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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Mar 04 2024

SC Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Letitia H. Verdin, Circuit Judge

Appellate Case Number 2023-000353

Civil Action Number 2018-CP-23-01643

Jason Tuck Appellant,

v.

On the Mark Automotive Repair and Refinishing, LLC d/b/a On the Mark Automotive, LLC, Carolina's Best Auto Sales, LLC, Carolina's Best Finance, 828A St. Mark Road, LLC, Affordable Auto Finance, Inc., Southeastern Recovery and towing, LLC, John D. Watts III (a/k/a John D. Watts), Respondents.

SUPPLEMENTAL RECORD (PUBLIC FILING)

Brian P. Murphy
Stephenson & Murphy, LLC
207 Whitsett Street
Greenville, SC 29601
(864) 370-9400
(864) 240-9292

brian@stephensonmurphy.com

ATTORNEY FOR APPELLANT

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STATE OF SOUTH CAROLINA IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE 2018-CP-23-01643

JASON TUCK,

PLAINTIFF,

V.

ON THE MARK AUTOMOTIVE
REPAIR AND REFINISHING,
LLC D/B/A ON THE MARK
AUTOMOTIVE, LLC, CAROLINA'S
BEST AUTO SALES, LLC,
CAROLINA'S BEST FINANCE,
828A ST. MARK ROAD, LLC,
AFFORDABLE AUTO FINANCE,
INC., SOUTHEASTERN
RECOVERY AND TOWING, LLC,
JOHN D. WATTS, III (AKA
JOHN D. WATTS),

DEFENDANTS.

VIDEOTAPED
DEPOSITION
OF
DARYL SMITH

PURSUANT TO NOTICE AND/OR AGREEMENT, THE
DEPOSITION OF DARYL SMITH WAS CALLED BY THE
PLAINTIFF ON THE 14TH DAY OF AUGUST, 2020, COMMENCING
AT THE HOUR OF 10:20 A.M., AT THE LAW OFFICES OF
STEPHENSON & MURPHY, 207 WHITSETT STREET, GREENVILLE,
SOUTH CAROLINA, ATTENDED BY COUNSEL AS FOLLOWS:

VICKIE M. HESTER
CERTIFIED VERBATIM REPORTER

WHITWORTH COURT REPORTING
POST OFFICE BOX 551
ROEBUCK, S.C. 29376
864-494-2705

1 you can bid on your own car. Even if you're here
2 sending it through for say Carolina Finance, you
3 could -- anybody could bid on the car including
4 Affordable. And Affordable, nine out of ten,
5 probably more than that, wound up with the car.

6 Q. Did you ever hear Mr. Watts direct an employee to
7 sabotage a car?

8 A. Yes, I have.

9 Q. Tell us about that.

10 A. There was a Sports Trac, a white one, down there
11 that they wanted to get on Affordable, but it ran a
12 little too good. So as I was hooking it up and
13 bringing it onto a truck the mechanic and the -- the
14 man over On the Mark stopped me and said they had to
15 do --

16 BY MR. PLUMBLEE:

17 Objection. Hearsay.

18 BY MR. MURPHY:

19 It's okay. You can keep going.

20 THE WITNESS CONTINUES:

21 A. He said he had to do something. So they got me to
22 lift it back down off the -- of the rollback. And I
23 personally watched the mechanic get underneath and
24 unplug some things to make some lights come on. And
25 he unplugged something to make it skip. He said

STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
COUNTY OF GREENVILLE C.A. No.: 2018-CP-23-01643

Jason Tuck,

Plaintiff,

vs.

On The Mark Automotive Repair and
Refinishing, LLC, d/b/a On The Mark
Automotive, LLC, Carolina's Best Auto
Sales, LLC, 828A St. Mark Road, LLC,
Affordable Auto Finance, Inc., John
D. Watts, III (a/k/a John D. Watts),

Defendants.

