

The order² the Plaintiff is depending upon to justify the sale is under appeal before the SC Court of Appeals (See the attached Notice of Appeal). As such, the **Circuit order is not final** and is subject to complete reversal/cancellation.

Further, the order the Plaintiff is depending on to justify the sale is based on a perjured affidavit. The Plaintiff's attorneys have to date prevented the Defendant from receiving the documents needed to prove that the affidavit is false. The Plaintiff has refused to answer the Defendant's discovery requests (See the attached Motion To Compel).

The Plaintiff, through its attorney, has **refused to provide any information** requested in the Defendant's discovery requests (see the attached discovery requests). Without that information, there has been no trials, motions or other consideration by the Court, one way or another, that the Plaintiff does not have "Clean Hands".

The order was issued by the Court **without** consideration of the Defendant's claims that the Plaintiff is largely, if not exclusively, the cause to any default(s) on the loan.

In addition, the order, prepared by the Plaintiff's attorney, contains claims and statements that have no basis in the record - i.e. made "out of thin air". No testimony or claims support the statement:

"The value of the possession continues to depreciate during such use, without compensation to the Plaintiff." (see page 2 paragraph 9).

In fact, the value of the asset has been increasing as of late. With fuel prices decreasing, the operations cost have decreased so that the capital cost of the asset has increased significantly.

Consequently, the Defendant has filed a **Motion to Compel** that is now scheduled for October 26, 2015 before the SC Circuit Court of Common Pleas - Seventh Judicial Circuit in Spartanburg, SC.

In addition, the FFCU/Nexem-Pruet notice does not comply with SC Code Sections 36-9-613 and 36-9-614. For example, the Plaintiff's letter does not include the address of the Plaintiff's address (see SC Code Section 36-9-614 (3)). No one at the telephone number listed in the letter answered the call, during normal business hours, to provide "the exact amount you must pay" (see SC Code Section 36-9-614 (3)).

^{2/} "ORDER GRANTING PARTIAL SUMMARY JUDGEMENT TO PLAINTIFF"
FILED August 26, 2015 in this docket (copy attached).

This is important because the Defendant tried to sell the asset but was unable to because of the Plaintiff's stubborn intransigence, refusal to cooperate, and intentional lies to this Court. By email dated August 12, 2015 (see the attached email from the Defendant to Plaintiff's attorney) the Defendant requested information without which the Defendant could not sell the asset. Plaintiff's attorney refused to supply the absolutely necessary information. Consequently, the Defendant was unable to sell the asset to maximize the money from the sale.

The Defendant has always cooperated with the Plaintiff and honored the Court's orders. For example, the Defendant delivered the asset to the Spartanburg County Sheriff's Department upon request. The asset was delivered clean in excellent condition!

In this case, the Plaintiff's inadequate notice states that it will be a "private" sale. Given that the Plaintiff's witness (FFCU employee) has lied to the Court, there is no reason to expect that the sale will be properly noticed and the sale will be at an "arms-length" transaction. The sale is ripe for illegal activity with no opportunity for transparency and oversight.

The Plaintiff's proposed sale does not comply with the Court's order. Paragraph 13 - page 3 - states:

"The Plaintiff is legally entitled to possession of the Ford, and to have the Ford sold in a **commercially reasonable manner...**" (emphasis added).

The Plaintiff's proposed sale is not in a "commercially reasonable manner". A commercially reasonable manner means that the sale must be publically noticed for not less than 30 days with a defined sale date and location where the public can bid for the vehicle. As such, the proposed sale does not meet the Court's order.

Finally, the Defendant will be irreparably harmed if the asset is sold before the full docket in the SC Circuit Court and the SC Court of Appeals are made final and unappealable. There will be no possibility for the Defendant to reacquire the asset.

As stated in the Defendant's earlier filings, it's quite clear that the Plaintiff continues obfuscate and delay the proceedings to it's sole financial benefit to the clear detriment and prejudice of the Defendant.

REQUEST

Consequently, the Defendant requests the Court to indefinitely stay the subject Circuit Court Order, until the order that the Plaintiff fully answer each and every request listed by the Defendant's interrogatories and requests for production of documents and that the proceedings, including C.A. No. 2014-CP-42-3828 and SC Court of Appeals 2015-001926, are fully litigated, final and unappealable.

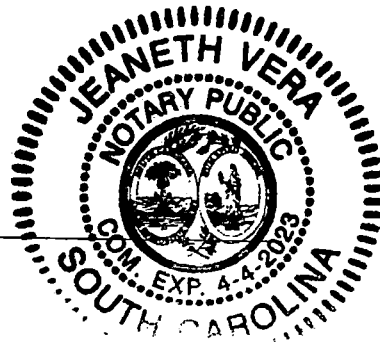
By:

Charles B. Mierek
Mr. Charles B. Mierek
DEFENDANT

SWORN and subscribed to before me this 19th of October 2015.

Jeaneth Vera
Notary Public for South Carolina

My commission expires: 04/04/2023



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Oct. 19, 2015

Stamped Copy To:

Oct. 19, 2015

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