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RECEIVED

May 07 2025

SC Court of Appeals

May 7, 2025

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: Daniel O'Shields v. Columbia Automotive
Appellate Case No. 2025-000801

Dear Ms. Kitchings,

On May 2, 2025, Appellants filed with the Court of Appeals a consent motion for a limited remand to allow the circuit court to rule on their outstanding Rule 60 motion.

Yesterday, May 6, the lower court issued an order ruling on the Rule 60 motion. Appellants had previously informed the lower court of the motion pending with this Court. Appellants will shortly file a motion with the lower court to withdraw its order.

Appellants do not know whether the lower court's new order affects the Court of Appeals' consideration of the remand motion, but thought the Court should be informed of this development. Per my conversation with your office, a copy of the order is attached.

Thank you.

Sincerely,

s/Brooks R. Fudenberg
Brooks R. Fudenberg
Attorney for Appellants

cc: Sarah P. Spruill, Esq. (via email)
H. Clayton Walker, Jr., Esq. (via email)

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)
)
Daniel O'Shields and Roger W.)
Whitley, A Partnership d/b/a)
O&W Cars,)
)
Plaintiff)
)
v.)
)
Columbia Automotive, LLC d/b/a)
Midlands Honda,)
)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS

Civil Action No. 2013-CP-40-0319

AMENDED ORDER
(Correcting Mathematical Error in the
March 25, 2025 Order)

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SC Court of Appeals

ORDER AMENDING JUDGMENT AND PROVIDING FOR DEPOSIT OF ALL OR PART OF JUDGMENT AMOUNT WITH THE CLERK OF COURT

This matter is before the Court on remand from the South Carolina Court of Appeals. Consistent with the remand, the Court has addressed attorney's fees by order dated December 13, 2024. Plaintiff moved to alter or amend. Defendant filed a response and included an additional motion for leave to deposit the revised judgment amount together with some or all of the accrued interest with the clerk of court. Plaintiff responded demanding that any funds be paid to it (styled as a motion for partial summary judgment) and objecting to the request that interest be tolled on the deposited amount. Plaintiff also filed a motion to conform the judgment to reflect the punitive damages award and assess attorney's fees based on the revised judgment.

The original entry of judgment in this case was for \$51,868.07 on March 16, 2017. The Court, having considered the opinion of the Court of Appeals and the motions of the parties, revises the judgment amount as follows and amends the earlier attorney's fees amount:

Actual Damages	\$6,645
Punitive Damages	\$46,515
Costs	\$529.07
Travel Expenses	\$2,772.06
Prejudgment Interest	\$2,222.60 (through entry of March 17, 2017 order)
Attorney's Fees	\$63,921.00
(Total:	\$122,604.73)

The Court grants Plaintiff's motion to conform the judgment to the extent reflected in the revised judgment amount. The Court declines to grant "partial summary judgment" as urged by the Plaintiff. This is because judgment already exists. There is no basis for the application of Rule 56, SCRPC at this time. Post-judgment interest will be calculated based on this revised total amount based on a start date of March 16, 2017. *Calhoun v. Calhoun*, 339 S.C. 96, 104, 529 S.E.2d 14, 18–19 (2000).

Defendant has sought "an order that upon deposit with the Clerk of this Court of the judgment amounts plus accrued interest, or any portion thereof, the post-judgment rate of interest shall cease to accrue as to the amount deposited. Defendant also moves that the Clerk shall deposit the funds in an interest-bearing account and that the funds shall remain there until final disposition of this matter, further order of this Court, or agreement of the parties."

As an initial consideration, this rule does not come into play unless there is a further appeal of this action. Otherwise, there is a final judgment subject to execution in the normal course. In addition, Defendant has represented in its March 7, 2025 email to the Court that "there would be a direct payment to the plaintiff of the judgment amount plus accrued interest" in the absence of an appeal.

If there is an appeal, the Court finds the Defendant's request is consistent with the language and spirit of Rule 67, SCRPC. "A judgment debtor can deposit the amount of the judgment with the court pending appeal and stop the accrual of post-judgment interest at the statutory rate from

the date of the deposit.” James F. Flanagan, South Carolina Civil Procedure 770 (4th ed. 2020); *Russo v. Sutton*, 317 S.C. 441, 444, 454 S.E.2d 895, 896 (1995) (“a judgment debtor’s deposit of funds into the court pending his own appeal prevents further accrual of interest. Such a rule encourages the debtor to pay the judgment and assures the judgment creditor the funds will be available at the conclusion of the appeal.”). Rule 67 further contemplates that the deposit may be for “all or any part” of the judgment amount.

Thus, if there is an appeal of this order or any of the Court’s other post-remand orders, the Court grants Defendant’s motion and orders that Defendant *may* deposit all or any portion of the judgment amount plus accrued interest with the clerk of court and that the post-judgment rate of interest shall cease to accrue as to the amount deposited as of the date of deposit. The clerk of court shall deposit the funds in an interest-bearing account and the funds shall remain there until final disposition of this matter, further order of this Court, or agreement of the parties.

IT IS SO ORDERED.



Richland Common Pleas

Case Caption: Daniel O Shields , plaintiff, et al vs PSC Automotive Group ,
defendant, et al

Case Number: 2013CP4000319

Type: Order/Other

So Ordered

s/ R. Ferrell Cothran, Jr., 2144