DEPOSITION OF
DIANA FRIEDLINE

Pursuant to Notice of Deposition and/or agreement in the
above-entitled case, a deposition was taken on the 23rd day of
June, 2022, beginning at approximately 1:00 p.m. attended by
counsel as follows:

1 Also Present: John D. Watts, III
2 Jason Tuck
3

4 Deposition Reported by: Virginia H. Campbell, CR
5 Depositions And..., Inc.
6 (864) 235-3518

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12	Cross Examination by Mr. Murphy:.....	100
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15 Index of Exhibits

16 Defendant's

17	Exhibit No.	Description	Page
18	1	Affidavit of Diana Friedline	
19		dated 6/21/2019 (4 pages).....	39

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1 CROSS EXAMINATION BY MR. MURPHY:

2 Q. I have a few questions. Ms. Friedline, when you were
3 discussing your duties earlier in the deposition you said
4 everything down to costing of cars, do you recall that?

5 A. Yes.

6 Q. What do you mean by "costing of cars"?

7 A. That's for Affordable, is that what you're talking about?

8 Q. Well, I'm asking what you were talking about, I'm asking
9 how you used that term "costing of cars"?

10 A. I was using it as far as Affordable was concerned, how
11 much was spent on the vehicle versus when sales happened.

12 Q. So that's an Affordable Auto issue?

13 A. In that particular case, yes. Otherwise, the On The Mark
14 issue was for the billing, that was accounting, and then
15 there was also a different way of doing it for Affordable
16 Auto which entailed me creating this massive spreadsheet
17 to cost the cars to come up with a cost.

18 Q. And Carolina's Best did not sell cars, correct?

19 A. They weren't supposed to, no.

20 Q. Did they?

21 A. Sometimes they were sold off the back lot, very
22 inexpensive ones. There were bid sheets handed in that I
23 know were signed by employees because I saw it.

24 Q. What's a bid sheet?

25 A. You have to make it appear that there's bids on a vehicle

1 to be able to legally get rid of it.

2 Q. Are these cars that are repossessed in the name of
3 Carolina's Best?

4 A. Yes.

5 Q. Then what?

6 A. It was like the lienholder was Carolina's Best and it was
7 like the person with the lien at Carolina's Best.

8 Q. And then who were the employees that were turning in the
9 bid sheets, what company did they work for?

10 A. Affordable Auto.

11 Q. So the car would be repossessed by Southeastern on behalf
12 of Carolina's Best?

13 A. Yes.

14 Q. And then where was the "back lot"?

15 A. Before Affordable Auto Finance.

16 Q. So what you're telling me is that the cars were
17 repossessed by Carolina's Best, these are title loans at
18 Carolina's Best, right?

19 A. Correct.

20 Q. The car could have been bought from anybody or any dealer,
21 right? It's not a buy here, pay here?

22 A. A title loan is when you bring your clean title vehicle in
23 and say I want \$600.

24 Q. So I can take my car in, get a title loan. If I don't
25 make my payments, then Carolina's Best repossesses it,

1 correct?

2 A. Correct. And some of them are not roadworthy and weren't
3 very runnable.

4 Q. And so cars that were repossessed by Carolina's Best would
5 end up being owned by Affordable?

6 BY MR. PLUMBLEE:

7 Object to the form.

8 Q. Is that what you're saying?

9 BY MR. PLUMBLEE:

10 Object to the form.

11 A. No.

12 Q. Well, who bought it then?

13 A. An individual off the street, it was very inexpensive
14 vehicles.

15 Q. Okay. So you're saying that in these instances that
16 you're talking about, a car is repossessed by Carolina's
17 Best, picked up by Southeastern Auto, taken to the back
18 lot of Affordable Auto, and then sold directly to an
19 individual without going to auction?

