

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
H.W. Funderburk, Jr., Administrative Law Judge

Case No. 16-ALJ-30-0410-CC
Appellate Case No. 2017-002455

RECEIVED
DEC 08 2017
SC Court of Appeals

Wayne's Automotive Center, Inc., Appellant-Respondent,

v.

South Carolina Department of Public Safety, Respondent-Appellant.

**REPLY TO RESPONDENT-APPELLANT'S RETURN IN OPPOSITION TO
MOTION TO IMPOSE A SUPERSEDEAS TO STAY MATTERS DECIDED
IN SCALC ORDERS**

Appellant-Respondent (Appellant) hereby submits its Reply To Respondent-Appellant's (Respondent) Return In Opposition To Motion (Petition) To Impose A Supersedeas To Stay Matters Decided in South Carolina Administrative Law Court (SCALC) Orders, consistent with Rule 240 (f), SCACR.

1. In the first paragraph of its Final Order, the lower court properly characterized without opposition by either party that the case was "a contested case hearing to challenge a violation found and a penalty imposed" and cited S.C. Code Ann. §§ 1-23-600 and -505 (Supp. 2016).¹ Without indicating whether the automatic stay provision in S.C. Code Ann.

¹ Section 505, subsections 3-6 define pertinent terms, as follows:

(3) 'Contested case' means a proceeding including, but not restricted to, ratemaking, price fixing, and licensing, in which the legal rights, duties, or privileges of a party are required by law or by Article I, Section 22, Constitution of the State of South Carolina,

§ 1-23-600 applied, it also extended the initial stay through the pendency of the case in the lower court from an end date of January 2017, which the parties had agreed to in conjunction with Appellant's Petition For Contested Case Hearing and Motion for Injunction/Stay, served and filed December 14, 2016.

2. In light of uncertainty of the lower court's rationale, in ¶ 5 of its Motion before the Court, Appellant stated:

While the instant appeal from the SCALC falls within the exception in SCACR 241 (b) (11) for an appeal to stay the lower court order automatically, the Court should apply SCACR 241 (c) (2), since such order is necessary 'to prevent a contested issue from becoming moot.'

If Appellant is incorrect in this regard, the Court should deny the Motion but confirm the automatic stay in the Rule applies; otherwise, the Court should grant the Motion and confirm the scope of the definition of "licensee" and "license" in §§ 1-23-380 (2) and 1-23-610 (A) (2) include Appellant and Respondent's contractual agreement in the 2016 Wrecker Rotation List Application approval for Appellant, as well as subsequent 2017 and 2018 agreement approvals.

1895, to be determined by an agency or the Administrative Law Court after an opportunity for hearing.

(4) 'License' includes the whole or part of any agency permit, franchise, certificate, approval, registration, charter, or similar form of permission required by law, but does not include a license required solely for revenue purposes.

(5) 'Party' means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.

(6) 'Person' means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency.

3. By citing Rule 241 (b) (11) in its Motion, Appellant primarily was referring to the reference to S.C. Code § 1-23-380 (A) (2) in that section of this Court's Rule. Even though the "A" has been deleted in the current version of § 1-23-380, it is consistent with § 1-23-610, which states:

SECTION 1-23-610. Judicial review of final decision of administrative law judge; stay of enforcement of decision.

(A)(1) For judicial review of a final decision of an administrative law judge, a notice of appeal by an aggrieved party must be served and filed with the court of appeals as provided in the South Carolina Appellate Court Rules in civil cases and served on the opposing party and the Administrative Law Court not more than thirty days after the party receives the final decision and order of the administrative law judge. Appeal in these matters is by right.

(2) Except as otherwise provided in this chapter, the serving and filing of the notice of appeal does not itself stay enforcement of the administrative law judge's decision. The serving and filing of a notice of appeal by a licensee for review of a fine or penalty or of its license stays only those provisions for which review is sought and matters not affected by the notice of appeal are not stayed. The serving or filing of a notice of appeal does not automatically stay the suspension or revocation of a permit or license authorizing the sale of beer, wine, or alcoholic liquor. Upon motion, the administrative law judge may grant, or the court of appeals may order, a stay upon appropriate terms.

