

Judgment rendered August 26, 2026.
Application for rehearing may be filed
within the delay allowed by Art. 2166,
La. C.C.P.

No. 57,000-CA

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

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KENDI FORD

Plaintiff-Appellee

versus

PRINCE OF PEACE AUTO
SALE LLC, ET AL.

Defendants-Appellants

* * * * *

Appealed from the
Monroe City Court for the
Parish of Ouachita, Louisiana
Trial Court No. 2022CV02306

Honorable Tammy Deon Lee, Judge

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BRIGETTE SWAYZER

In Proper Person,
Appellant

OFFICE OF ANTHONY J. BRUSCATO
By: Anthony J. Bruscatto

Counsel for Appellee

* * * * *

Before PITMAN, STEPHENS, and ELLENDER, JJ.

ELLENDER, J.

Prince of Peace Auto Sale LLC (“POP”), through its sole member, Brigitte Swayzer, appeals a judgment of the Monroe City Court that rescinded POP’s sale of a 2008 Ford Fusion to Kendi Ford and awarded Ms. Ford special damages of \$3,382, general damages of \$5,000, and attorney fees of \$4,500. For the reasons expressed, we reverse and vacate the award of general damages, but otherwise affirm and render.

PROCEDURAL HISTORY

Ms. Ford’s petition alleged she bought the car from POP’s lot on South Grand Street, Monroe, on March 21, 2022, for \$4,500, with monthly payments of \$380 (she described the terms as “uncertain and confusing”). The car had defects from the date of purchase, the difficulty in operating it became obvious, and, eventually, after being advised it was dangerous to drive, she parked it in April 2022. Ms. Swayzer initially agreed to pay for some of, but not all, the repair costs, but never did; Ms. Ford paid for them, but the repairs never made the car operative. Ms. Ford further alleged the vices were redhibitory and Ms. Swayzer’s false representations about the car constituted an unfair trade practice. She demanded rescission of the sale, return of her down payment of \$2,500 and any installment payments she made, reimbursement of repair and collateral costs, general damages for mental anguish and distress, and attorney fees.¹

Ms. Swayzer filed a pro se answer alleging she had the car “picked up for nonpayment” on December 7, 2022, after six months of trying, without

¹ The petition also named as defendant the La. Used Motor Vehicle Commission, on grounds it failed to protect the public from sellers like POP. The Commission was dismissed on an exception of lack of subject matter jurisdiction, La. C.C.P. art. 4847 (A)(6), and is not involved in the appeal.

success, to contact Ms. Ford at the address she had provided at the time of sale. The sale was “As Is,” with waiver of all warranties, including the right to seek rescission of the sale. Ms. Swayzer denied any claim the car was not drivable in April 2022 because, on April 26, Ms. Ford drove it to POP to make a payment; she also denied she (Ms. Swayzer) ever promised to make, or pay for, any repairs to the car. Finally, she asserted the car was in “good running order” when Ms. Ford drove it off the lot, and she (Ms. Swayzer) had no control over a high-mileage car with over 200,000 miles on it.

Ms. Swayzer attached to her answer a copy of the retail installment contract, showing the price was \$4,500; Ms. Ford made a down payment of \$2,500, a “deferred payment” of \$785.13, and financed the balance due, \$2,000, with a note in favor of POP at 25% APR, calling for five monthly payments of \$380 and one final payment of \$241.29. The contract included a standard “Buyer’s Waiver of Warranties – ‘As Is’ Sale” provision, as well as an attached “Buyers Guide” with the box checked for “As Is – No Dealer Warranty.”

Ms. Ford filed an amending petition to assert that, since the original petition was filed, the car had been surreptitiously removed from her carport and sold to a third party contrary to “statutory repossession provisions.” She did not specify which provisions she sought to invoke, but she called the conduct a “brazen avoidance of legal requirements.”

TRIAL EVIDENCE

The matter came to trial in September 2024; by this time, Ms. Swayzer had obtained counsel.