20 A. Correct.

21 BY MR. PLUMBLEE:

22 Object to form.

23 Q. Did Mr. Watts ever explain to you that he was putting
24 truck drivers from Southeastern Recovery on the payroll of
25 other companies to avoid the worker's compensation

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE) C. A. NO. 2018-CP-23-01643

Jason Tuck)
Plaintiff,)
versus)
On the Mark Automotive Repair and)
Refurnishing, LLC d/b/a On the Mark)
Automotive, LLC, Carolina's Best Auto)
Sales, LLC, Carolina's Best Finance,)
828A St. Mark Road, LLC, Affordable Auto)
Finance, Inc., Southeastern Recovery and)
Towing, LLC, John D. Watts III (a/k/a)
John D. Watts))
Defendants.)

d e b e n e e s s e D E P O S I T I O N

WITNESS: John D. Watts
DATE: October 25, 2022
TIME: 10:17 AM
LOCATION: Stephenson & Murphy, LLC
207 Whitsett Street
Greenville, SC 29601
REPORTED BY: Amy Pennica, CVR
LEGAL EAGLE
Post Office Box 5682
Greenville, South Carolina 29606
864-467-1373
depos@legal eagle inc. com

1 A. Yes.

2 Q. Okay. And would you agree every single one of these
3 transactions that you're pointing to is for the year
4 2022?

5 A. Yes.

6 Q. Long after this lawsuit was filed, correct?

7 A. That's right.

8 Q. Long after Ms. and Mr. Smith submitted their
9 affidavits?

10 A. Yes.

11 Q. And your distribution account is account 3500?

12 A. It is.

13 Q. Okay.

14 MR. MURPHY:

15 What am I on here?

16 COURT REPORTER:

17 5.

18 (Plaintiff's Exhibit 5 marked)

19 EXAMINATION RESUMED BY MR. MURPHY:

20 Q. Mr. Watts, I handed you -- I've handed you what's been
21 produced is this the general ledger for 2018, and do
22 you see that it includes entries beginning on line 7, I
23 believe, of January 1, 2018, to on page 111 looks like
24 on line 8922.

25 MR. PLUMBLEE:

1 A. I don't remember exactly.

2 Q. Roughly?

3 A. Maybe eight million.

4 MR. MURPHY:

5 This is 12.

6 (Plaintiff's Exhibit 12 marked)

7 MR. PLUMBLEE:

8 Is this 12?

9 MR. MURPHY:

10 Yeah.

11 EXAMINATION RESUMED BY MR. MURPHY:

12 Q. Mr. Watts, I've handed you several pages of documents
13 that we've collectively marked as Exhibit 12, do you
14 recognize the first page?

15 A. Yes.

16 Q. Okay. And this is a personal financial statement you
17 submitted in October of 2018, is that correct?

18 A. Yes.

19 Q. At that point in time, you listed your net worth as
20 being almost \$10 million, do you see that?

21 A. I do.

22 Q. What has caused your net worth to decline approximately
23 \$2 million since 2018?

24 A. The value of my companies is less. I own less real
25 estate, and I've borrowed - well, maybe more than I

1 A. They provide pool services.

2 Q. And nowhere in any of these general ledgers is there
3 any charge to you for doing all of this bookkeeping for
4 your personal finances, is there?

5 A. No.

6 MR. MURPHY:

7 I don't have anything further, Lee.

8 MR. PLUMBLEE:

9 We're done.

10 MR. MURPHY:

11 Thank you, Mr. Watts.

12 WITNESS:

13 Thank you, Mr. Murphy.

14 (THERE BEING NO FURTHER QUESTION, THE DEPOSITION CONCLUDED AT
15 5:34 PM.)

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Certificate of Compliance

Pursuant to Rule 210(g), the Undersigned certifies that the Supplemental Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

s/ Brian P. Murphy
Brian P. Murphy, Bar No. 6770
Attorney for Appellant

Stephenson & Murphy, LLC
207 Whitsett Street
Greenville, SC 29601
(864) 370-9400