

THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 05-1002

LOUIS R. VALLIES, individually and on behalf of all similarly
situated vehicle buyers,

Appellant

v.

SKY BANK, an Ohio Bank licensed to do business in the
Commonwealth of Pennsylvania

Appellee

On Appeal from the United States District Court
for the Western District of Pennsylvania
(Dist. Ct. Case No. 01-cv-1438)

ORDER

BEFORE: SMITH, STAPLETON and NYGAARD, Circuit Judges

Our opinion in the above case, filed on January 5, 2006, is hereby amended pursuant to the following: Footnote number one, on pages four and five, will be struck in its entirety, along with the corresponding sentence, on page four, *“Fitts was not Sky Bank’s agent and at all relevant times acted independently.”* Additionally, on page six, the sentence, *“Moreover, nothing contained in the agreement would suggest to Vallies that Fitts was acting on the bank’s behalf in entering it.”* will be inserted

directly prior to the sentence, “*Instead, the agreement was signed only by Vallies and Fitts.*” Finally, “*we reverse the grant of summary judgment*” on the last line on page 17 will be replaced with, “*we reverse its order granting the motion to dismiss*”.

It is so ordered.

By the Court,
/s/ Richard L. Nygaard

United States Circuit Judge

Dated: February 1, 2006