(Emphases added). Note: These express references to "suspension," "revocation," and "permit" in these sections support construed in conjunction with § 505 (3) – (6) support the conclusion that the contractual agreement between Appellant and Respondent herein is consistent for inclusion for the automatic stay of any suspension of Appellant from the Rotation Schedule during the pendency of the appellate process, since Appellant's appeal pertains to "provisions for which review is sought" and "...matters...affected by the notice of appeal...." They, otherwise, support granting Appellant's Motion. Appellant acknowledges it is "otherwise qualified for and approved to be on the Wrecker Rotation List", as stated in the Final Order @ 10 and as shown in Appellant's attached Verification

and Affidavit of Walter Jeffry Corbett of Appellant's Motion and this Reply with Appellant's 2016, 2017, and 2018 Wrecker Rotation Applications, as approved by Respondent.

4. In its Return to Appellant's Motion, Respondent could not and has not disputed or refuted Appellant's basic point stated as factual background that its appeal would be mooted, if the stay is not continued. Based on that fact alone, the Court should continue the stay. For this reason, Appellant did not also provide a verification or affidavit in additional support. In addition, prior to serving and filing the Notice of Appeal and Motion, counsel for Appellant conferred with this Court's staff regarding the need to attach any certified copies of lower court orders instead of stamped, filed copies and was advised stamped, filed copies were acceptable herein. Appellant's counsel thereby had served the Notice of Appeal with the two Orders on appeal and then the Motion with separate Proofs of Service, followed by the service of the Notice of Appeal only on the lower court, and then filing with this Court.

5. As to its contention the instant Motion should have been raised to the lower court, Appellant sought feedback from Respondent through its counsel prior to serving and filing it, as referenced in ¶ 8 of it. As indicated, Appellant received no timely response prior to its appeal and associated deadline.

6. Moreover, contrary to Respondent's contention, Appellant sought an extension by the lower court of the stay through the appellate process as part of relief at least three times before appealing and filing its Motion with this Court. They are in:

(a) Petitioner's Response In Opposition To Respondent's Motion For Reconsideration @ 6 referencing continuing the stay in effect upon any appeal (filed October 11, 2017);

(b) Petitioner's Motion For Reconsideration @ 9 referencing continuing the stay in effect upon any appeal (filed September 29, 2017); and

(c) Petitioner's Final Arguments @ 11 referencing providing all available relief (filed August 21, 2017).²

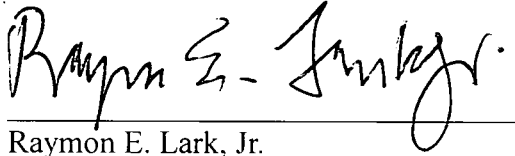
Given the lack of discussion or timely response by counsel for Respondent, the prior rejection by the lower court for an extension, and the imminent deadline to appeal, Appellant reasonably perceived again seeking such relief by it was impracticable.

7. As to the conditions referenced by Respondent, if the Court grants the Motion, one of several issues herein concerns, for example (C) (15) of the DPS Regulation 38-600 (2 SC Code Ann. Regs. (C) (15 (2011)), which applies and which expressly requires "(o)nly one bill is to be submitted to the owner or operator for the work performed," while the 2016 Wrecker Service Rotation Fee Schedule violates or is otherwise inconsistent with the Regulation by requiring additional invoices or receipts for subcontracted equipment/services. Respondent, therefore, is improperly attempting to utilize its improper Schedule provision to discipline Appellant herein, and Appellant objects to such condition or other separate condition, since the Regulation provisions are already in effect.

² Appellant will gladly provide the Court with copies of these filings, if needed. At the contested case hearing, the lower court decided to have the parties submit final arguments in writing instead of making oral arguments, consistent with SCALC Rule 29 (A) (7).

WHEREFORE, Appellant respectfully requests this Honorable Court to grant its Motion or otherwise provide for continuation of the stay during appeal to avoid contested issues from becoming moot and providing all available relief.

AUSTIN & ROGERS, P.A.

