

***Pulliam v. HNL Automotive (2021)***  
**2DCA/5 No. B293435**

Attorney's fee award upheld without apportionment based on causes of action because defendants failed to show Plaintiff's unsuccessful causes of action warranted apportionment.

**FACTS/PROCEDURE**

Tania Pulliam sued HNL Automotive Inc. and TD Auto Finance, LLC (TD) after learning that the Certified Pre-Owned 2015 Nissan Altima she purchased from defendants did not have certain advertised features or standards. Specifically, Plaintiff is disabled and needed promised features like cruise control and power adjustable seats. Following plaintiff's purchase, TD accepted assignment of Pullam's retail installment sales contract, which contained common "Holder Rule" language, and TD became the "Holder" of the retail installment sales contract. Plaintiff alleged six causes of action. The jury found defendants liable for only one cause of action, breach of the implied warranty of merchantability under the Song-Beverly Consumer Warranty Act (Song-Beverly), commonly known as the automobile "lemon law." The court entered judgment against defendants, jointly and severally, in the amount of \$21,957.25—but did not state the amount of costs, attorney's fees, and prejudgment interest that should be awarded.

Pulliam then filed a posttrial motion seeking the award of attorney's fees for \$169,602, which consisted of a lodestar figure of \$141,335 with a 0.2 multiplier. Defendants asserted that the attorney's fee award should be apportioned because Pulliam only succeeded on one claim. They asserted that the fee award should be reduced by 83% because plaintiff succeeded on only one of the six causes of action. The court disagreed with defendants and awarded Pulliam attorney's fees without apportionment. Defendants appealed, contending that the court abused its discretion by refusing to apportion the award. Defendants argue: (1) plaintiff's counsel failed to provide evidence of their hourly rates, (2) the trial court erred in refusing to apportion attorney's fees, (3) the trial court erred in applying a lodestar multiplier, and (4) TD was not liable for attorney's fees under the Holder Rule.

**HOLDING/DISCUSSION**

**Affirmed.** The court affirmed the amount of attorney's fees awarded, finding no abuse of discretion. The court also affirmed the ruling that TD is liable for attorney's fees, concluding that the Holder Rule does not limit the attorney's fees that a plaintiff may recover from a creditor-assignee. When a plaintiff is successful, "the fact that he or she has prevailed on some claims but not on others is a factor to be considered in determining the amount of the fee awarded." Nonetheless, it is well-established that attorney's fees, "need not be apportioned between distinct causes of action where plaintiff's various claims involve a common core of facts that are based on related legal theories." The court did not believe apportionment was necessary or possible based on the intertwined facts of the case. Here, Pulliam's claims were based on a single set of facts and each of her causes of action revolved around defendants' misrepresentations

concerning the features and standards Pulliam's Nissan Altima had. Furthermore, the panel reasoned that since defendants did not explain how the causes of action were distinct from one another or based on different sets of facts, there was no reason to apportion the attorney's fee amount according to each cause of action. Ultimately, the panel affirmed the attorney's fees award because the court did not abuse its discretion and the amount was substantially proven at trial. Regarding the Holder Rule, the court determined that it did not need to cap attorney's fees for plaintiff even though the final sentence of the rule states that recovery by the debtor shall not exceed the amounts paid by the debtor under the installment sales contract, disagreeing with *Lafferty and Spikener*.