

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM RICHLAND COUNTY
Master In Equity

The Honorable Joseph M. Strickland

Appellate Case No. 2022-001160

Mathes Auto Sales, Inc., Respondent,

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 Gerald Scott Dixon and Michael Tyrone
Moore are the Petitioners.

MOTION TO SUPPLEMENT THE RECORD ON APPEAL

Respondent moves the Court pursuant to Rule 212(b), SCACR to supplement the Record on Appeal to include pages 146-149 of the transcript to provide further context for Petitioners' contention that the lower court's grant of Respondent's motion to amend to conform to the evidence under Rule 15(b) violated the Petitioners' right to due process. Copies of pages 146-149 are attached hereto and incorporated herein by reference.

Based upon the foregoing, Respondent moves the Court pursuant to Rules 210(c) and 212(b) for an order authorizing and directing that the Record on Appeal be further supplemented in accordance with this motion.

June 13, 2024

RECEIVED

Jun 17 2024

S.C. SUPREME COURT

STUDEMAYER LAW FIRM, P.C.

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1 NextGear's auditor the whole truth. He never told
2 NextGear Capital's auditor that the vehicle was in
3 possession of a person who dealt in goods of that kind
4 with the power to transfer title to a buyer in the
5 ordinary course of business. That's deceptive.

6 Okay. Mr. Moore knew that the Infiniti would not
7 appreciate in value. He knew that the value of used
8 cars dropped late in the summer when new models begin
9 hitting the showroom. In fact, he fully expected that
10 whenever he placed the vehicle, Otis had already sold
11 to Ms. Worthy on the May exchange, he expected to lose
12 money. You don't buy a car at an auction in May and
13 sit on it all summer, and new cars come out in the
14 showroom and break even. You don't do that.

15 Mysteriously, this particular vehicle was placed
16 on Manheim Darlington's online vehicle exchange with no
17 pictures, no condition report. Mysteriously, it just
18 happened to bring enough money to cover Mr. Moore's
19 costs, which by that time exceed Manheim's maximum
20 range causing Manheim Darlington to list an alert on a
21 document that was emailed to Mr. Moore. That's
22 unconscionable.

23 THE COURT: All right. Mr. Studemeyer, I think,
24 Mr. Greeley, that the plaintiff has at least offered
25 enough evidence to get past the motion for a nonsuit.

1 Again, that doesn't necessary represent my opinion on
2 what I'm going to do on the merits of this issue. But
3 therefore your motion for a nonsuit is denied.

4 All right, now --

5 MR. GREELEY: Your Honor, I believe we also had a
6 motion to add my clients and they need to know whether
7 they're being added --

8 THE COURT: Well, I'm going to ask y'all to brief
9 that issue. Again, I was caught by surprise, and I
10 will not rule on that issue at this time. Mr. Stanley,
11 anything from your client?

12 MR. STANLEY: No, sir.

13 THE COURT: Your client rests?

14 MR. STANLEY: Yes.

15 THE COURT: Okay. I'm going to take this under
16 advisement, and I'd ask the parties, if they so desire,
17 to submit proposed orders. And again, in a proposed
18 order draft, something that's not argumentative, but
19 based on something that I can read and sign without
20 making any changes or hearing argument, you know,
21 explanations as to the order.

22 Now, the issue of whether or not Dixon's
23 Automotive, LLC is a partnership, I'd like briefs on
24 that issues. Because again I was surprised by that.
25 Submit a proposal or briefs on that. Today's the 12th

1 of February. How much time do you think you need? I
2 know you have other things in your practices. How much
3 time do you need to get those proposed orders to me?
4 Today's the 12th of February.

5 BY MR. GREELEY: Your Honor, I would respectfully,
6 given my February, I would respectfully, and given that
7 we have been adding clients we need to brief as to
8 whether Dixon is actually an LLC or not in regards to
9 the evidence that's in the record.

10 THE COURT: Well, do you need the transcript?
11 Does --

12 MR. GREELEY: And submit proposed orders --

13 THE COURT: I could ask the court reporter, could
14 she get the transcript for you, that will help. Does
15 that suit everybody?

16 MR. GREELEY: That would be fine with me if we
17 could do that.

18 THE COURT: Okay. Mr. Stanley, is that okay with
19 you?

20 MR. STANLEY: Yes, sir, I'd be prepared in less
21 than 30 days.

22 THE COURT: Well, it might take her that long to
23 get the transcript done. Mr. Studemeyer, do y'all need
24 a transcript?

25 MR. GREG STUDEMEYER: I don't need one, but if Mr.

1 Greeley orders one, then I'll get a copy.

2 MR. GREELEY: Well, I don't think -- we'll have
3 the transcript if we need it later. I don't think a
4 transcript of the -- just making sure that the
5 depositions of Mr. Moore and Mr. Dixon and Mr. Mathes
6 are all in the record. And they are. All that is
7 evidence.

8 THE COURT: Okay. All right. So how long do y'all
9 need to get proposed? Would 30 days be agreeable?

10 MR. GREELEY: Yes.

11 THE COURT: Okay. That's fine. And again, if you
12 need extensions or whatever, you just let me know.
13 Anything else today?

14 MR. GREG STUDEMEYER: Your Honor, if the Court
15 rules in favor of the plaintiff, I would reserve the
16 right to submit an affidavit for attorney's fees.

17 THE COURT: Yes, sir. Okay. Anything else?

18 MR. GREELEY: No, sir.

19 MR. STANLEY: No, sir.

20 THE COURT: All right, we'll stand adjourned.

21 (WHEREUPON, THERE BEING NOTHING FURTHER, THE HEARING
22 WAS ADJOURNED AT 1:53 P.M.)