



1 servicemembers, and Joint Base Lewis-McChord alone represents the largest employer in the  
2 county, and the third largest employer in the State.<sup>1</sup>

3 1.2. Washington servicemembers who are called to active duty have important legal  
4 protections under the Washington State Service Members' Civil Relief Act (WSCRA),  
5 RCW 38.42, and its federal analogue, the Servicemembers Civil Relief Act (SCRA), 50 U.S.C.  
6 §§ 3901-4043. As the United States Supreme Court explained 75 years ago, the purpose of these  
7 types of laws is to "protect those who have been obliged to drop their own affairs to take up the  
8 burdens of the nation." *Boone v. Lightner*, 319 U.S. 561, 575 (1943). In a 2014 amendment to  
9 the WSCRA, the Washington Legislature changed the WSCRA to make violations of the federal  
10 SCRA violations of State law. It also granted the Washington Attorney General authority to  
11 investigate and prosecute violations of the WSCRA.

12 1.3. One of the many legal protections afforded under the SCRA is the requirement that  
13 a person or entity holding a lien on the property or effects of an active duty servicemember—  
14 including a towing company holding a storage lien against a motor vehicle — must obtain a court  
15 order prior to enforcing the lien and selling a motor vehicle at auction.

16 1.4. Determining whether the registered owner of a vehicle is an active duty  
17 servicemember is a straightforward process. The United States Department of Defense operates  
18 an online database where, using an individual's date of birth and/or Social Security number, any  
19 person or business can verify military status instantly, and for no cost.<sup>2</sup> The photo below captures  
20 this process.

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25 <sup>1</sup><https://dennyheck.house.gov/media-center/in-the-news/jblm-northwest-guardian>

26 <sup>2</sup><https://scra.dmdc.osd.mil/scra/#/single-record>



## Single Record Request

Use this page to request a Certificate verifying Active Duty Status for an individual on a specified date.

\*Indicates a required field. Please note for a single record request, an SSN OR Birthdate is required. You may also enter BOTH an SSN and Birthdate.

\*SSN

\*Repeat SSN

\*Birth Date

### Tips & Notes

- Without a Social Security Number, DMDC cannot authoritatively assert that this is the same individual that your query refers to. Name and date of birth alone do not uniquely identify an individual.
- Check your data entry before submitting it.
- Response may take up to 15 seconds after clicking "Submit".

### Resources

- Download Adobe Reader
- Unexpected Results?

1.5. In the event that a person or entity seeking to enforce a lien does not have a Social Security number or date of birth, it may attempt to obtain an individual's military status for a fee by using a private database or service to learn this information.<sup>3</sup>

1.6. If, after using the Department of Defense database or another service, a towing company learns that the registered owner of a vehicle is an active duty servicemember, under the SCRA, it must obtain a court order before it sells an impounded vehicle at auction.

1.7. As noted above, there are important reasons for this special protection. Among others, because active duty servicemembers often serve in distant, remote locations where receiving mail may be difficult, if not impossible, a servicemember may not receive prompt notification that his or her vehicle is impounded and scheduled to be sold. To address this, prior

<sup>3</sup> See, e.g., <https://www.servicememberscivilreliefact.com/>

See also <https://www.corelogic.com/products/verification-of-military-status.aspx>

1 to issuing an order allowing for the sale of a servicemember's vehicle, a court could stay the  
2 proceedings until a servicemember returns from deployment or is otherwise able to appear.

3 1.8. However, despite a large military presence within Pierce County—and the  
4 increased possibility that a towed vehicle may be owned by an active duty servicemember—  
5 upon information and belief, prior to enforcing storage liens under RCW 46.55, Tacoma towing  
6 operator Burns Towing, Inc. regularly fails to (1) determine whether the registered owner of a  
7 motor vehicle is an active duty servicemember, and (2) obtain a court order prior to enforcing a  
8 lien.

9 1.9. In one recent instance occurring in April, without first obtaining a court order,  
10 Burns Towing impounded, and later sold a motor vehicle owned by a Naval Petty Officer who  
11 was deployed at sea on the U.S.S. John C. Stennis. Shockingly, after being contacted by both a  
12 Navy Legal Assistance Attorney representing the Petty Officer whose car was sold at auction,  
13 and the Attorney General's Office (after the servicemember submitted a complaint to the State),  
14 Burns Towing failed to properly account for its violation of the law by making the  
15 servicemember whole for the loss of his vehicle.

