

STATE OF SOUTH CAROLINA
IN THE
COURT OF APPEALS

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JUL 15 2016

SC Court of Appeals

Appeal from the Court of Common Pleas
For Lancaster County
Honorable Brian M. Gibbons, Circuit Judge
Civil Action No.: 2014-CP-29-00065

Founders Federal Credit Union,

Appellant,

v.

Sharon T. Irving and The Auto Shop,

Respondents.

APPELLANT'S INITIAL REPLY BRIEF

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ARGUMENTS

I. MANY OF THE STATEMENTS IN THE AUTO SHOP'S INITIAL BRIEF ARE IRRELEVANT TO THE LEGAL ISSUE OF STATUTORY INTERPRETATION INVOLVED IN THIS APPEAL, AND APPELLANT, THEREFORE, EITHER DENIES OR DOES NOT ADDRESS THOSE STATEMENTS FOR PURPOSES OF JUDICIAL EFFICIENCY.

Throughout its brief, The Auto Shop argues that Founders Federal Credit Union (“Founders”) did not reasonably negotiate with The Auto Shop, that Founders should have taken certain actions that could have avoided this litigation, and that Founders took an unreasonable position in negotiations with State Farm, the insurer for the 2007 Lexus GS350 (the “Vehicle”) in question. First, Founders disagrees with The Auto Shop’s characterization of these negotiations and asserts that it negotiated in good faith prior to and throughout this case. Furthermore, and most importantly for purposes of this appeal, it is indisputable that these arguments are irrelevant to the issues on appeal and have no bearing on the Court’s interpretation of S.C. Code Ann. § 29-15-10.¹ At the hearing on Founders’ Motion to Reconsider, Alter or Amend Order, Judge Gibbons made this clear to The Auto Shop when The Auto Shop made arguments related to negotiations involving State Farm: “The money is not the issue. The whole issue is the judicial interpretation of the statute. That’s the issue. And then of course whether or not there is enough evidence in the record, the second part to determine the amount of damages.” [Hr’g Tr. 14:13-17.] Therefore, Founders does not further address these statements in The Auto Shop’s brief because they are irrelevant to the issues before the Court.

II. THE AUTO SHOP’S LONE ARGUMENT RELATED TO S.C. CODE ANN. § 29-15-10 ILLUSTRATES A CLEAR FAILURE TO COMPLY WITH THE STATUTE’S REQUIREMENTS.

In Founders’ view, the only argument set forth in The Auto Shop’s brief related to Section 29-15-10 admits that The Auto Shop failed to comply with the notice requirements of the

¹ Hereinafter, referred to as Section 29-15-10(B).

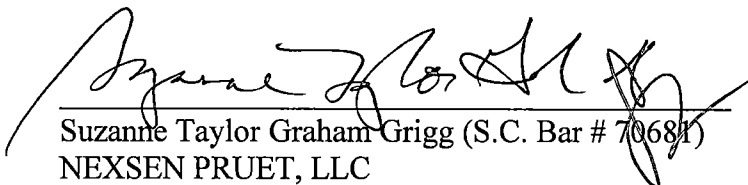
statute and states that the factual scenario contemplated by the statute to trigger storage fees never occurred. In its brief, The Auto Shop argues that it did not send Founders notice by certified or registered mail because the repairs to the vehicle were not completed by The Auto Shop and the vehicle had not been abandoned by its owner. Under Section 29-15-10(A)(1), the statute contemplates a situation where the repairs have been completed or a storage contract has expired. Accordingly, based on The Auto Shop's argument, the statute would not allow for it to charge any storage fees to a lienholder where it is undisputed that The Auto Shop did not complete the repairs. As stated in Founders' brief, The Auto Shop demanded \$2,139.00 in storage costs when Founders' first learned that The Auto Shop had the Vehicle, and the trial court awarded The Auto Shop \$1,500.00 in storage charges.

CONCLUSION

For the reasons set forth above, the arguments set forth in The Auto Shop's brief either are not relevant to the Court's interpretation of Section 29-15-10 or lend support to Founders' position that The Auto Shop is not entitled to storage fees under the statute. For these reasons, along with those stated in Founders' initial brief, Founders respectfully requests the Order and Judgment of the trial court be reversed insofar that it broadly construes the notice requirement of Section 29-15-10(B) by allowing e-mail notice to owners and lienholders to be sufficient and awards The Auto Shop \$1,500.00 in storage charges.

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Respectfully submitted,



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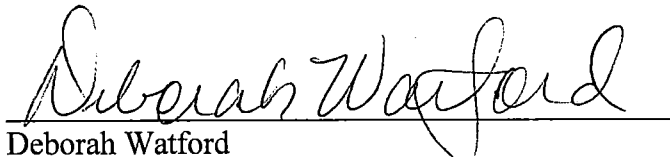
Attorneys for the Appellant

I, Deborah Watford, an employee of Nexsen Pruet, LLC, hereby certify that I served one copy each of the *Appellant's Initial Reply Brief* submitted by the Appellant, Founders Federal Credit Union, on the Respondents at the below addresses on July 15, 2016 via U.S. Mail, postage prepaid, at Columbia, South Carolina.

The Auto Shop
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Sharon T. Irving
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Member
Admitted in SC
JUL 15 2016

SC Court of Appeals

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VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

Re: **Founders Federal Credit Union v. Sharon T. Irving and The Auto Shop**

Appeal from the Lancaster County Court of Common Pleas
Lancaster County Case No: 2014-CP-29-00065
Appellate Case No. 2015-002571

Charleston

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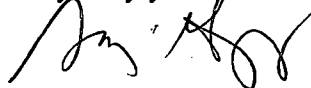
Raleigh

Dear Ms. Kitchings:

Enclosed please find the original and two copies of the *Appellant's Initial Reply Brief* submitted on behalf of the Appellant, Founders Federal Credit Union, in the above-referenced matter. I have also enclosed the original and two copies of a *Proof of Service* indicating service of one copy each of the above document upon the Respondents.

I would appreciate you kindly filing each of these documents with the Court of Appeals and returning a stamped copy of each via my courier. If you have any questions or if I may otherwise be of assistance to you or the Court of Appeals regarding this matter, please feel free to contact me at your convenience.

Very truly yours,



Suzanne Taylor Graham Grigg

The Honorable Jenny Abbott Kitchings
July 15, 2016
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SGG/kab

Enclosures

CC: The Auto Shop (via U.S. Mail)
Sharon T. Irving (via U.S. Mail)

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