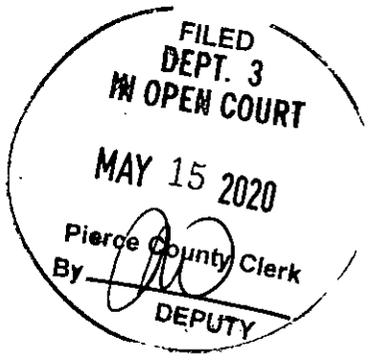


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5/20/2020 2631



The Honorable Michael Schwartz
Noted for Consideration: May 15, 2020 at 9:00 a.m.
With Oral Argument

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE

STATE OF WASHINGTON,

Plaintiff,

v.

BURNS TOWING, INC., and KRISTINE A.
ZACHARY,

Defendants.

NO. 18-2-11257-1

ORDER GRANTING PLAINTIFF STATE
OF WASHINGTON'S MOTION FOR
PARTIAL SUMMARY JUDGMENT

PROPOSED

THIS MATTER came before the undersigned Judge of the above-entitled Court on Plaintiff State of Washington's Motion For Partial Summary Judgment. The Court is familiar with the records and files herein and has considered the following documents:

1. Plaintiff State of Washington's Motion for Summary Judgment;
2. Declaration of John Nelson in Support of Plaintiff State of Washington's Motion for Summary Judgment;
3. Declaration of Eric Peters in Support of Plaintiff State of Washington's Motion for Summary Judgment;
4. Response of Kristine Zachary and Burns Towing Inc. In Opposition to Plaintiff's Motion for Summary Judgment;

ORDER GRANTING PLAINTIFF STATE OF
WASHINGTON'S MOTION FOR SUMMARY
JUDGMENT - 1

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1301 A Street, Suite 900
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p. 253-328-7800 • f. 253-272-0386

1 5. Declaration of James B. Meade in Support of Response of Kristine Zachary and
2 Burns Towing Inc. In Opposition to Plaintiff's Motion for Summary Judgment;

3 6. Declaration of Kristine Zachary in Support of Response of Kristine Zachary and
4 Burns Towing Inc. In Opposition to Plaintiff's Motion for Summary Judgment;

5 7. Declaration of Peter Lukevich in Support of Response of Kristine Zachary and
6 Burns Towing Inc. In Opposition to Plaintiff's Motion for Summary Judgment;

7 8. Supplemental Response of Burns Towing, Inc in Opposition to Motion for
8 Summary Judgment; and

9 9. State's Reply in Support of Plaintiff State of Washington's Motion for
10 Summary Judgment.

11 The Court having heard the arguments of counsel and being fully advised in the premises,
12 now, therefore, it is hereby

13 ORDERED that Plaintiff's Motion for Partial Summary Judgment is GRANTED in
14 finding that:

15 (1) Burns Towing's failure to verify the military status of registered owners of
16 vehicles impounded by and later sold by it at auction violates the Consumer Protection Act
17 (CPA) and the WSCRA;

18 (2) Burns Towing's sale of vehicles owned by active duty servicemembers without
19 court orders violated the CPA and WSCRA;

20 (3) Burns Towing is enjoined and restrained from engaging in violations of the
21 CPA or WSCRA as described above and must at least obtain a provisional DOD certificate
22 before proceeding to auction vehicles;

23 (4) Even though it is admitted that Kristine Zachary, the sole shareholder of Burns
24 Towing, Inc. and person in control of managing Burns Towing, did not know about the
25

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1 WSCRA application to RCW 46.55.130 required auction of vehicles, she is personally liable
2 under the CPA for damages to be determined at trial;

3 (5) Defendants shall pay restitution to all service members who suffered financial
4 loss as a result of the unlawful sales in an amount to be determined at trial; and

5 (6) An award of civil penalties and an award of the State's reasonable costs and
6 attorneys' fees in an amount to be determined at a later proceeding.

7 DATED this 15 day of May, 2020.

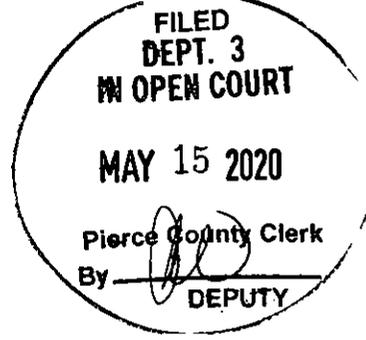
8 *M. A. J.*

9 The Honorable Michael Schwartz

10 Presented by:

11 FAIN ANDERSON VANDERHOEF
12 ROSENDAHL O'HALLORAN SPILLANE, PLLC

13 By: s/James B. Meade, WSBA #22852
14 James B. Meade, WSBA #22852
15 Attorneys for Defendant KRISTINE A. ZACHARY



16 Approved as to Form and Notice of Presentment
17 Waived:

18 ATTORNEY GENERAL OF WASHINGTON - CONSUMER PROTECTION DIVISION

19 By: _____
20 John A. Nelson, WSBA #45724
21 Attorneys for Plaintiff

22 By: _____
23 Peter Lukevich, WSBA # 18979
24 Attorneys for Defendant Burns Towing, Inc.
25

ORDER GRANTING PLAINTIFF STATE OF
WASHINGTON'S MOTION FOR SUMMARY
JUDGMENT - 3

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