By: 

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December 8, 2017

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Attorneys for Respondent-Appellant South Carolina Department Of Public Safety

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
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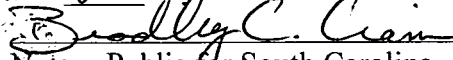
South Carolina Department of Public Safety, Respondent-Appellant.

VERIFICATION AND AFFIDAVIT OF WALTER JEFFRY CORBETT

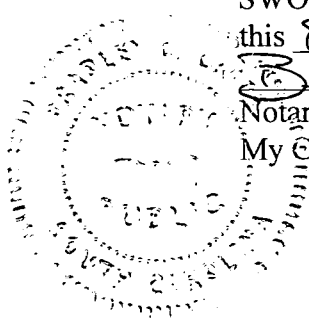
Sworn to before me, Walter Jeffrey Corbett, who says and deposes that the affiant knows the facts in the Notice of Appeal, Motion To Impose A Supersedeas To Stay Matters Decided In SCALC Orders, and Appellant-Respondent's Reply to Respondent-Appellant's Return to it before the South Carolina Court Of Appeals Court stated to be true of his own knowledge, except as to matters stated on information and belief, and as to any such matters he believes them to be true. In addition, attached are copies of Appellant-Respondent's 2016, 2017, and 2018 calendar-year Wrecker Rotation Fee Schedules, as approved by Respondent-Appellant, and Appellant-Respondent is currently participating on the 2017 Rotation List in effect through December 31st. Finally, he affirms continuation of the stay of suspension in these appeal-cross appeals is necessary in order for them not to be mooted and in the interest of justice.


Walter Jeffrey Corbett

SWORN to and subscribed before me
this 8th day of December 2017.


Notary Public for South Carolina

My Commission Expires: November 13, 2025





South Carolina Department of Public Safety

S.C. Highway Patrol

South Carolina Highway Patrol 2016 Wrecker Rotation Fee Schedule

In accordance with Section 38-600 of the South Carolina Code of State Regulations, the Department of Public Safety publishes a yearly Fee Schedule outlining the maximum allowable fees for each class of wrecker on the SCHP Wrecker Rotation List. The reasonableness of fees on the Fee Schedule is determined by the Highway Patrol on a comparative basis. The fees permitted for calendar year 2016 are listed below:

2016 MAXIMUM ALLOWABLE FEES FOR ROTATION LIST CALLS

CLASS	STANDARD TOW	SPECIAL OPERATIONS	STORAGE
A	\$204.00 flat rate	\$118.00 per hour	\$30.00 per day
B	\$279.00 flat rate	\$174.00 per hour	\$39.00 per day
C	\$436.00 per hour	* no fee will be set	\$53.00 per day

Standard Tow: A standard tow is defined as responding to the scene, hooking up the vehicle, performing a general clean up if the call involves responding to a collision scene and providing responsible assistance to the vehicle occupants. In the absence of special operations as defined below, the maximum fee for a Class A or B tow is the flat rate listed above. Fees for Class C tows are billed at an hourly rate.

Special Operations: Special operations are operations involving the process of uprighting an overturned vehicle or returning a vehicle to a normal position on the roadway which requires the use of auxiliary equipment due to the size or location of the vehicle and/or the recovery of a load which has spilled, or the off-loading and reloading of a load from an overturned vehicle performed to right the vehicle. A wrecker service must receive confirmation on-scene at the time of the tow from the investigating Trooper or an SCHP supervisor that special operations are required to perform the tow in order to recover such fees.

* Although no Special Operations fee is set for Class C tows, a wrecker service may recover the actual cost of rented/subcontracted equipment or labor necessary to accomplish the job. Proof of these actual costs in the form of an itemized invoice or receipt from the third party providing such equipment or labor must accompany the tow bill.

If services beyond those for which the wrecker was dispatched are performed (e.g., hazardous waste cleanup; transportation of vehicle, cargo, or occupants(s) to an agreed upon location other than the one required by the Regulation), those services must be billed on a separate invoice.

