

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)

MATHES AUTO SALES, INC.,)
)
 Plaintiff,)
)
 v.)
)
 OTIS MORRIS, JR., PRO BOWL MO-)
 TORS, INC., TRAVELERS CASUALTY &)
 SURETY CO. OF AMERICA, INC., GER-)
 ALD SCOTT DIXON, MICHAEL TYRONE)
 MOORE, and DIXON'S AUTOMOTIVE,)
 LLC,)
)
 Defendants.)

IN THE COURT OF COMMON PLEAS
 CASE NO. 2016-CP-40-06794

RECEIVED
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 SC Court of Appeals

**ORDER ON POST-TRIAL
 MOTIONS**

On June 20, 2018, the Court issued an order for judgment in this matter¹. Therein, the Court granted the Plaintiff's motion and supplemental motion to conform the pleadings to the evidence to add Gerald Scott Dixon ("Dixon") and Michael Tyrone Moore ("Moore") as party defendants; awarded actual damages to the Plaintiff of \$35,368.00 doubled as mandated by S.C. Code Ann. Section 56-15-110(1) to \$70,736.00; concluded that the Plaintiff was entitled to a reasonable award of attorney's fees as mandated by S.C. Code Ann. Section 56-15-110(1); and awarded punitive damages of \$212,208.00, a sum not exceeding three times the actual damages as authorized by S.C. Code Ann. Section 56-15-110(2).

On June 26, 2018, the Plaintiff filed an attorney's fee affidavit. Attached thereto as exhibits were an email from counsel for the Plaintiff to Defendant, Otis Morris, Jr. ("Morris"), a slip summary listing by user, and a slip listing setting forth time spent and expenses incurred in this matter.

On July 2, 2018, Defendants, Dixon, Moore, and Dixon's Automotive, LLC ("Dixon's Automotive"), filed a motion to amend order; the Plaintiff filed a motion for attorney's fees and costs and a motion to alter or amend; and Defendants, Morris and Pro Bowl Motors, Inc. ("Pro Bowl"), filed a notice of motion and motion to amend findings and judgment pursuant to Rule 52 and notice of motion and motion to amend judgment pursuant to Rule 59, SCRCP. On July 3, 2018, Defendant, Travelers Casualty & Surety Co. of America, Inc. ("Travelers"), filed a motion to alter or amend a

¹ A summary of the facts is set forth in this Court's Order Granting Motion For Attorney's Fees And Costs.

judgment and motion for relief from judgment.

This matter came before me on January 3, 2019, for a hearing on all post-trial motions. J. Gregory Studemeyer and Ryan G. Studemeyer were present on behalf of the Plaintiff. H. Ronald Stanley was present on behalf of Morris and Pro Bowl. Leland B. Greeley was present on behalf of Dixon, Moore, and Dixon Automotive.

In its motion, Travelers requested that the Court alter or amend the order for judgment insofar as it related to any finding against Travelers and that the Court otherwise relieve it from the order. The basis of Travelers motion was that it had settled and resolved the Plaintiff's claims against it prior to trial. The Plaintiff's motion to alter or amend also sought in part to vacate the order inadvertently entered against Travelers on the same grounds. Neither counsel for Dixon, Moore, and Dixon Automotive nor counsel for Morris and Pro Bowl objected to Travelers' motion. On that basis, Travelers' motion to alter or amend a judgment and motion for relief from judgment was GRANTED.

In their motion to amend order, Dixon, Moore, and Dixon Automotive sought reconsideration of the Court's prior grant of the Plaintiff's motion to amend the pleadings to conform to the evidence adding Dixon and Moore as parties defendant. Dixon Automotive also sought reconsideration of its motion to dismiss at trial. Likewise, Dixon and Moore sought dismissal of claims against them in their individual capacities and all three of these Defendants raised additional issues on the burden of proof, setoff, malice, and the Court's authority to award punitive damages without a jury. After considering the arguments of counsel, the motion to amend order on behalf of Dixon, Moore, and Dixon Automotive was DENIED.

Next, the Court considered the Plaintiff's motion for attorney's fees and costs. After considering the arguments of counsel, Plaintiff's motion for attorney's fees and costs was GRANTED. The award of attorney's fees and costs will be addressed in a separate order.

Next, the Court considered the Plaintiff's motion to alter or amend. Therein, the Plaintiff sought reconsideration of this Court's award of actual damages. In addition to the damages awarded, the Plaintiff sought lost profits of \$130,326.96. After considering arguments of counsel, the Plaintiff's motion to alter or amend was DENIED.

Finally, the Court considered the motion to amend findings and judgment of Defendants, Morris and Pro Bowl. Therein, Morris and Pro Bowl urged the Court to setoff any settlements between the Plaintiff and Nextgear Capital, Inc. and the Plaintiff and Travelers against any award of actual damages in favor of the Plaintiff before doubling or trebling the award. After considering arguments of counsel, the motion of Morris and Pro Bowl was DENIED.

IT IS THEREFORE ORDERED that judgment be entered in favor of the Plaintiff against Otis Morris, Jr., Pro Bowl Motors, Inc., Gerald Scott Dixon, Michael Tyrone Moore, and Dixon's Automotive, LLC for the sum of \$70,736.00 in actual damages and \$212,208.00 in punitive damages.

IT IS FURTHER ORDERED that judgment in favor of the Plaintiff against Travelers be, and the same hereby is, vacated.

IT IS FURTHER ORDERED that the motion to amend order of Dixon, Moore, and Dixon Automotive is DENIED.

IT IS FURTHER ORDERED that the Plaintiff's motion for attorney's fees and costs is GRANTED and will be addressed in a separate order.

IT IS FURTHER ORDERED that the Plaintiff's motion to alter or amend is DENIED.

IT IS FURTHER ORDERED that the motion to amend findings and judgment of Morris and Pro Bowl is DENIED.

AND IT IS SO ORDERED.

Joseph M. Strickland
Richland County Master in Equity

Columbia, South Carolina

This ___ day of January, 2019



Richland Common Pleas

Case Caption: Mathes Auto Sales Inc vs Nextgear Capital Inc , defendant, et al
Case Number: 2016CP4006794
Type: Order/Supplemental Proceedings Order

It is so Ordered

s/Joseph M. Strickland, 3055