16 1.10. By failing to obtain court orders before auctioning, selling, or otherwise disposing  
17 of the motor vehicles and personal effects of protected servicemembers, Burns Towing prevents  
18 servicemembers from obtaining a court's review—a protection afforded to servicemembers  
19 under the law—to determine whether the lien sale should be delayed or adjusted to account for  
20 their military service.

## 21 II. PARTIES

22 2.1. The Plaintiff is the State of Washington (State). The Attorney General is  
23 authorized to commence this action pursuant to RCW 38.42.140 and RCW 19.86.080.

24 2.2. Defendant Burns Towing, Inc. (Burns) is a Washington corporation whose  
25 principal place of business is located at 6454 McKinley Ave. East, Tacoma, Washington 98404.  
26

1 In addition to its McKinley Ave. location, Burns conducts towing operations at an additional  
2 location in Lakewood, and operates an abandoned auto auction facility in Tacoma.

3 2.3. Defendant Kristine A. Zachary (Zachary) is president and owner of Burns. At all  
4 times relevant to this lawsuit, Zachary was in charge of day-to-day operations of Burns. Upon  
5 information and belief, Zachary controlled and supervised the acts, practices, and omissions of  
6 Burns which give rise to this action. Zachary is sued both in her individual capacity and in her  
7 capacity as president and owner of Burns.

8 2.4. Defendants Burns Towing, Inc. (Burns), and Kristine A. Zachary (Zachary) are  
9 collectively referred to as "Defendants."

### 10 III. JURISDICTION AND VENUE

11 3.1 The State files this complaint and institutes these proceedings under the  
12 provisions of the Service Members' Civil Relief Act, RCW 38.42, and the Consumer Protection  
13 Act, RCW 19.86.

14 3.2 Burns has engaged in the conduct set forth in this complaint in Pierce County by  
15 towing vehicles, impounding vehicles, and selling vehicles in Tacoma and other cities within the  
16 County.

17 3.3 Venue is proper in Pierce County pursuant to RCW 4.12.020 and 4.12.025  
18 because Burns transacts business in Pierce County, and provides consumers with an address in  
19 Pierce County.

### 20 IV. NATURE OF TRADE OR COMMERCE

21 4.1 Burns, at all times relevant to this action, has been engaged in trade or commerce  
22 within the meaning of RCW 19.86.020, by operating towing and roadside assistance services to  
23 Washington consumers.

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**V. FACTS**

**A. Burns Towing**

5.1 As a full service towing company, Burns operates a large fleet of tow trucks within Pierce County, Washington, and provides towing and other roadside assistance. It advertises its services multiple ways, including on its website, <https://www.burnstowing.com>, and via Facebook, <https://www.facebook.com/BurnsTowing/>.

5.2 Upon information and belief, Burns has towing contracts with multiple Pierce County property owners, including many large apartment communities. These contracts allow Burns to tow and impound motor vehicles at the request of a respective property owner.

5.3 Upon information and belief, Burns is also one of the towing companies with whom the Tacoma Police Department contracts for the towing and storage of abandoned or disabled motor vehicles.

**B. Burns' Storage and Sale of Impounded Vehicles**

5.4 After an abandoned motor vehicle is taken into custody by Burns, in accordance with RCW 46.55.110, it sends a written notice of abandoned vehicle by registered or certified mail to the person(s) identified as the registered owner(s) in the Department of Licensing database. After receiving notice of the impound, a registered owner may recover his or her vehicle by paying all outstanding towing and storage fees.

5.5 Under RCW 46.55.130, if a motor vehicle is not reclaimed by the owner within 15 days of the date the notice was mailed, the vehicle can be disposed of by public auction after a public advertisement. Any amount realized by Burns at auction is applied to outstanding towing and storage fees.

5.6 Impounded vehicle auctions are a significant part of Burns' business. The company owns and operates a vehicle auction facility located at 7401 McKinley Ave. in Tacoma, Washington. On a monthly basis, Burns conducts large-scale vehicle auctions. For example, an

1 announcement regarding a September 11, 2018, auction, attached as **Exhibit 1** to this Complaint,  
2 lists 55 vehicles to be sold.