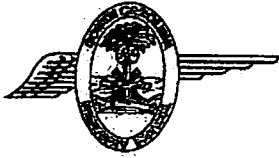
Storage: Fees begin 12 hours after a vehicle is secured on the wrecker service premises and terminate when the vehicle owner or owner's designee offers to pick up the vehicle and pay the legitimate accrued charges.

A COPY OF THIS FEE SCHEDULE SHALL BE KEPT IN EACH WRECKER AT ALL TIMES AND MUST BE PRESENTED UPON REQUEST TO ANY PERSON FOR WHOM TOW SERVICES ARE PROVIDED, HIS OR HER AGENT, OR ANY DEPARTMENT OF PUBLIC SAFETY EMPLOYEE. ANY COMPLAINTS MUST BE IN WRITING AND FORWARDED TO THE SCHP TROOP COMMANDER.

NOTE: This fee schedule lists the maximum fee that may be charged for each class of wrecker. A lesser fee may be charged at any time in the wrecker service's discretion.

Courtesy - Efficiency - Service

POST OFFICE BOX 1993, 10311 WILSON BLVD., BLYTHEWOOD, SOUTH CAROLINA 29016



South Carolina Highway Patrol

Wrecker Rotation Inspection



Approved Fees:

Class	Standard Towing	Special Operations	Storage (per day)
<input checked="" type="checkbox"/> A	\$ 204.00	\$ 118.00	\$ 50.00
<input checked="" type="checkbox"/> B	\$ 277.00	\$ 174.00	\$ 77.00
<input checked="" type="checkbox"/> C	\$ 436.00	\$ None / No Fee Set	\$ 53.00

Inspector's Comments:

After my inspection, I find this service to be:

- Approved** – Business is in compliance with Wrecker Regulations and is being recommended for the rotation list.
- Not Approved** – Business is not in compliance with Wrecker Regulations and is NOT recommended for the rotation list. Service was notified in writing as to what deficiencies were identified.

Inspector's Signature: Date: 11/25/15

Wrecker Owner's Acknowledgment of Receipt and Compliance if approved:

I do hereby affirm that I have a copy of South Carolina Code of Regulations 38-600 governing rotation list wreckers. I am familiar with its contents and do hereby agree to fully comply with it in order to remain on the rotation list. I understand that any violation of the Wrecker Regulations may result in disciplinary action pursuant to S.C. Code of Regulations 38-600(D) and SCDPS Policy 200.19 Wrecker Rotation Disciplinary Policy. I further agree that if I relocate or change equipment, insurance carriers, telephone numbers or employees, or for any reason become unavailable for service for an extended period of time, I will notify the appropriate Troop Commander in writing. The information I have furnished is true and correct to the best of my knowledge. My business has been inspected and approved this 25th day of November, 2015.

Print Name: Pamela Beltran

Signature:

Key to Inspection Codes:

C = Compliant

NC = Not in Compliance

NA = Not Applicable



South Carolina Department of Public Safety
S.C. Highway Patrol

On behalf of the wrecker service named below, I acknowledge that I have received and agree to be bound by the South Carolina Highway Patrol 2016 Wrecker Rotation Fee Schedule and the Department of Public Safety's Wrecker Rotation Disciplinary Policy. Further, I certify that I am authorized to bind the wrecker service named below to the terms of this Fee Schedule and the Department of Public Safety's Wrecker Rotation Disciplinary Policy.

Janice Beltra Janice Beltra 11/25/15
Owner/Representative Name (Printed) Owner/Representative Signature Date

Wages Automotive Center Inc
Name of Wrecker Service

Courtesy - Efficiency - Service

POST OFFICE BOX 1993, 10311 WILSON BLVD., BLYTHEWOOD, SOUTH CAROLINA 29016.



