

STATE OF NORTH CAROLINA
COUNTY OF CABARRUS

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
14 CVS 3618

BK RACING, LLC,

Plaintiff,

v.

RACE ENGINES PLUS, LLC, CUSTOM
CAR COMPANY, INC. and JOEY
ARRINGTON,

Defendants/Third-Party Plaintiffs,

v.

RONALD DEVINE,

Third-Party Defendant.

JUDGMENT

FILED IN COURTROOM
CABARRUS COUNTY

DATE: 1-3-17

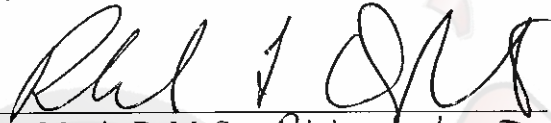
BY: [Signature]
Accts. Deputy Clerk

THIS MATTER coming before the Court on the Defendants' motion to confirm a binding arbitration award upon the parties' agreement to hear this matter out of session and the Court having considered said award, which is attached hereto as Exhibit A and is hereby incorporated by reference, and upon no objection being received from the Plaintiff, the Court hereby enters judgment in accordance with the decision of the binding arbitration.

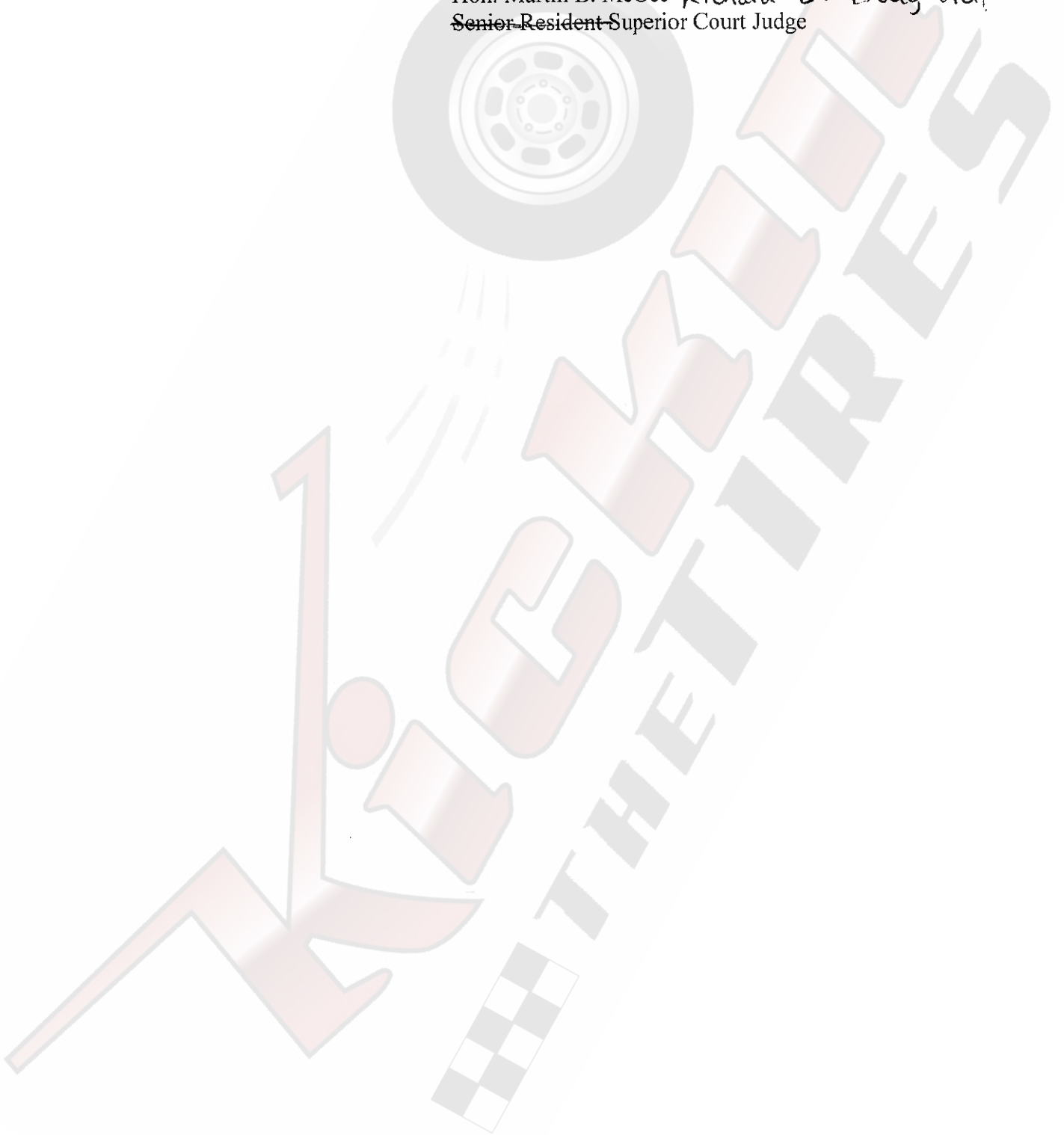
WHEREFORE, the Court ORDERS ADJUDGES AND DECREES AS FOLLOWS:

