

Automotive News

GM loses 2nd known arbitration case

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Automotive News | May 20, 2010 - 12:01 am EST

WASHINGTON -- General Motors Co. lost its second arbitration out of two known cases -- this time to a dealership in rural Missouri.

Thomas Motors in Moberly won reinstatement and has been told by GM that it will get a letter of intent, the dealer's attorney said.

The arbitrator held that Thomas Motors has largely been profitable even though it did not meet GM's sales goals, a copy of the May 17 decision obtained by *Automotive News* shows.

He added that the dealership can continue to be viable if it spends hundreds of thousands of dollars in promised improvements, staffing increases and new advertising.

Closing the 25-employee store also would affect the local community because Thomas repairs school buses and police and fire vehicles, donates vans for school use and contributes to local projects, the arbitrator said.

"There will be a loss of jobs, a loss of tax revenue and a loss of convenience to the people of Moberly and of Randolph County," he wrote in a three-and-a-half-page decision.

Henderson's affidavit

Former GM CEO Fritz Henderson's affidavit was introduced by the company, said lawyer Richard Sox, whose Tallahassee, Fla., firm represented Thomas.

Henderson's affidavit said overall dealer cuts could save GM as much as \$2.6 billion, a copy of the testimony shows. It does not comment on Thomas Motors' specific situation.

"From the evidence presented it would be sheer speculation on the part of the arbitrator to determine what the impact of adding Thomas Motors to the dealer network would be on General Motors," the decision said.

The judgment supplements the first known arbitration decision in a GM case, in which Lou LaRiche Chevrolet of Plymouth, Mich., won reinstatement on May 14.

In the earlier case, Henderson personally appeared as a witness. The arbitrator said the Michigan dealership's "financial wherewithal and will to succeed" trumped the company's overall business plan.

GM spokeswoman Ryndee Carney declined comment on the Thomas decision, citing the dealership's confidentiality.

She also said there have been other arbitration decisions that GM has won but hasn't disclosed.

"I can tell you that we are also winning some cases but can't talk about the details or how many we have won," Carney said.

Chrysler Group has won five of its six known cases.

Together, the two companies are scheduled to have more than 500 arbitrations by July 14. Both are also reinstating dealerships and reaching settlements without arbitration.

GM, as part of its bankruptcy proceeding last year, summer, targeted 2,000 dealerships for termination of one or more of its franchises by October 2010.

Thomas Motors, owned by Donald Thomas, has been in business for more than 35 years in a town of 14,000

people, Sox said. It has sold Buick, Cadillac, Chevrolet, GMC and Pontiac vehicles.

GM was not intending to replace Thomas's franchise, the lawyer said. The store's nearest competitor is a GM dealership 35 miles away in Columbia.

The arbitrator found that Thomas Motors was profitable in three of the last four years, has no debt, and has \$1.5 million in working capital.

"What was most significant was the arbitrator's finding that the number of new cars sold by Thomas Motors was not the most important factor for either the dealer's viability or GM's viability," Sox said.

Three local officials -- the city manager, the county commissioner and the city's economic development president -
- testified on Thomas's behalf.

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