3           5.7     However, despite impounding and selling hundreds of vehicles a year, based upon  
4 information and belief, prior to selling vehicles at auction, Burns fails to search the free,  
5 publically-available Department of Defense online database,  
6 <https://scra.dmdc.osd.mil/scra/#/single-record>, to determine whether the respective registered  
7 owners are active duty servicemembers. Based upon information and belief, Burns also fails to  
8 verify the military status of a registered owner using a private service or database. Thus, given  
9 Pierce County's large active duty servicemember population, every time Burns sells a motor  
10 vehicle at auction, there is a risk that the registered owner may be an active duty servicemember.

11 **C.     The Unlawful Sale of Petty Officer Second Class Alex Vaughn's Chevrolet Malibu**

12           5.8     Alex Vaughn is a Petty Officer Second Class (PO2) in the United States Navy.  
13 At all times relevant to this action, PO2 Vaughn was an active duty servicemember.

14           5.9     At all times relevant to this lawsuit, PO2 Vaughn's motor vehicle was registered  
15 in Washington.

16           5.10    From March 2018 through May 2018, PO2 Vaughn was deployed at sea. While  
17 PO2 Vaughn was deployed at sea, on April 18, 2018, Burns towed and impounded PO2  
18 Vaughn's 2011 Chevrolet Malibu, which was parked in Tacoma, Washington.

19           5.11    After impounding the Chevrolet Malibu, Burns sent a "custody and sale notice"—  
20 which was returned as unclaimed—to the Bremerton, Washington, address at which PO2  
21 Vaughn had registered his motor vehicle. Burns sent another certified letter to Navy Federal  
22 Credit Union, the lien holder and legal owner of the motor vehicle.

23           5.12    When no party redeemed PO2 Vaughn's vehicle, Burns unlawfully sold the car  
24 without making any effort to determine the military status of the registered owner, and without  
25 obtaining a court order from a Pierce County court.

1 **D. When Confronted About its Unlawful Sale, Burns Failed To Help PO2 Vaughn**

2 5.13 This Complaint is not the first time Burns was notified of its unlawful actions. On  
3 two separate occasions, Burns was notified that its sale of PO2 Vaughn's vehicle was unlawful—  
4 first when his Navy Legal Assistance Attorney contacted it via a letter (*see Exhibit 2* attached  
5 hereto), and second when the Attorney General sent a letter to Burns after receiving a complaint  
6 from the servicemember.

7 5.14 In the first instance, Burns ignored PO2 Vaughn's attorney. In the second  
8 instance, Defendant Kristine Zachary personally responded to the Attorney General, but in her  
9 email, denied wrongdoing. Instead, Zachary blamed both the servicemember and Navy Federal  
10 Credit Union, explaining in part, "*We have no record of any notification that the [PO2 Vaughn]*  
11 *was in the military service at the time... At any time the legal owner (Navy Federal Credit*  
12 *Union) had the opportunity to redeem the vehicle, however they chose not to.*" (emphasis  
13 added). A copy of Burn's response is attached to this Complaint as **Exhibit 3**.

14 5.15 Burns' response to the Attorney General is important for two reasons. First, it is  
15 the person who is seeking to enforce a storage lien who has the obligation to determine whether  
16 the registered owner of a vehicle is on active duty, *not* the servicemember. Such a statement  
17 clearly demonstrates Burns' lack of awareness regarding important laws protecting Washington  
18 servicemembers. Second, in its response, Burns blames Navy Federal Credit Union (whose  
19 stated vision is to "be the most preferred and trusted financial institution serving the military and  
20 their families") for failing to redeem the vehicle.<sup>4</sup> But based on the name of the lender alone,  
21 Burns should have known that there was a high likelihood that the vehicle had been financed by  
22 an active duty servicemember.

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<sup>4</sup> <https://www.navyfederal.org/>

1 **VI. FIRST CAUSE OF ACTION**

2 **(VIOLATIONS OF THE SERVICE MEMBERS' CIVIL RELIEF ACT, RCW 38.42)**

3 6.1 Plaintiff re-alleges Paragraphs 1.1 through 5.15 and incorporates them as if fully  
4 set forth herein.

