacity as a Commissioner of the Louisiana Motor Vehicle Commission*; JOSEPH W. WESTBROOK, *In his Official capacity as a Commissioner of the Louisiana Motor Vehicle Commission and his private capacity, also known as Bill Westbrook*; STEPHEN GUIDRY, *In his Official capacity as a Commissioner of the Louisiana Motor Vehicle Commission and his private capacity*; JOYCE COLLIER LACOUR, *In her Official capacity as a Commissioner of the Louisiana Motor Vehicle Commission*; THOMAS E. BROMFIELD, *In his Official capacity as a Commissioner of the Louisiana Motor Vehicle Commission*; EDWIN T. MURRAY, *In his Official capacity as a Commissioner of the Louisiana Motor Vehicle Commission and his private capacity*; FORD OF SLIDELL, L.L.C., *doing business as SUPREME FORD OF SLIDELL*; GERRY LANE ENTERPRISES, INCORPORATED, *doing business as GERRY LANE CHEVROLET*; HOLMES MOTORS, L.L.C., *doing business as HOLMES HONDA*; AIRLINE CAR RENTAL, INCORPORATED, *doing business as AVIS RENT-A-CAR*; SHETLER-CORLEY MOTORS, LIMITED; LEBLANC AUTOMOBILES. L.C., *incorrectly named as LEBLANC AUTOMOBILES, INC.*; MORGAN BUICK GMC SHREVEPORT, INCORPORATED, *incorrectly named as MORGAN PONTIAC, INC.*; P.K. SMITH MOTORS, INCORPORATED, *in his private capacity*; COMMISSIONERS OF THE LOUISIANA MOTOR VEHICLE COMMISSION AND THEIR DEALERSHIPS; STEPHEN L. GUIDRY, JR.,

Defendants—Appellees.

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:22-CV-2982

No. 23-30480

Before SMITH, HAYNES,* and DOUGLAS, *Circuit Judges*.

JERRY E. SMITH, *Circuit Judge*:

Louisiana law generally prohibits automobile manufacturers from selling directly to consumers or performing warranty services for cars that the manufacturers do not own. The Commission, which by law is composed of market incumbents, is tasked with enforcing those provisions.

Plaintiffs are three Tesla entities (together, “Tesla”). Defendants are Commissioners of the Louisiana Motor Vehicle Commission in their private and official capacities, the Louisiana Automobile Dealers’ Association (“LADA”), and dealerships owned by the Commissioners. Tesla challenged the aforementioned law, alleging, *inter alia*, violations of (1) federal antitrust law, (2) its federal due process rights, and (3) its federal equal protection rights. The district court dismissed, and Tesla appeals. We reverse the dismissal of the due process claim, vacate and remand the dismissal of the anti-trust claim, and affirm the dismissal of the equal protection claim.

I.

Tesla began manufacturing cars in 2008. Its business model has several distinct features. Most relevant is that it exclusively markets, sells, and leases its cars directly to consumers and through a network of stores that it owns and operates. It does not do so through third-party dealers.

Louisiana passed the first rendition of its dealership-regulation regime in 1954. *Benson & Gold Chevrolet, Inc. v. La. Motor Vehicle Comm’n*, 403 So. 2d 13, 16 (La. 1981). Before 2017, that law provided that no manu-

* Judge Haynes concurs in full in the affirmance of the dismissal of the equal protection claim and concurs in the judgment only as to the reversal of the dismissal of the due process claim and the vacatur and remand of the antitrust claim.

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facturer (save for a few exceptions) may “sell or offer to sell a new or unused motor vehicle directly to a consumer.” LA. REV. STAT. ANN. § 32:1261-(A)(1)(k)(i) (2016)).

In 2017, Louisiana amended the statute. 2017 La. SB 107. Tesla avers that, before the amendment, it would have been allowed to sell because “state law then only prohibited franchising manufacturers from competing with their own franchise dealers.” Defendants disagree. LADA notes that “Tesla has *never* lawfully sold its cars directly to consumers in Louisiana.” (Emphasis added.) The Commission avers that though “[t]here is no pre-2017 caselaw interpreting [the relevant] language,” direct-to-consumer sales by a manufacturer would have violated the law “full stop.” Either way, there is no dispute that after the amendment, Tesla would not be permitted to sell directly to consumers except through an in-state dealer. Tesla contends that that change was made “at the behest of Tesla’s competitors.”¹ LADA concedes that it successfully lobbied the legislature to, as they put it, “clarify” the law. Tesla says that because of that change, “if Tesla wishes to participate in the market for automobiles in the State of Louisiana, Tesla must forgo its successful (and necessary) business model.”

Though Tesla does have a license to lease vehicles in Louisiana, it has not sought a license to sell vehicles there. Tesla posits, however, that there is an exception in Louisiana law that allows it to perform warranty repairs in

¹ Tesla limits the scope of its challenge to the 2017 amendment:

Plaintiffs do not challenge the enactment of this law as part of their antitrust or unfair trade practice claims. Nevertheless, a plaintiff may properly include evidence of immune lobbying activity in its antitrust allegations insofar as that evidence serves to illustrate the context and motive underlying the alleged anticompetitive conduct.

(Cleaned up.)

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the state—namely, though Louisiana law generally prohibits “a manufacturer . . . [from] operat[ing] a satellite warranty and repair center,” there is an exception for “fleet owner[s].” LA. REV. STAT. ANN. § 32:1261-(A)(1)(t). Tesla maintains that, through its entities, it is a fleet owner.

As of early 2023, there were “thousands of registered Tesla vehicles in Louisiana” even without direct sales. It currently provides warranty services at its New Orleans service center. Tesla worries that the Commission threatens this practice by being able, as Tesla puts it, “improperly [to] construe” the “fleet-owner provision . . . to exclude Tesla.”

Tesla avers that its “competitors have pursued every avenue to bar Tesla from the market,” including “block[ing] Tesla from local markets altogether by promoting protectionist legislation and by coopting state regulatory authority.” Tesla avers that the loss of its ability to perform warranty repairs in the state would make it unable to compete in that market. Tesla sees the 2017 restrictions on direct sales as one example of interference by competitors. It also avers that competitors in the state have coopted the Commission.

The Commission is the body charged with enforcing much of state law governing “distribution and sale of motor vehicles.” LA. REV. STAT. ANN. §§ 32:1251, 32:1253(E). And it is given broad powers to do so. *Id.* § 32:1253(E). The Executive Director of the Commission “has the authority to issue all licenses upon receipt of applications that comply with the statutes and rules of the commission.” LA. ADMIN. CODE tit. 46 § V.105(A). He or she also has subpoena power. *Id.* § V.303(B). “The commission has the responsibility to consider and determine the action necessary upon all charges of conduct which fail to conform to” the laws the Commission is charged with enforcing. *Id.* § V.301(A).

According to Tesla, competing dealerships “comprise[] a controlling

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