South Carolina Department of Public Safety
S.C. Highway Patrol

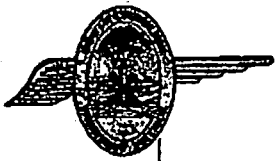
2017 Wrecker Rotation Fee Schedule

In accordance with Section 38-600 of the South Carolina Code of State Regulations, the Department of Public Safety publishes a yearly Fee Schedule outlining the maximum allowable fees for each class of wrecker on the SCHP Wrecker Rotation List. The reasonableness of fees on the Fee Schedule is determined by the Highway Patrol on a comparative basis. The fees permitted for calendar year 2017 are listed below:

2017 MAXIMUM ALLOWABLE FEES FOR ROTATION LIST CALLS

Rates / Fees		
Class A Wrecker		
Standard Towing Charge	*Special Operations	Storage
\$ 214.00 Flat Fee	\$ 126.00 Per Hour	\$ 32.00 Per Day
<i>*Special Operations are billed at a per hour rate in 1/2 hour increments.</i>		
Class B Wrecker		
Standard Towing Charge	*Special Operations	Storage
\$ 313.00 Flat Fee	\$ 200.00 Per Hour	\$ 41.00 Per Day
<i>*Special Operations are billed at a per hour rate in 1/2 hour increments.</i>		
Class C Wrecker		
*Standard Towing Charge	Special Operations	Storage
\$ 474.00 Per Hour	**See below	\$ 56.00 Per Day
<i>*Standard Towing is billed at a per hour rate in 1/2 hour increments.</i>		
<i>**Although no Special Operations fee is set for Class C tows, a wrecker service may recover the actual cost of rented/subcontracted equipment or labor necessary to accomplish the job. Proof of these actual costs in the form of an itemized invoice or receipt from each third party providing such equipment or labor must accompany the tow bill.</i>		

<u>Class C services only.</u>		
Description of Service, Labor or Equipment	Rate / Fee	
Additional Wrecker	\$ 464.00	Per hour
Dump Truck, Dump Trailer or Drop Dumpster	\$ 223.00	Per hour
Rotator/Crane or equivalent	\$ 662.00	Per hour
Truck Tractor with Box Trailer or equivalent	\$ 260.00	Per hour
Truck Tractor with Flat Trailer or equivalent	\$ 267.00	Per hour
Truck Tractor with Landoll/Lowboy/Tilt Trailer or equivalent	\$ 300.00	Per hour
Skid Steer or equivalent	\$ 212.00	Per hour
Forklift or equivalent	\$ 209.00	Per hour
Backhoe or equivalent	\$ 241.00	Per hour
Service Truck (includes all tools and equipment on board)	\$ 175.00	Per hour
Tower Light System	\$ 148.00	Per hour
Complete Air Bag Unit	\$ 712.00	Per hour
Additional Labor (General)	\$ 79.00	Per person/per hour
Additional Labor (Specialized)	\$ 109.00	Per person/per hour



South Carolina Highway Patrol
Wrecker Rotation Inspection



Inspector's Comments:

After my inspection, I find this service to be:

- Approved** – Business is in compliance with Wrecker Regulations and is being recommended for the rotation list.
- Not Approved** – Business is not in compliance with Wrecker Regulations and is NOT recommended for the rotation list. Service was notified in writing as to what deficiencies were identified.

Inspector's Signature: SGT. DA DRAKIN Date: 11-30-2016

Wrecker Owner's Acknowledgment of Receipt and Compliance if approved:

I do hereby affirm that I have a copy of South Carolina Code of Regulations 38-600 governing rotation list wreckers. I am familiar with its contents and do hereby agree to fully comply with it in order to remain on the rotation list. I understand that any violation of the Wrecker Regulations may result in disciplinary action pursuant to S.C. Code of Regulations 38-600(D) and SCDPS Policy 200.19 Wrecker Rotation Disciplinary Policy. I further agree that if I relocate or change equipment, insurance carriers, telephone numbers or employees, or for any reason become unavailable for service for an extended period of time, I will notify the appropriate Troop Commander in writing. The information I have furnished is true and correct to the best of my knowledge. My business has been inspected and approved this 30 day of November, 20 16.

Print Name: Sherry Corbett Signature: [Handwritten Signature]

Key to Inspection Codes:

C = Compliant

NC = Not in Compliance

NA = Not Applicable

NOTICE:

Rates for all equipment usage should include the cost of an operator, operating expenses, and the cost to transport the equipment to and from the scene.