5 6.2 Defendants have unlawfully enforced liens on the property or effects of active  
6 duty servicemembers by selling impounded motor vehicles at auction without authorizing court  
7 orders, in violation of 50 U.S.C. § 3958.

8 6.3 Violations of the Servicemembers Civil Relief Act, 50 U.S.C. § 3901-4043,  
9 constitute violations of State law. *See* RCW 38.42.120.

10 6.4 Protecting deployed servicemembers from the execution of illegal storage liens  
11 is an issue of significant public importance under RCW 38.42.140.

12 **VII. SECOND CAUSE OF ACTION**

13 **(VIOLATIONS OF THE CONSUMER PROTECTION ACT, RCW 19.86)**

14 7.1 Plaintiff re-alleges Paragraphs 1.1 through 6.4 and incorporates them as if fully  
15 set forth herein.

16 7.2 Defendants engage in unfair and deceptive acts or practices within the meaning  
17 of RCW 19.86.020 by failing to use either the Department of Defense database or a private  
18 service to verify the military status, if any, of the registered owners of motor vehicles impounded  
19 and sold by them.

20 7.3 Defendants' business practices have the capacity to deceive a substantial number  
21 of consumers, including Washington active duty servicemembers, because (1) Pierce County is  
22 home to thousands of servicemembers, the vast majority of whom own and operate motor  
23 vehicles, and (2) Defendants tow, impound, and sell at auction, hundreds of motor vehicles each  
24 year.

25 7.4 Defendants' actions affect the public interest because, based upon information  
26 and belief, they repeatedly engaged in the conduct described above over a multi-year period.





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# Exhibit 1

## AUCTION LIST FOR 9/11/2018

LOT#	YEAR / MAKE / MODEL / COLOR	LICENSE PLATE / VIN
1	1 1999 / DODGE / DAKPU / WHITE.	C40226H . / 1B7FL26X8XS2312
2	4 1997 / CHEV / ASTRO / WHITE	AJK6509 / 1GCDM19W0VB150317
3	1 2001 / OLDSMOBILE / AURORA / BLACK	BEB1540 / 1G3GR64H514119096
4	4 1984 / SOUTHWIND / MOTORHOME / BRN/CREAM	NONE / UNKNOWN
5	1 1993 / FORD / ESCORT WAGON / WHITE	AXU7305 / 1FAPP15JXPW331036
6	1 2001 / MITSUBISHI / ECLIPSE / RED	AVE2742 / 4A3AC44G71E142678
7	4 2001 / FORD / EXPEDITION / GREEN	BEY7901 / 1FMPU16L411A27501
8	4 1999 / CHEVROLET / LUMINA / RED	B23XLX / 2G1WL52M7X1105317
9	4 1998 / HONDA / ACCORD / SILVER	AIA6537 / 1HGCG5652WA192549
10	4 1999 / FORD / MUSTANG / WHITE	AZK8973 / 1FAFP4042XP187061
11	1 1997 / DODGE / GRAND CARAVAN / GREEN	BGU1007 / 2B4GP44R9VR259686
12	4 2004 / KIA / SEDONA / PURPLE	AES0254 / KNDUP131746565470
13	1 2003 / CHEVROLET / VENTURE / GOLD	NO PLATES / 1GNDX03E33D111621
14	1 1990 / HONDA / ACCORD / BROWN	AHK2587 / 1HGCB715XLA027197
15	1 2000 / FORD / EXPLORER / GREEN	BKA3895 / 1FMZU63P9YZA25022
16	4 2000 / CHRYSLER / TOWN AND COUNTRY / WHITE	BJH8806 / 1C4GP54L6YB635283
17	1 2004 / NISSAN / MURANO / GRAY	BJF4723 / JN8AZ08T94W210855
18	1 1999 / PONTIAC / BONNEVILLE / GREEN	BCB1998 / 1G2HX52K1XH248560
19	1 2008 / KIA / SPECTRA / WHITE	832YHP / KNAFE122085584153
20	4 2000 / CADILLAC / ELDORADO / RED	BKN9722 / 1G6EL12Y6YB702008
21	1 1995 / CHEV / TAHOE / BLUE	AGD9971 / 1GNEK13K3SJ418611
22	1 2000 / MERCEDES / E / GOLD	BJH6733 / WDBJF70J8YB163417
23	1 2006 / HONDA / RIDGELINE / BLUE	C07996G / 2HJYK16556H548744
24	1 1985 / FORD / CLUB WAGON / WHITE	B21942Y / 1FBHS31G6FHB09006
25	1 1983 / MERCEDES-BENZ / 300 / SILVER	AZD9560 / WDBAB33A2DB028427
26	1 2004 / ACURA / TL / SILVER	AXL4817 / 19UUA66204A057858