Ms. Ford described needing a car to get a job throwing papers for the *Monroe News Star*, walking with her mother past POP on South Grand

Street, and seeing this 2008 Ford Fusion on the lot. She took it on a brief test drive (just around the block) and testified it was “smoking quite a bit.” She pointed this out to Ms. Swayzer, who replied they could fix that. With this assurance, Ms. Ford signed the sales papers but left the car at POP for the repairs. She came back about two weeks later, after repairs were completed, and found the car was still smoking, just not as much; she drove it off and started using it for her paper route. However, it malfunctioned, stopped several times, stranded her on the road, and, eventually, would not start again. She called Ms. Swayzer to report all this, but Ms. Swayzer replied they couldn’t do anything else with the car. So, Ms. Ford got a shade-tree mechanic to install various things (a new starter for \$60, new coils for \$200, a water pump for \$300, and others) which got her about one more month’s use of the car. Finally, her mechanic told her it was a “bad motor issue,” so she parked it in her carport, where it sat for nine months. Then, in December 2022, somebody came and picked up the car, without Ms. Ford’s permission. Ms. Ford further testified she never received the title to the car, only a payment receipt; she admitted she quit paying the note because the car would not run. She described having to lean on friends and relatives to take her on her paper route, paying them \$30 a day.

On cross-examination, Ms. Ford admitted she filed suit the day after the car was repossessed. She also admitted the car had problems when she bought it, but she insisted Ms. Swayzer said they could fix them. She described a string of text messages in which she negotiated a plan to make partial payments to Ms. Swayzer, emails of her conversations with her own mechanic, and screenshots of auto parts she bought in the effort to get the car running. For example, she texted Ms. Swayzer on May 9 to say the

gasket had blown and she needed a new radiator; later, she texted to say she would pay no more on the car note, and Ms. Swayzer could pick it up, and this is exactly what happened.² She further admitted that, when she bought the car, she presented an ID showing her address was on Rowan Circle in Monroe, but she had not lived there in years; her true address was on South 10th Street in Monroe. If POP sent any notices to the Rowan Circle address, Ms. Ford conceded, she did not get them.

Ms. Ford's mother, Ms. Bailey, confirmed that she and her daughter were walking by POP, saw a car they liked, and stopped to talk to "the guy" about it. Then they came back a few days later, test drove the car, noticed it was "smoking a little bit," and reported this to Ms. Swayzer. Ms. Ford needed a car badly, so she signed the papers to buy it, but left it at POP to be fixed. They picked it up about a week later and Ms. Ford started using it for her paper route, but other problems arose, and eventually the car stopped. After that, they parked it in the garage. To Ms. Bailey's recollection, the car ran only about a week, and she was not aware exactly what problems her daughter reported to Ms. Swayzer, or when.

Ms. Swayzer, called on cross-examination, denied Ms. Ford and her mother left the car at POP on the date of purchase; that she (Ms. Swayzer) made any repairs; or that the car was emitting any smoke at the time of purchase. She admitted Ms. Ford called her in May to say something was wrong with the car, but she (Ms. Swayzer) told her it was too long after purchase for POP to make any repairs. She said Ms. Ford made her last payment in May, and she tried to notify her the car would be repossessed,

² About a month after trial, Ms. Ford's counsel filed an "add-on exhibit list," including a long printout of these texts and emails. The list runs 35 pages.

but letters to the Rowan Street address were all returned; this was the same reason Ms. Ford never received her title. Ms. Swayzer further testified she hired a “repo guy,” which she could do as long as he “didn’t disturb the peace,” and she later sold the car for scrap to U-Pull-It for \$250. This was not a “good price,” but it was what they offered her, and she felt the \$4,500 she had charged Ms. Ford for the car was fair and reasonable. She added, if Ms. Ford got three months’ use out of it, that was reasonable for such a high-mileage car.

On direct exam, Ms. Swayzer admitted she did put new spark plugs in the car at Ms. Ford’s request, but otherwise the car was in fine condition when it was sold. In fact, Ms. Ford made no complaints until May, after she fell behind in payments. Finally, she had accommodated Ms. Ford by letting her make two partial payments in April, \$100 and \$280, in lieu of the contract amount of \$380.