Standard Tow: A standard tow is defined as responding to the scene, hooking up the vehicle, performing a general clean up if the call involves responding to a collision scene and providing responsible assistance to the vehicle occupants. In the absence of special operations as defined below, the maximum fee for a Class A or B tow is the flat rate listed above. Fees for Class C tows are billed at an hourly rate.

Special Operations: Special operations are operations involving the process of uprighting an overturned vehicle or returning a vehicle to a normal position on the roadway which requires the use of auxiliary equipment due to the size or location of the vehicle and/or the recovery of a load which has spilled, or the off-loading and reloading of a load from an overturned vehicle performed to right the vehicle. A wrecker service must receive confirmation on-scene at the time of the tow from the investigating Trooper or an SCHP supervisor that special operations are required to perform the tow in order to recover such fees.

* Although no Special Operations fee is set for Class C tows, a wrecker service may recover the actual cost of rented/subcontracted equipment or labor necessary to accomplish the job. Proof of these actual costs in the form of an itemized invoice or receipt from the third party providing such equipment or labor must accompany the tow bill.

If services beyond those for which the wrecker was dispatched are performed (e.g., hazardous waste cleanup; transportation of vehicle, cargo, or occupants(s) to an agreed upon location other than the one required by the Regulation), those services must be billed on a separate invoice.

Storage: Fees begin 12 hours after a vehicle is secured on the wrecker service premises and terminate when the vehicle owner or owner's designee offers to pick up the vehicle and pay the legitimate accrued charges.

A COPY OF THIS FEE SCHEDULE SHALL BE KEPT IN EACH WRECKER AT ALL TIMES AND MUST BE PRESENTED UPON REQUEST TO ANY PERSON FOR WHOM TOW SERVICES ARE PROVIDED, HIS OR HER AGENT, OR ANY DEPARTMENT OF PUBLIC SAFETY EMPLOYEE. ANY COMPLAINTS MUST BE IN WRITING AND FORWARDED TO THE SCHP TROOP COMMANDER.

NOTE: This fee schedule lists the maximum fee that may be charged for each class of wrecker. A lesser fee may be charged at any time in the wrecker service's discretion.

On behalf of the wrecker service named below, I acknowledge that I have received and agree to be bound by the South Carolina Highway Patrol 2017 Wrecker Rotation Fee Schedule and the Department of Public Safety's Wrecker Rotation Disciplinary Policy. Further, I certify that I am authorized to bind the wrecker service named below to the terms of this Fee Schedule and the Department of Public Safety's Wrecker Rotation Disciplinary Policy.

Sherry Corbett
Owner/Representative Name (Printed)

[Signature]
Owner/Representative Signature

11-30-2016
Date

Wayne's Automotive Center
Name of Wrecker Service



South Carolina Department of Public Safety

S.C. Highway Patrol

2018 Wrecker Rotation Fee Schedule

In accordance with S.C. Code Ann. Regs. § 38-600, the South Carolina Department of Public Safety publishes a yearly Wrecker Rotation Fee Schedule ("Fee Schedule") outlining the maximum allowable fees for each class of wrecker on the South Carolina Highway Patrol ("SCHP") Wrecker Rotation List. The reasonableness of fees on the Fee Schedule is determined by the SCHP after a review of submitted fees. The fees permitted for calendar year 2018 are listed below:

2018 MAXIMUM ALLOWABLE FEES FOR ROTATION LIST CALLS

Rates / Fees		
Class A Wrecker		
Standard Towing \$ 219.00 Flat Fee	*Special Operations \$ 132.00 Per Hour	Storage \$ 33.00 Per Day
<i>*Special Operations are billed at a per hour rate in 1/2 hour increments.</i>		
Class B Wrecker		
Standard Towing \$ 311.00 Flat Fee	*Special Operations \$ 199.00 Per Hour	Storage \$ 41.00 Per Day
<i>*Special Operations are billed at a per hour rate in 1/2 hour increments.</i>		
Class C Wrecker		
*Standard Towing \$ 470.00 Per Hour	Special Operations **See below	Storage \$ 58.00 Per Day
<i>*Standard Towing is billed at a per hour rate in 1/2 hour increments.</i>		
<i>**Although no Special Operations fee is set for Class C tows, a wrecker service may recover the actual cost of rented/subcontracted equipment or labor necessary to accomplish the job. Proof of these actual costs in the form of an itemized invoice or receipt from each third party providing such equipment or labor must accompany the tow bill.</i>		

