

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING  
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

OSCAR ARRATE and MERCEDES ARRATE,	)	
	)	
Appellants,	)	
	)	
v.	)	Case No. 2D05-3854
	)	
VOLKSWAGEN OF AMERICA, INC.,	)	
	)	
Appellee.	)	
_____	)	

Opinion filed March 17, 2006.

Appeal from the Circuit Court for Collier  
County; Daniel R. Monaco, Judge.

Theodore F. Greene III,  
Orlando,  
for Appellants.

John H. Pelzer,  
Ruden, McClosky, Smith  
Schuster & Russell, P.A.,  
Fort Lauderdale, for Appellee.

PER CURIAM.

This is an appeal from a final judgment dismissing, with prejudice,  
a civil suit concerning the purchase of an allegedly defective automobile. The trial court  
concluded that the dispute was subject to mandatory arbitration.

The appellee now concedes error and recognizes that arbitration

was not mandatory and that the action should proceed in the trial court.

Accordingly, we vacate the final judgment, and we remand the case for further proceedings in the trial court.

Vacated and remanded.

KELLY, WALLACE, and LaROSE, JJ., Concur.