1. Pursuant to N.C. Gen. Stat. § 1-569.22 et seq., the Court orders judgment be entered against BK Racing, LLC ("BK Racing") and in favor of Defendants Race Engines Plus, LLC ("REP") and Custom Car Company, Inc. ("CCC") in the total amount of \$1,462,648.00, with interest earned at the legal rate from December 12, 2016 until satisfied;
2. REP represents to the Court that it has released to BK Racing all of BK Racing's engines and engine parts that it has identified in its possession, pursuant to the requirements of the Amended Arbitration Award. In the event additional inventory belonging to BK Racing is discovered in its possession, REP and CCC are ordered to notify BK Racing and make said property immediately available for pickup; and
3. All claims, counterclaims and third party claims asserted in this action, including but not limited to those asserted against Third Party Defendant Ron Devine and Defendant Joey Arrington are dismissed, with prejudice.

So ordered, this the 3 day of January, 2017.



Hon. ~~Martin B. McGee~~ Richard L. Doughton,
Senior Resident Superior Court Judge



A

STATE OF NORTH CAROLINA
COUNTY OF CABARRUS

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
14-CVS-3618

BK RACING, LLC,
Plaintiff,
vs.
RACE ENGINES PLUS, LLC, CUSTOM
CAR COMPANY, INC., and JOEY
ARRINGTON,
Defendants.

AMENDED ARBITRATION
DECISION AND AWARD

Pursuant to that Arbitration Agreement (the "Agreement") entered into by and between BK Racking, LLC ("BK Racing"), Ronald C. Devine ("Devine"), Race Engines Plus, LLC ("REP"), Custom Car Company, Inc. ("CCC")(collectively, REP and CCC are referred to herein as "REP Entities" or "Defendants"), and Joey Arrington ("Arrington") on or about March 10, 2016, the Arbitration Panel agreed upon by the Parties comprised of Arbitrators Raymond E. Owens, Jr., Charles V. Tompkins, Jr., and Jason B. James (the "Panel"), commenced the hearing in this matter beginning on October 24, 2016 at the offices of James McElroy & Diehl, P.A. (the "Hearing"). Having carefully reviewed the briefs submitted by the Parties, as well as the testimony presented at the Hearing, the arguments of counsel, and all of the documentary evidence submitted by the Parties in this matter, the Panel, in accordance with Sections 23, 24, and 27 of the Agreement, hereby enters this unanimous AMENDED Arbitration Decision and Award, *nunc pro tunc*, effective as of December 12, 2016 and Orders as follows¹:

¹ With the consent of the Parties and as discussed in the Parties' December 14, 2016 telephone conference with the Panel, this Amended Arbitration Decision and Award is being entered to correct Issue No. 4 in the Original Arbitration Decision and Award entered on December 12, 2016.

A. All claims alleged against the individual defendants Devine and Arrington are dismissed with prejudice;

B. With respect to the Issues agreed upon by the Parties to be decided by the Panel, the Panel Orders as follows:

1. For the 2013 race season, are Defendants entitled to recover approximately \$537,000 from BK Racing? Alternatively, is BK Racing entitled to a credit for amounts paid in 2013 for its engine program, which payments were above and beyond the \$2.4 million original “contract” amount?

