

DOCKET NO: CV-97-0483391-S : SUPERIOR COURT  
CONNECTICUT STATE EMPLOYEES : JD OF NEW BRITAIN  
CREDIT UNION  
VS. :  
CORONA'S AUTO PARTS : OCTOBER 26, 1999

MEMORANDUM OF DECISION

This matter was heard by the undersigned as an attorney trial referee on or about June 11, 1999. I make the following findings of fact:

1. Plaintiff Connecticut State Employees Credit Union is a state chartered credit union located at 84 Wadsworth Avenue, Hartford, Connecticut.

2. Defendant Corona's Auto Parts is a Connecticut corporation with its offices located at 806 Wethersfield Avenue, Connecticut and has been in business since July 1, 1949.

3. On or about June 29, 1989, Patrick McFarlane executed a \$20,000 note in favor of Plaintiff.

4. Plaintiff received a first lien position on a 1989 Jeep Cherokee (VIN: 1J4FJ78L8K1539444) as security for the note.

5. The undersigned assumes the proceeds of the note were used by Patrick McFarlane to purchase the Jeep.

6. Patrick McFarlane defaulted in his payments commencing in October 1992.

7. The Jeep was stolen on the evening of October 27, 1992.

8. The vehicle was towed to Defendant's repair shop on November 28, 1992 at 8:17 a.m. as a recovered and damaged stolen car. The towing was done at the request of the Hartford Police Department.

9. At the time the Jeep was towed, Connecticut law did not require Defendant to notify Plaintiff as a lienholder.

10. Patrick McFarlane paid Defendant \$50 towards the tow.

11. Patrick McFarlane also paid a deposit of \$100 towards getting the Jeep repaired. However, he couldn't afford to pay for the repairs in full.

12. Plaintiff notified Patrick McFarlane of his default under the terms of his note in December 1992 and

by a letter dated January 19, 1993.

13. Patrick McFarlane failed to claim the notice of intent to possess issued by Plaintiff (which was mailed by certified mail, return receipt requested), Plaintiff's Exhibit 11.

14. Patrick McFarlane failed to respond within 15 days.

15. Plaintiff issued a repossession order to Northern Storage and Transport.

16. Northern Storage and Transport acknowledged this order to Plaintiff on February 9, 1993.

17. Northern Storage and Transport reported the Jeep as stolen to Plaintiff in February 1993.

18. In 1992 and 1993, the Department of Motor Vehicles could have told Plaintiff where a stolen vehicle was towed (according to the testimony of Sergeant Keith Framson of the Department of Motor Vehicles). Plaintiff apparently did not make this inquiry.

19. Plaintiff eventually learned where the Jeep was located. Plaintiff certainly knew where the Jeep was

located by April 1993.

20. Plaintiff never demanded possession from Defendant, according to the testimony of Marilyn Lantieri.

21. Plaintiff never demanded possession from Defendant in writing.

22. Plaintiff never demanded possession because it was relying on the Department of Motor Vehicles to recover possession of the Jeep for it.

23. Plaintiff never made an insurance claim for the damage to the Jeep.

24. Defendant offered to return the Jeep to Plaintiff at various times if certain amounts were paid.<sup>1</sup> Plaintiff always declined these offers.

25. Plaintiff never offered to post a bond to obtain possession of the Jeep pursuant to Connecticut General Statutes 49-61(a).

26. There is some confusion about why the Department

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<sup>1</sup> April 20, 1993 Defendant demanded \$3,389.00. Defendant offered to return the car for \$250 on October 26, 1993. Defendant offered to return the car for nothing on May 12, 1997.

of Motor Vehicles had no form H-100 on file. The undersigned has taken judicial notice of the proceedings before the Department of Motor Vehicles and the administrative appeals bearing Hartford Superior Court Docket Nos: CV-96-0562464, CV-95-0555739 and CV-94-0533688. No determination was made during any of these proceedings which is binding on the undersigned, particularly in light of the April 14, 1997 consent settlement agreement (Plaintiff's Exhibit 8).

27. The reason for this confusion is the date the Jeep was abandoned by Patrick McFarlane is not susceptible to ready determination, particularly since Patrick McFarlane did not testify. However, the undersigned finds the Jeep was abandoned on April 1, 1993 at Defendant's premises.

28. The form H-100 was dated May 10, 1993.

29. This constitutes timely and adequate notice under Connecticut General Statutes 14-150(i), particularly in light of the Department of Motor Vehicles' testimony that it takes a considerable amount of time to process its

mail.

30. This action was brought on September 9, 1997.

31. This action is barred by both the statute of limitations and the doctrine of laches.

32. Defendant never stole the Jeep in violation of Connecticut General Statutes 52-564.

33. The Jeep is no longer listed in the NADA guides and is essentially worthless.

34. Plaintiff no longer desires possession of the Jeep.

Judgment shall enter in favor of the Defendant on Plaintiff's complaint.

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Houston Putnam Lowry, Esq.  
Attorney Trial Referee

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was mailed on this 26<sup>th</sup> day of October, 1999 to:

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