

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

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Michael Nettles, Circuit Court Judge  
Trial Court Case No: 2017CP2307401

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Appellate Case No: 2018-001020

Terry Edward McCall,

Appellant,

vs.

Barnes Towing,

Respondent,

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APPELLANT'S REPLY TO RESPONDENTS  
INITIAL BRIEF

**RECEIVED**

OCT 04 2018

SC Court of Appeals

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REPLY TO ISSUE THREE

The Appellant states that issue three of Respondent is stated incorrectly, and should be as stated by Appellant. In noway after the Appellant moved to set aside the forfeiture default judgment granted. Did the Appellant get granted a New Trial.

Because the Appellant had previously already filed his action for Complaint in Court alleging that he was not properly served with the notice letter and Repairmens Lien Affidavit, by Barnes Towing. And was already awaiting trial, and not that once he won the relief in his Motion to Set Aside the Judgment, was when he was granted a New Trial. Because that's untrue the way the Respondent has it stated in his initial brief, which mis-leads the Court. Therefor the Court needs to consider that.

As for Res Judicata it very much applys. Because the only way a

garagemen cannot collect fee's owed to him for repairs is thru a Repairmens Lien Only. And once the Respondent had already sought monies owed to him in a Repairmens Lien, and failed, and had his one bite had of the apple, then it would be a violation of Appellant's due process to allow him to keep coming back, on counterclaim(s) seeking the same award for damages. Furthermore, there is a S.C. Code of laws that limited Respondent's damages to 500.00 dollars S.C. Code 56-5-5650. See: S.C. Code 29-15-10 Where a Garagemen can only collect fee's owed to him is thru a Repairmens Lien.

So legally the Jury's award was a violation of the law. And even if the Court considers that issue for 56-5-5650 was not raised at trial level. It very much ought to consider that a Garagemen can only collect fee's owed to him on a Repairmen's Lien. And the Respondent did attempt to collect fee's on a Repairmen's Lien. And obtained the title of the vehicle of Appellant's, by providing false information to the Court, and that default judgment granted to him was later set aside thru his own actions of providing false information to the Court. Therefor he should not be allowed to continue to come back into the Court on a counterclaim with the same issues , facts , damages and be awarded anything. That has already been adjudicated in a Court of law already. That's violation of Doctrine of Res Judicata.

#### REPLY TO ISSUE SEVEN

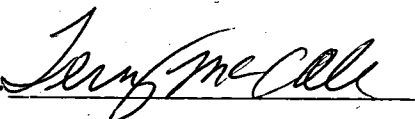
Once again the Appellant states that Respondent has alleged that once the Magistrate set aside the Order of Forfeiture, a New Trial was granted. That is so incorrect. As the Appellant has stated in his earlier reply in issue three, A trial only took place because Appellant had file a Complaint and requested a Trial, and not because he won the Motion to set aside the Judgment. The Motion for relief from Judgment was filed Months after the Complaint had been filed. So appellant does not want the Court to be confussed.

As well as during the appeal in the Circuit Court, the Respondent stated that the Appellant had been served with a Summons and

Complaint, which is totally incorrect. Never was Appellant ever served with a Summons and Complaint. Only a notice letter from Barnes Towing and a Repairmens Lien Affidavit was attempted to be served on Appellant by Respondent. So where this issue stated concerning summons and Complaint is stated to try and confuse the Court. And if the Court looks at S.C. Code 29-15-10 it will see the only way a garagemen can collect fee's owed to him is on a Repairmens Lien, and not on a counter claim.

This case shold be reversed/vacated and new trial granted, or damages granted to Appellant.

dated 10-2-18  
Greenville, S.C.

s.   
Terry McCall #233236  
Livesay Corr. Inst.  
P. O. Box 580  
Una, S.C. 29378

PROOF OF SERVICE

I , the undersigned hereby certify that I have properly served that Appellant's Reply on the parties below by placing the same in the United States Postal Mail Services postage prepaid afixed, and forwarded to the addresses below:

Dated 10-2-18

s. Terry McCall

Terry McCall #233236

Livesay Corr. Inst.

P.O. Box 580

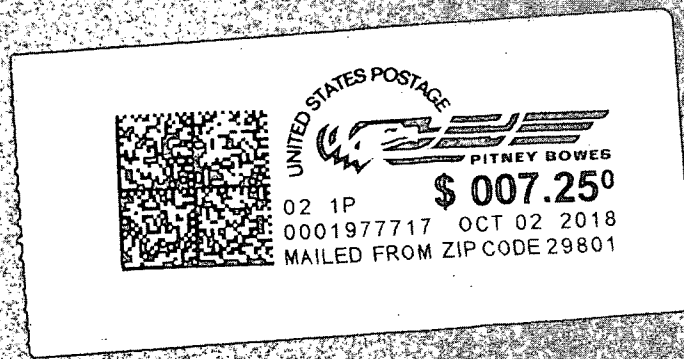
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