Class C Services Only	
Description of Service, Labor, or Equipment	Rates / Fees
Additional Wrecker	\$ 464.00 Per Hour
Dump Truck, Dump Trailer, or Drop Dumpster	\$ 226.00 Per Hour
Rotator/Crane or equivalent	\$ 661.00 Per Hour
Truck Tractor with Box Trailer or equivalent	\$ 263.00 Per Hour
Truck Tractor with Flat Trailer or equivalent	\$ 267.00 Per Hour
Truck Tractor with Landoll/Lowboy/Tilt Trailer or equivalent	\$ 292.00 Per Hour
Skid Steer or equivalent	\$ 240.00 Per Hour
Forklift or equivalent	\$ 235.00 Per Hour
Backhoe or equivalent	\$ 271.00 Per Hour
Service Truck (includes all tools and equipment on board)	\$ 172.00 Per Hour
Tower Light System	\$ 158.00 Per Hour
Complete Air Bag Unit	\$ 781.00 Per Hour
Additional Labor (General)	\$ 83.00 Per Person/Per Hour
Additional Labor (Specialized)	\$ 116.00 Per Person/Per Hour

NOTICE: The hourly rates for equipment usage include the cost of an operator, operating expenses, and the cost to transport the equipment to and from the scene. Expenses above the approved rate may not be charged.

Standard Tow: A standard tow is defined as responding to the scene, hooking up the vehicle, performing a general clean up if the call involves responding to a collision scene, and providing responsible assistance to the vehicle occupants. In the absence of special operations as defined below, the maximum fee for a Class A or B tow is the flat rate listed above. Fees for Class C tows are billed at an hourly rate.

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If services beyond those for which the wrecker was dispatched are performed (e.g., hazardous waste cleanup; transportation of vehicle, cargo, or occupants(s) to an agreed upon location other than the one required by the Regulation), those services must be billed on a separate invoice.

Storage: Storage fees begin 12 hours after a vehicle is secured on the wrecker service premises and terminate when the vehicle owner or owner's designee offers to pick up the vehicle and pay the legitimate accrued charges.

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NOTE: This Fee Schedule lists the maximum fee that may be charged for each class of wrecker. A lesser fee may be charged at any time within the discretion of the wrecker service.

On behalf of the wrecker service named below, I acknowledge that I have received and agree to be bound by the South Carolina Highway Patrol 2018 Wrecker Rotation Fee Schedule and the South Carolina Department of Public Safety Wrecker Rotation Disciplinary Policy. Further, I certify that I am authorized to bind the wrecker service named below to the terms of this Fee Schedule and the South Carolina Department of Public Safety's Wrecker Rotation Disciplinary Policy.

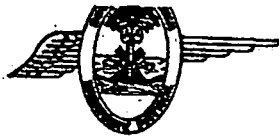
SCFF Corbett
Owner/Representative Name (Printed)

Jeff Cutt
Owner/Representative Signature

11-21-17
Date

Waynes Automotive Center
Name of Wrecker Service

1997 Richland AVE E Aiken SC.
Address



South Carolina Highway Patrol
Wrecker Rotation Inspection



Inspector's Comments:

[Empty rectangular box for Inspector's Comments]

After my inspection, I find this service to be:

- Approved** – Business is in compliance with Wrecker Regulations and is being **recommended** for the rotation list.
- Not Approved** – Business is not in compliance with Wrecker Regulations and is **NOT recommended** for the rotation list. Service was notified in writing as to what deficiencies were identified.

