

STATE OF SOUTH CAROLINA

INITIAL BRIEF

COUNTY OF SPARTANBURG

Kyle Anthony Tracy,
Appellant,

Appellate Case No. 2024-002016

Vs.

Founders' Federal Credit Union,
Respondent,

RECEIVED

Jul 17 2025

SC Court of Appeals

INITIAL BRIEF

October 22, 2024, at 9:30 a.m., a hearing was held before the Honorable J. Derham Cole for summary judgment on the car loan from Founders' Federal Credit Union that resulted in repossession of a vehicle with judgment being granted for the amount of \$14,929.63. I received the notice of hearing and understood the date that I needed to be at the courthouse in order to defend the allegations against me. I started a new job and got my times mixed up which led me to inadvertently mistake my hearing to be at 2:30 p.m.. I showed up at the courthouse around 2 p.m. prepared to defend myself. When I got to the courtroom, it was locked so I went to the Clerk of Court office and that's when I found that the hearing was at 9:30 a.m., not 2:30 p.m. I am asking for another chance to defend myself and motion for another hearing for summary judgment according to:

Per Rule 59(e). SCRCP, provides for a motion to alter or amend judgment and preserve the record for an appeal. *Pelican Building Centers v. Dutton*, 311 S.C. 56, 427 S.E.2d 673, 675 (1993). Under R. 59(e), SCRCP, a trial judge may alter or amend an order for a period of ten days after the entry of judgment. *Doran v. Doran*, 288 S.C. 477, 478, 343 S.E.2d 618, 619 n.1 (1986).

I will not make the mistake again of the time or date of my hearing and would like the opportunity to defend myself of the allegations held against me and show why I believe the judgment of the loan should not be granted. Due to the fact that Founders' Federal Credit Union

could have mitigated their loss by selling the car in a reasonable manner and delivering proper notice of sale of the vehicle, I feel that I should be given an opportunity for another hearing for summary judgment. In exhibits A and B, page 5 and 3 respectively, the section under the deposition of the collateral, of the evidence submitted by the Respondent of this appeal, it states that:

“If we decide to sell the Collateral at a public sale, private sale, or otherwise dispose of the Collateral, we will provide reasonable notice if required by law and will otherwise comply with applicable state law”.

No proper notice of sale was provided to me per South Carolina Repossession Law and this could have helped mitigate the loss of the collateral all together. The vehicle was also sold approximately 6 months after repossession and the rate of depreciation of cars would have lessened the amount sold of the vehicle. Carfax had a value of the vehicle at \$12,320 upon the date of purchase of the vehicle selling the vehicle 44% less than its value.

Kyle Tracy

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CC: Founders' Federal Credit Union

Suzanne Taylor Graham Grigg, (Bar # 70861)

Maynard Nexsen PC