

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

**RECEIVED**

JUN 23 2022

**SC Court of Appeals**

APPEAL FROM RICHLAND COUNTY

Joseph M. Strickland, Master-In-Equity

---

Case No. 2019-000297

---

Mathes Auto Sales, Inc., Respondent/Appellant,

v.

Otis Morris, Jr., Pro Bowl Motors, Inc., Travelers Casualty & Surety Co. of America, Inc., Gerald Scott Dixon, Michael Tyrone Moore, and Dixon's Automotive, LLC, Defendants, of whom Otis Morris, Jr., Pro Bowl Motors, Inc., Gerald Scott Dixon, Michael Tyrone Moore, and Dixon's Automotive, LLC, are the Appellants/Respondents.

---

PETITION FOR REHEARING BY APPELLANTS/RESPONDENTS  
OTIS MORRIS, JR., AND PRO BOWL MOTORS, INC.

---

H. Ronald Stanley  
Post Office Box 7722  
Columbia, SC 29202  
(803) 799-4700  
**ATTORNEY FOR**  
**APPELLANTS/RESPONDENTS**  
Otis Morris, Jr., and Pro Bowl Motors, Inc.

The Appellants/Respondents, Otis Morris, Jr., and Pro Bowl Motors, Inc., hereby petition this honorable court to rehear and/or reconsider its ruling and opinion in the above entitled case based upon the following grounds:

1. This honorable court misapplied the collateral source rule in finding that the removal of the \$35,368.00 charge from the floorplan account of Mathes Auto Sales by NextGear Capital constituted compensation received from a collateral source.
2. This honorable court misapplied the collateral source rule in finding that the \$20,857.00 payment that Mathes Auto Sales received from the bonding and surety company for Pro Bowl Motors constituted a collateral source.
3. This honorable court overlooked or failed to address in its opinion whether the lower court was correct in its calculation of the punitive damages award pursuant to S.C Code Section 56-15-110(3).

The collateral source rule provides that compensation which an injured party receives from a source wholly independent of a wrongdoer will not reduce the damages for which the wrongdoer is liable. Citizens & S. Nat'l Bank of S.C. v. Gregory, 320 S.C. 90, 92, 463 S.E. 2d 317, 318 (1995).

In the case at bar, the appellant, Otis Morris, wrongfully placed the purchase of a vehicle on the floor plan account of Mathes Auto Sales, Inc., in the amount of \$35,368.00 without the consent of Mathes. Mathes sued the floor plan company, NextGear Capital, Morris and Pro Bowl Motors in the same lawsuit and settled with NextGear Capital with NextGear agreeing to remove the \$35,368.00 charge from the Mathes floor plan account. The removal of the \$35,368.00 charge from the Mathes floor plan account did not represent compensation to Mathes. It simply meant that Mathes no longer owed the \$35,368.00 to NextGear Capital which means that Mathes did not suffer any damages by having to pay the \$35,368.00 to the floor plan company or by having an outstanding indebtedness to the floor plan company for the charge placed on its account by Morris.

The collateral source rule requires that compensation be received by the injured party from an independent source. In this case, no compensation was received by Mathes from the floor plan company. The floor plan company simply removed the charge from the Mathes account which certainly does not constitute the payment of compensation by the floor plan company to Mathes.

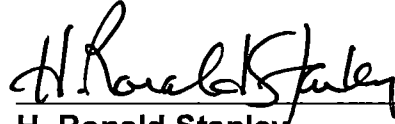
The lower court held that Mathes had suffered monetary damages in the amount of \$35,368.00 which is the amount that Morris wrongfully placed on the Mathes floor plan account. Our argument in this case is simple. Since Mathes Auto Sales did not have to pay the \$35,368.00 charge to NextGear Capital, Mathes Auto Sales did not suffer the loss of the \$35,368.00 which is the amount of damages found by the lower court. If Mathes did not suffer damages in the amount of \$35,368.00, then there was no basis for the court to award double damages in the amount of \$70,736.00 and then treble damages in the amount of \$212,208.00.

This honorable court further misapplied the collateral source rule with respect to the \$20,857.00 payment that Mathes Auto Sales received from the bonding and surety company for the Pro Bowl Motors. Otis Morris was the President of Pro Bowl Motors and, as such, he and Pro Bowl Motors were protected by the bond. Mathes Auto Sales filed a claim in this matter against the bond of Pro Bowl Motors and Morris and received a payment in the amount of \$20,857.00. This payment was not received from a source "wholly independent of a wrongdoer." The bond and security company was there to cover any wrongs committed by Pro Bowl Motors and its agents such as its President, Otis Morris. Under no circumstance could it be said that the payment from the bond and surety company of Pro Bowl and Morris was a payment from a "wholly independent" source. The bonding company stood in the place of Morris and Pro Bowl Motors in making its payment of \$20,857.00 to Mathes. The premiums for the bond were paid by Morris and Pro Bowl Motors, not Mathes Auto Sales. Under no theory can Mathes claim that the payment from the bonding company of Morris and Pro Bowl Motors was a payment from a collateral source.

In its award, the lower court found actual damages in the amount of \$35,368.00 and doubled the actual damages to an award of \$70,736.00 pursuant to Section 56-15-110(1). The court then awarded punitive damages pursuant to Section 56-15-110(3) in the amount of \$212,208.00 which is three times the double damages award. Section 56-15-110(3) states that punitive damages may be awarded in an amount not to exceed three times the actual damages which, in this case, would be three times \$35,368.00 which would amount to a punitive damage award of \$106,104.00 and not \$212,208.00.

The appellants request that this court correct the miscalculation of the punitive damages award issued by the lower court.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "H. Ronald Stanley". The signature is written in a cursive style with a horizontal line extending to the right across the signature.

**H. Ronald Stanley**  
**The Stanley Law Group, P.A.**  
**Post Office Box 7722**  
**Columbia, S.C. 2902**  
**(803) 799-4700**  
**Attorneys for Appellants/Respondents**  
**Otis Morris, Jr., and Pro Bowl Motors, Inc.**

**RECEIVED**

JUN 23 2022

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

Joseph M. Strickland, Master-In-Equity

Case No. 2019-000297

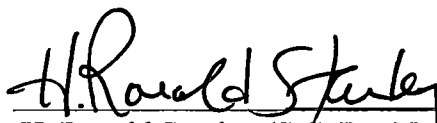
Mathes Auto Sales, Inc., Respondent/Appellant,

v.

Otis Morris, Jr., Pro Bowl Motors, Inc., Travelers Casualty & Surety Co. of America, Inc., Gerald Scott Dixon, Michael Tyrone Moore, and Dixon's Automotive, LLC, Defendants, of whom Otis Morris, Jr., Pro Bowl Motors, Inc., Gerald Scott Dixon, Michael Tyrone Moore, and Dixon's Automotive, LLC, are the Appellants/Respondents.

PROOF OF SERVICE

I certify that I served the petition for rehearing by appellant/respondents Otis Morris, Jr., and Pro Bowl Motors, Inc, on June 23, 2022 by depositing a copy of it in the United States Mail, postage prepaid addressed to the attorneys of record, J. Gregory Studemeyer, Post Office Box 12201, Columbia, South Carolina 29211-2201 and Leland B. Greeley, Post Office Box 2981, Rock Hill, South Carolina 29732.



H. Ronald Stanley (S.C. Bar No. 5304)

Post Office Box 7722

Columbia, SC 29202

(803) 799-4700

ATTORNEY FOR

APPELLANTS/RESPONDENTS

Otis Morris, Jr., and Pro Bowl Motors, Inc.

June 23, 2022