ACTION OF THE CITY COURT

The City Court ruled from the bench, stating it could place no credibility in Ms. Swayzer’s testimony: the seller knew of the defects in this 14-year-old vehicle, proved by her own admission that she changed the spark plugs. In fact, there were several problems with the car, making it in not good working order and unfit for its intended purpose. The court then stated that “many used-car dealers think” they can “stick the ‘As Is’ notice on a car” and thus be relieved of any liability, but it isn’t so. Further, the circumstances of Ms. Ford, walking to POP on foot, were “really pitiful,” and she wound up with an unreliable car. The court found Ms. Swayzer had full knowledge the car was defective and failed to disclose this to the buyer. The court ruled for the plaintiff, rescinding the sale, and asked the parties for

briefs on quantum. The court made no mention of Ms. Ford's claims for unfair trade practices or illegal repossession of the car.

Ms. Ford itemized her damages as follows: refund of her down payment, \$2,500; repair costs, \$500; damages for unfair trade practices, \$3,500; damages for violation of self-help repossession law, \$4,250; and attorney fees, \$5,200, for a total of \$15,590.

Ms. Swayzer's brief asserted Ms. Ford had not made a payment on the note since April 2022, the car was legally repossessed, and the court should reverse its prior ruling and dismiss all Ms. Ford's claims. In short, Ms. Swayzer did not address quantum.

The City Court did not hold a hearing or issue reasons. On March 10, 2025, it rendered judgment in favor of Ms. Ford and against POP for damages of \$3,382, plus interest; "general damages" of \$5,000; and attorney fees of \$4,500, for a total of \$12,882.

Ms. Swayzer took this appeal on March 27.³ Three weeks later, her counsel filed a motion to withdraw, which was granted.

DISCUSSION

At the outset, we address a jurisdictional issue raised by Ms. Ford in her reply brief: the appeal should be dismissed as untimely. She shows that appeal from a city court judgment must be taken within 10 days "from the date of the judgment or from the service of notice of judgment, when such judgment is necessary," under La. C.C.P. art. 5002; this judgment was rendered on March 10, 2025; the certificate of mailing of judgment was

³ She designated it a suspensive appeal, but she never posted the bond, which was listed at \$12,573. She also applied for, and was granted, pauper status, but waiver of costs was not extended to the named defendant, Prince of Peace Auto Sale LLC.

dated March 13; but POP did not file its notice of appeal until March 27, or 14 days later. She submits that without a timely appeal, this court lacks jurisdiction and the appeal must be dismissed.

The 10-day period of Art. 5002 begins to run on receipt of the notice, not the mere mailing thereof. *Myles v. Turner*, 612 So. 2d 32 (La. 1993). When the record does not show any actual receipt of the notice, the 10-day limit never begins to run. *Chassis Inc. v. FDJ Trucking LLC*, 55,404 (La. App. 2 Cir. 1/10/24), 378 So. 3d 930; *Modicue v. Prince of Peace Auto Sale LLC*, 54,095 (La. App. 2 Cir. 9/22/21), 328 So. 3d 1239, *writ denied*, 21-01864 (La. 2/15/22), 332 So. 3d 1188. This record shows proof of mailing but no proof of when it was received; hence, the time limit never started, the appeal was timely, and the request for dismissal is denied.

Ms. Swayzer's pro se brief designates seven assignments of error: the court erred in (1) allowing leading questions over true statements; (2) disregarding the signed "As Is – No Dealer Warranty" agreement; (3) relying on speculative and contradictory testimony unsupported by authenticated receipts or expert testimony; (4) permitting repeated leading questions that created a misleading timeline inconsistent with the plaintiff's later testimony; (5) awarding damages despite testimony establishing that plaintiff continued using the vehicle for months after purchase; (6) accepting unsupported screenshots and unauthenticated documents as evidence of repairs and expenses; and (7) overlooking that plaintiff missed seven or more payments.