## AUCTION LIST FOR 9/11/2018

LOT#	YEAR / MAKE / MODEL / COLOR	LICENSE PLATE / VIN
27	1 2009 / CHEVROLET / IMPALA / WHITE	6RDG892 / 2G1WT57N791154103
28	1 1998 / CHEVY / BLAZER / WHITE	488169B / 1GNDT13W6WK180751
29	1 1999 / HONDA / ACCORD / SILVER.	BFS0889 . / JHMC5654XC03151
30	1 1996 / LEXUS / ES300 / WHITE	654ZQW / JT8BF12G3T0168693
31	1 1998 / KIA / SEPHIA / SILVER	AQN4616 / KNAFB1212W5742988
32	4 1997 / HONDA / CIVIC / SILVER	BBN8176 / 1HGEJ6126VL057171
33	4 1982 / FORD / F250 / BLUE	UNKNOWN / 1FTFF25F7CRA32750
34	1 1996 / NISSAN / SENTRA / RED	BEU0818 / 1N4AB41D2TC740777
35	4 1999 / MERCEDES-BENZ / M-CLASS / SILVER	BEX1300 / 4JGAB54E2XA139662
36	4 2016 / CHEVROLET / IMPALA LIMITED / SILVER	BGU5246 / 2G1WB5E32G1106476
37	4 1992 / VOLVO / 740 / BLACK	BDD4065 / YV1FW870XN2354076
38	4 UNKNOWN / EL DORADO / UNKNOWN / TAN	UNKNOWN / UNKNOWN
39	4 2007 / CHEV / MALIBU / WHITE	960XRQ / 1G1ZS58F87F129322
40	4 1998 / GMC / JIMMY / TAN	181VHU / 1GKDT13WXW2553299
41	1 2016 / CHEVROLET / IMPALA LIMITED / WHITE	BLB9043 / 2G1WB5E30G1181547
42	4 1989 / FORD / RANGER / BLACK	B55700H / 1FTCR15T5KPB18938
43	4 1998 / JEEP / GRAND CHEROKEE / BLACK	BIW3031 / 1J4GZ58S8WC112585
44	1 2003 / CADILLAC / ESCALADE / SILVER	BIK8505 / 1GYEK63NX3R183041
45	1 1990 / TOYOTA / PU / BLACK/GREY	C93213L / JT4RN93PXL5016820
46	1 2002 / HONDA / ODYSSEY / GOLD	AA7378 / 2HKRL18922H008078
47	1 2013 / HONDA / NC700X / BLACK	ALD32 / JH2RC6313DK100293
48	4 UNKNOWN / DODGE / SPORTSMAN F40 / TAN	DNS307 / F44CD7V052874
49	4 1994 / HONDA / ACCORD / BLUE.	.AUS6524 / 1HGCD7146RA009628
50	1 1999 / FORD / ESCORT / WHITE	BJF7806 / 1FAFP13P2XW268713
51	1 2003 / FORD / RANGER / BLACK	184HRJ / 1FTYR14V43PA66793
52	4 1992 / NISSAN / NX / RED	AAN7074 / JN1GB36C8NU103150

### AUCTION LIST FOR 9/11/2018

LOT #	YEAR / MAKE / MODEL / COLOR	LICENSE PLATE / VIN
53	4 1995 / VOLKSWAGON / JETTA / GREEN	APW7997 / 3VWRC81H1SM051053
54	4 2001 / HONDA / ACCORD / TAN	N/A. / 1HGCG16561A046902
55	4 1994 / CHEVY / BLAZER / MAROON	BAL0902 / 1GNDT13W2R0169438

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# Exhibit 2



**REGION LEGAL SERVICE OFFICE NORTHWEST**

**LEGAL ASSISTANCE DEPARTMENT**

Branch Office Bangor  
1001 Tautog Circle  
Silverdale, WA 98315-6305  
Phone: (360) 396-6003 DSN: 744  
Fax: (360) 396-7088

5800  
Ser 011  
June 26, 2018

Burns Towing, Inc.  
6454 McKinley Ave. E  
Tacoma, WA 98404

Re: EMN2 Alex Vaughn, U.S. Navy – VIN # 1G1ZA5E10BF282703

Dear Burns Towing,

I am assisting Petty Officer Second Class Alex Vaughn, U.S. Navy, in my capacity as a legal assistance attorney.