Answer: YES. The REP Entities are entitled to recover \$537,386 from BK Racing with pre-judgment interest at the rate of 8% per annum from January 1, 2014, a per diem rate of \$117.78, for pre-judgment interest totaling \$126,735 through December 12, 2016, and a total award of \$664,121 with interest thereon at the legal rate of 8% from December 12, 2016.

2. For the 2014 race season, are Defendants entitled to recover from BK Racing taxes, insurance, and a “fair rental value” for the real estate and / or personal property? If so, what amount(s)?

Answer: YES as to the real estate and NO as to the taxes, insurance and fair rental value for the personal property. The REP entities are entitled to recover a fair rental value for the real estate in a monthly amount of \$23,400 for eleven (11) months in 2014 for a total principal amount of \$257,400, with pre-judgment interest at the rate of 8% per annum from January 1, 2015, a per diem rate of \$56.41, for pre-judgment interest totaling \$40,112 through December 12, 2016, and a total award of \$297,512 with interest thereon at the legal rate of 8% from December 12, 2016. The REP entities are not entitled to recover amounts from BK Racing for taxes, insurance, and/or the fair rental value of any personal property.

3. For the 2014 race season, is REP entitled to recover approximately \$286,000 from BK Racing for parts utilized in BK Racing's engines?

Answer: YES. The REP entities are entitled to recover from BK Racing the principal amount of \$286,128 with pre-judgment interest at the rate of 8% per annum from January 1, 2015, a per diem rate of \$62.71, for pre-judgment interest totaling \$44,589 through December 12, 2016, and a total award of \$330,717 with interest thereon at the legal rate of 8% from December 12, 2016.

4. Did Defendants wrongfully withhold BK Racing's engines and engine parts during the 2014 off-season? If so, what damages is BK Racing entitled to recover?

Answer: NO.

5. For the 2015 race season, is REP entitled to recover approximately \$230,000 that it claims is owed?

Answer: YES. The REP entities are entitled to recover from BK Racing the principal amount of \$158,466 with pre-judgment interest at the rate of 8% per annum from May 21, 2015, a per diem rate of \$34.73, for pre-judgment interest totaling \$19,832 through December 12, 2016, and a total award of \$178,298 with interest thereon at the legal rate of 8% from December 12, 2016.

6. Did Defendants wrongfully withhold BK Racing's engines and engine parts following the parties' split in April 2015? If so, what damages is BK Racing entitled to recover?

Answer: NO.

7. Is BK Racing entitled to the immediate return of its engine/engine parts?


Answer: YES. It is hereby Ordered that the REP Entities are to release BK Racing's engine/engine parts within 15 days from December 12, 2016 or as otherwise agreed upon by the

Parties. The engine/engine parts shall be made available for BK Racing to pick up at REP's facility, and BK Racing shall be responsible for its costs in retrieving the engine/engine parts.

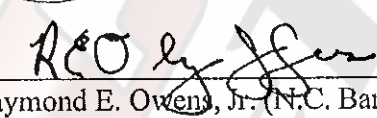
8. Finally, in addition to the above-claimed damages, each side claims an entitlement to treble damages and attorneys' fees under Chapter 75.

Answer: The Parties' respective Chapter 75 claims are hereby dismissed with prejudice. The Parties are not entitled to recover attorneys' fees and treble damages under Chapter 75. The Panel, in its discretion and pursuant to Section 23(e) of the Agreement, hereby assesses the cancellation fee previously paid by BK Racing in this matter in the amount of \$8,000 against the REP Entities, which shall result in a credit to BK Racing for its share of the cancellation fee paid reducing the total award to the REP Entities by the amount of \$8,000.

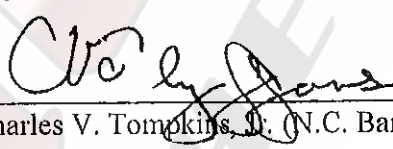
SO ORDERED this the 14th day of December, 2016, at Charlotte, Mecklenburg County, North Carolina.



Jason B. James (N.C. Bar No. 27910)

REC by Jason w/ express permission


Raymond E. Owens, Jr. (N.C. Bar No. 8459)

CV by Jason w/ express permission


Charles V. Tompkins, Jr. (N.C. Bar No. 1393)