In the interest of justice, this court always reads pro se filings indulgently. *McNeal v. James Jackson Car City LLC*, 56,348 (La. App. 2 Cir. 7/16/25), 418 So. 3d 466, and citations therein. Even so, a pro se

litigant must meet her burden of proof. Two of Ms. Swayzer's assignments (Nos. 1 and 7) contest leading questions, but she does not identify any specific instances of these. Generally, leading questions should not be used on direct examination of a witness except as may be necessary to develop his testimony. La. C.E. art. 611 (C). Still, the use of leading questions is largely within the discretion of the trial court. *Bradley v. Morton Thiokol Inc.*, 27,411 (La. App. 2 Cir. 9/29/95), 661 So. 2d 691. Aside from Ms. Swayzer's general claim, this court does not see any instances of leading questions asked by Ms. Ford's counsel, any objections to them by Ms. Swayzer's counsel, or any improper development of testimony. These assignments lack merit.

By another assignment of error (No. 2), Ms. Swayzer asserts the "As Is – No Dealer Warranty" agreement foreclosed the redhibition claim. For a waiver of the warranty against redhibition to be effective, it must (1) be written in clear and unambiguous terms, (2) be contained in the contract, and (3) either be brought to the attention of the buyer or explained to him. *Prince v. Paretti Pontiac Co.*, 281 So. 2d 112 (La. 1973); *Modicue v. Prince of Peace, supra*. The mere fact that a sale is confected "as is" does not create a waiver of all warranties. *Taylor v. Orr Motors of Shreveport Inc.*, 55,771 (La. App. 2 Cir. 11/20/24), 399 So. 3d 895; *Modicue v. Prince of Peace, supra*. The seller has the burden of proving the warranty has been waived. *Taylor v. Orr Motors of Shreveport, supra*; *Modicue v. Prince of Peace, supra*.

The City Court addressed this issue explicitly and emphatically, noting the common misconception that sticking an "As Is" notice on the car will relieve the seller of any liability. Although the record shows a written

notice contained in the contract, there is absolutely no evidence that Ms. Swayzer, or anyone else at POP, brought it to Ms. Ford's attention or explained it to her. Simply put, there is no manifest error in the court's finding that Ms. Swayzer failed to meet her burden of proving a waiver of warranty. This assignment lacks merit.

Two of Ms. Swayzer's assignments (Nos. 3 and 6) contest the court's reliance on "speculative" evidence and "unauthenticated receipts" and its failure to use expert testimony. Unlike the other assignments, this one was preserved by a contemporaneous objection. On direct exam, Ms. Ford began scrolling on her cell phone to recite the various parts and labor she had spent money on in the effort to repair the car. Counsel objected, stating, "I don't see any evidence of these repairs. * * * I'm supposing that will be part of her damages, so we certainly have to support that with some documentation." The City Court overruled the objection; however, as noted, Ms. Ford filed an "add-on exhibit list," which corresponded to every item of her testimony. Notably, Ms. Swayzer did not challenge any item on the list or call her own expert to dispute the need or reasonableness of anything. On this record, the City Court did not abuse its discretion in accepting Ms. Ford's claimed charges. These assignments lack merit.

The main thrust of Ms. Swayzer's argument is the judgment should be reversed because the record does not establish that she *knowingly* concealed a defect or breached any warranty guarantee; hence, the City Court erred in finding a redhibitory defect.

The standard of appellate review, recently confirmed in *State v. OptumRx Inc.*, 25-00911 (La. 11/12/25), 422 So. 3d 754, is that the appellate court may not set aside the trial court's finding in the absence of manifest

error or unless the finding is clearly wrong. “When findings are based on determinations regarding the credibility of witnesses, the manifest error-clearly wrong standard demands great deference to the trier of fact’s findings; for only the factfinder can be aware of the variations in demeanor and tone of voice that bear so heavily on the listener’s understanding and belief in what is said.” *Id.*, quoting *Rosell v. ESCO*, 549 So. 2d 844 (La. 1989).