Inspector's Signature: SGT. D.A. Dewey Date: 11-21-2017

Wrecker Owner's Acknowledgment of Receipt and Compliance if approved:

I do hereby affirm that I have a copy of South Carolina Code of Regulations 38-600 governing rotation list wreckers. I am familiar with its contents and do hereby agree to fully comply with it in order to remain on the rotation list. I understand that any violation of the Wrecker Regulations may result in disciplinary action pursuant to S.C. Code of Regulations 38-600(D) and SCDPS Policy 200.19 Wrecker Rotation Disciplinary Policy. I further agree that if I relocate or change equipment, insurance carriers, telephone numbers or employees, or for any reason become unavailable for service for an extended period of time, I will notify the appropriate Troop Commander in writing. The information I have furnished is true and correct to the best of my knowledge. My business has been inspected and approved this 21 day of November, 2017.

Print Name: Jeff Corbett Signature: [Handwritten Signature]

Key to Inspection Codes:
C = Compliant

NC = Not in Compliance

NA = Not Applicable

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

H.W. Funderburk, Jr., Administrative Law Judge

Case No. 16-ALJ-30-0410-CC

RECEIVED
DEC 08 2017
SC Court of Appeals

Wayne's Automotive Center, Inc.....Appellant,
v.
South Carolina Department of Public Safety.....Respondent.

PROOF OF SERVICE

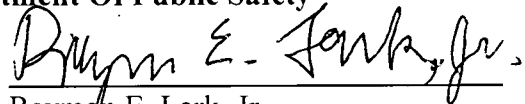
I, Raymon E. Lark, Jr., attorney for Appellant herein, hereby certify I have served on Respondent through its counsel via hand delivery and email and co-counsel via email Appellant-Respondent's Reply To Respondent-Appellant's Return In Opposition To Motion To Impose A Supersedeas To Stay Matters Decided In SCALC Orders, Verification And Affidavit Of Walter Jeffrey Corbett with Attachments, and Motion For Extension Of Time To Order Transcript today, December 8th, as follows:

alindemann@dml-law.com
Andrew F. Lindemann
Davidson & Lindemann, PA
1611 Devonshire Drive, Second Floor
P.O. Box 8568
Columbia, SC 29202-8568

marcusgore@scdps.gov
Marcus Gore, General Counsel
South Carolina Department of Public Safety
10311 Wilson Boulevard
P.O. Box 1993
Blythewood, SC 29016

Attorneys for Respondent South Carolina Department Of Public Safety

December 8, 2017


Raymon E. Lark, Jr.

Austin & Rogers, P.A.

ATTORNEYS AND COUNSELORS AT LAW

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OF COUNSEL:
JEFFERSON D. GRIFFITH, III

* ALSO ADMITTED IN N.C.

December 8, 2017

RECEIVED
DEC 08 2017
SC Court of Appeals

VIA HAND-DELIVERY

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

Re: *Wayne's Automotive Center, Inc., Appellant-Respondent, v. South Carolina Department Of Public Safety, Respondent-Appellant* With: (1) Reply To Respondent-Appellant's Return In Opposition To Motion To Impose A Supersedeas To Stay Matters Decided In SCALC Orders And Verification And Affidavit Of Walter Jeffrey Corbett With Attachments And (2) Motion For Extension Of Time To Order Transcript, Proof Of Service, And \$25 Filing Fee, Our File No. 16145

Dear Ms. Kitchings:

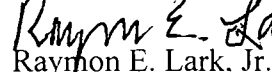
Enclosed for filing, please find the original and 6 copies of Appellant-Respondent's Reply To Respondent-Appellant's Return In Opposition To Motion To Impose A Supersedeas To Stay Matters Decided In SCALC Orders And Verification And Affidavit Of Walter Jeffrey Corbett with Attachments. In addition, please find the original and 6 copies of Appellant-Respondent's Motion For Extension Of Time To Order Transcript, Proof Of Service, and \$25 filing fee.

Please accept these documents for filing and acknowledge receipt of the same by file-stamping the extra copies enclosed and returning them to our courier. If you have any questions or need additional information, please do not hesitate to contact me.

Thank you for your assistance.

Sincerely,

AUSTIN & ROGERS, P.A.


Raymon E. Lark, Jr.

Attorneys for Appellant-Respondent

Enclosures

cc: SCDPS Attorney Andrew F. Lindemann, Esquire, (w/all Encl Via Hand Delivery)
SCDPS Attorney Marcus K. Gore, Esquire, (w/all Encl Via Email)