Please be advised that Petty Officer Vaughn is currently on active duty with the U.S. Navy and has been on active duty since December 10, 2012. I have enclosed a copy of the Department of Defense Manpower Data Center Certificate proving Petty Officer Vaughn's active duty status. During the months of March, April, and May, Petty Officer Vaughn was deployed with his command.

Also enclosed, is the Lien and Title Information Report for Petty Officer Vaughn's vehicle. This shows that Navy Federal Credit Union still holds a lien on his vehicle. Therefore, any sale of a storage lien on the vehicle would be invalid.

As I am sure you are aware, the Service Member's Civil Relief Act, 50 U.S. Code § 3958, prevents sale of a storage lien of an active duty service member. The violation of this section may result in a fine or confinement for not more than one year, or both as seen in the enclosed press release with regard to the U.S. Department of Justice's recent settlement agreement with a towing company.

If you could please contact me at (360) 396-6037 or sarah.j.trent1@navy.mil, we are interested in discussing the recovery of the financial loss to Petty Officer Vaughn. As Petty Officer

*This letter is written by a legal assistance attorney on behalf of an individual client, and does not represent an official position of the Navy or the United States Government.*

Vaughn is set to deploy for an extended period of time beginning next month, I would greatly appreciate your prompt attention to this matter.

Sincerely,

---

SARAH J. TRENT  
Lieutenant Junior Grade, JAGC, U.S. Navy  
Legal Assistance Attorney

Enclosures: 1. DMDC Certificate  
2. Lien and Title Report  
3. DOJ Publication

Copy to: Client  
File

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# Exhibit 3

From: kris@burnstowing.com <kris@burnstowing.com>  
Sent: Monday, August 06, 2018 1:57 PM  
To: ATG MI CRC Complaint Processing <CRCComplaints@ATG.WA.GOV>  
Subject: RE: 533971 : A notice from the Washington State Attorney General's Office

To Whom This May Concern regarding file #533971:

I would like to start this email off with my apologies for not responding sooner and also the comment that Mr. Vaughn has never contacted this office for an explanation of the impound and auctioning of his vehicle.

The situation with this vehicle is a bit long, however I will do my best to keep this reply as brief, yet thorough as possible.

The vehicle was impounded on 4/18/18 by the Tacoma Police Department. We then sent out a 24 hour notice to Mr. Vaughn as required by RCW 45.55 as well as Navy Federal Credit Union, who was the legal owner of the vehicle. Both 24 hour notices were returned. After 5 days the vehicle is considered abandoned and at that point we sent out our "custody and sale notice" to both Mr. Vaughn and Navy Federal credit union by Certificate of Mailing. Mr. Vaughn's was returned but Navy Federal Credit Union was not. We have no record of any notification that the R/O was in the military service at the time. The vehicle was abandoned in Tacoma Washington and was registered with a Bremerton Washington address. At any time the legal owner (Navy Federal Credit Union) had the opportunity to redeem the vehicle, however they chose not to. Mr. Vaughn states that the vehicle was sold at auction shortly after his return, which shows that he was no longer deployed at the time that the vehicle was auctioned off.

I have attached a copy of the Certificate of Mailing to show that we did our due diligence to contact both the R/O and L/O.

Please feel free to contact me or my office manager Darrin at 253-472-4496 with any further questions.

Regards,  
Kris Zachary, Pres.

Respectfully,  
Kris Zachary, Owner  
Burns Towing Inc.  
24 Hour Towing Services

6454 McKinley Avenue  
Tacoma, WA 98404  
Phone: (253) 472-4496  
Cell: (253) 380-8023  
Fax: (253) 474-9695

This electronic message transmission contains information from Burns Towing Inc. which may be confidential or privileged. Recipients should not file copies of this e-mail with publicly accessible records. The information is intended to be for the use of the individual(s) named

533971

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