The City Court began its oral reasons by saying it could place no credibility in Ms. Swayzer’s testimony. As to whether the car was in good working order at the time of sale, whether Ms. Swayzer made or promised to make any repairs, or whether Ms. Ford drove the car to POP to make her April payment, the record discloses no basis to reject the City Court’s decision to discredit Ms. Swayzer’s account. She insisted the car was in good working order when it left the lot, but this cannot be squared with the subsequent fact that Ms. Ford parked for nine months because of major problems and, after repossession, Ms. Swayzer made no attempt to repair it. Most telling was Ms. Swayzer’s insistence that \$4,500 was a fair and reasonable price for a 14-year-old car that she repossessed and sold only months later for \$250, *for scrap*. On this evidence, we will not disturb the court’s credibility call.

The seller warrants the buyer against redhibitory defects, or vices, in the thing sold. La. C.C. art. 2520. The thing sold must be reasonably fit for its ordinary use. La. C.C. art. 2524. If the seller is unable or fails to repair, remedy, or correct the defect, he is bound to return the purchase price to the buyer. La. C.C. art. 2531. If the seller knows the thing he sells has a defect but omits to declare it, he is liable to the buyer for the return of the price

with interest from the time it was paid, for the reimbursement of reasonable expenses occasioned by the sale and those incurred for the preservation of the thing, and for damages and reasonable attorney fees. La. C.C. art. 2545. On this record, the City Court was justified in finding the Ford Fusion was not reasonably fit for its normal use, Ms. Swayzer knew of this fact and failed to make the needed repairs, and Ms. Ford was also unable to make the needed repairs. There was no manifest error in the court's general finding.

However, we are constrained to find merit in one of Ms. Swayzer's arguments (No. 7), contesting the award of damages. The City Court found that Ms. Swayzer was a bad-faith seller, under La. C.C. art. 2545, and thus was liable for the return of the purchase price, reimbursement of reasonable expenses occasioned by the sale, reasonable attorney fees, "and also damages." General damages usually include nonpecuniary damages for mental anguish, aggravation, and inconvenience, but in cases of redhibition, such damages are available only when the buyer proves she intended to gratify a significant nonpecuniary interest in making the purchase. La. C.C. art. 1988; *Young v. Ford Motor Co.*, 595 So. 2d 1123 (La. 1992). Without this special showing, redhibition of an automobile cannot support an award of nonpecuniary damages for mental anguish, aggravation, or inconvenience, even if the seller is in bad faith. *Young v. Ford Motor Co.*, *supra*; *Bailey v. Delacruz*, 49,032 (La. App. 2 Cir. 6/16/14), 143 So. 3d 1220; *McGough v. Oakwood Mobile Homes*, 34,091 (La. App. 2 Cir. 11/1/00), 779 So. 2d 793. This record does not show that the 2008 Ford Fusion was intended to gratify any nonpecuniary interest.

We recognize that Ms. Ford alleged violations of the Louisiana Unfair Trade Practices Act and of laws regulating the repossession of automobiles

in cases of default; however, the City Court declined to rule on these claims, effectively denying them. *M.J. Farms Ltd. v. Exxon Mobil Corp.*, 07-2371 (La. 7/1/08), 998 So. 2d 16; *Bradley v. St. Francis Med. Ctr.*, 51,572 (La. App. 2 Cir. 9/27/17), 244 So. 3d 722. Moreover, Ms. Ford never cited these statutes, listed their essential elements, or showed how any facts might have applied to those elements. On this record, the award of general damages is legally wrong and will be vacated.

CONCLUSION

For the reasons expressed, the portion of the judgment awarding general damages is vacated and reversed. The remainder of the judgment is affirmed. Judgment is rendered herein in favor of Kendi Ford and against Prince of Peace Auto Sale LLC in the sum of Three Thousand, Three Hundred Eighty-Two (\$3,382.00) dollars, for return of the purchase price and necessary repair expenses, and in the sum of Four Thousand, Five Hundred (\$4,500.00) dollars, for statutory attorney fees, with judicial interest from date of judicial demand until paid. Appellate costs are assessed one-half to the plaintiff, Kendi Ford, and one-half to the defendant, Prince of Peace Auto Sale LLC.

**REVERSED AND VACATED IN PART, AFFIRMED IN PART,
RENDERED.**