

STATE OF NORTH CAROLINA

FILED

IN THE GENERAL COURT OF JUSTICE

SUPERIOR COURT DIVISION

WAKE COUNTY

2020 MAY 22 P 3:53 NO. 20 CVS 5504

STATE OF NORTH CAROLINA *ex rel.*  
JOSHUA H. STEIN, Attorney General,

Plaintiff,

v.

DAVID JEWEL SATTERFIELD,  
Individually, and A1 TOWING  
SOLUTIONS, INC.,

Defendants.

**PRELIMINARY INJUNCTION**

THIS CAUSE came on to be heard and was heard by the undersigned Superior Court Judge presiding at the May 20, 2020 session of Wake County Superior Court, upon the application of plaintiff State of North Carolina for a Preliminary Injunction under N.C. Gen. Stat. § 75-14 and Rule 65 of the Rules of Civil Procedure, the Court having previously entered a Temporary Restraining Order in this matter on May 5, 2020 and renewed it on May 12, 2020. Attorney Winfred R. Ervin, Jr. appeared on behalf of the defendants. Special Deputy Attorney General K. D. Sturgis and Assistant Attorney General Torrey Dixon appeared on the State's behalf.

Based on the Court's consideration of the Complaint, the exhibits and supplemental exhibits and affidavits attached thereto, and evidence presented at the hearing, the Court finds that (1) the State is likely to prevail on its claims in this action against the defendant parties hereto; and (2) this Preliminary Injunction should be entered against these defendants pending

final resolution of this cause so that further violation of law and further harm to the public might be prevented and to maintain the status quo of the parties during the pendency of this lawsuit.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:**

1. That defendants, together with their agents, employees, representatives, subcontractors, successors and assigns, and any persons or entities acting in concert with them are preliminarily enjoined, under N.C. Gen. Stat. § 75-14, during the pendency of this lawsuit from:

- i. charging or receiving payment for goods or services used as a direct result of a declared state of emergency or abnormal market disruption, or used during a declared state of emergency or abnormal market disruption to preserve, protect or sustain life, health, safety or economic well-being of persons or their property, with the knowledge and intent that the charge is an unreasonably excessive price under the circumstances, in violation of N.C. Gen. Stat. §§ 75-38 and 75-1.1;
- ii. booting, otherwise immobilizing, preventing the departure or removal of, securing to a tow truck or flat bed, towing, or otherwise removing any vehicle (including but not limited to a tractor or truck cab, trailer, or any passenger vehicle) without having first obtained, for each such vehicle, written permission or authorization to do so from the owner or lessee of the property on which the vehicle was found, which written permission or authorization shall identify by the vehicle make, model and license number (if any), and the date on which it is given.
- iii. demanding or receiving payment for release of any vehicle booted, otherwise immobilized, prevented from departing being removed, secured to a tow truck or flat bed, towed or otherwise removed, unless defendants first obtained, from the

owner or lessee of the property where the vehicle was found, written permission or authorization to boot, immobilize, restrain, secure, tow or otherwise remove each such vehicle, which written permission or authorization shall identify by the vehicle make, model and license number (if any), and the date on which it is given.

- iv. towing or booting vehicles in private lots without the lot being clearly designated as such by legible signs no smaller than 24 inches by 24 inches prominently displayed at all entrances thereto and displaying the current name and current phone number of the towing and storage company at least 72 hours prior to the tow or booting;
- v. failing to inform the owner of the vehicle in writing, at the time of retrieval of the vehicle, that the owner has a right to pay the amount of the lien asserted, request immediate possession, and contest the lien for towing charges pursuant to the provisions of N.C. Gen. Stat. § 44A-4;
- vi. engaging in unfair or deceptive acts or practices in violation of N.C. Gen. Stat. § 75-1.1, including but not limited to (1) separately booting or otherwise immobilizing both pieces of a tractor-trailer rig; (2) demanding or obtaining payment for release of a double-booted tractor-trailer rig or other such combination of a drive vehicle and a towed trailer; (3) charging for impounding and storing the tractor and trailer units separately, when the tractor-trailer components are attached as one unit; (4) booting vehicles while the driver is in the vehicle without first informing the driver or requesting that the driver move the vehicle; (5) using verbal attacks and threats, including threats of increasing

charges to coerce consumers into paying excessive fees; (6) threatening to charge and/or charging a DMV filing fee when no filing fee of such amount is required by the Division of Motor Vehicles; (7) threatening to charge and/or charging a credit card fee, and (8) requiring consumers to schedule an appointment to retrieve their vehicles while charging the consumer for storage fees related to any delay by defendants in making such appointment, including but not limited to during weekends when defendants are not open for business, or in otherwise releasing the vehicle;

- vii. engaging in any prohibited debt collection practices, including (1) falsely representing the character or amount of the debt, including the implied representation that the towing or booting of the vehicle was lawful, as well as the representation that the vehicle owner would be subject to paying an excessive DMV filing fee when the North Carolina Division of Motor Vehicles charges no such fee, and (2) communicating any threat in connection with an effort to collect, in violation of N.C. Gen. Stat. §§ 75-50 *et seq.*;
- viii. directly or indirectly attempting to collect on any claimed debt for booting, otherwise immobilizing, preventing the departure or removal of, securing to a tow truck or flat bed, towing, otherwise removing or storing any vehicle (including but not limited to a tractor or truck cab, trailer, or any passenger vehicle) performed in North Carolina on and after March 10, 2020 except pursuant to paragraph 2 and 3 below;
- ix. advertising, offering, soliciting, entering into a contract for, or receiving payment for any booting, otherwise immobilizing, preventing the departure or removal of,

securing to a tow truck or flat bed, towing, otherwise removing or storing any vehicle (including but not limited to a tractor or truck cab, trailer, or any passenger vehicle) or related services in North Carolina except pursuant to paragraph 2 and 3 below;

- x. performing or providing any booting, otherwise immobilizing, preventing the departure or removal of, securing to a tow truck or flat bed, towing, otherwise removing or storing any vehicle (including but not limited to a tractor or truck cab, trailer, or any passenger vehicle) or related services in North Carolina except pursuant to paragraph 2 and 3 below;
- xi. collecting a towing fee, storage fee, gate fee, DMV filing fee, or any other fee before releasing vehicles currently in defendants' possession to the vehicle owner except pursuant to paragraph 2 and 3 below;
- xii. destroying, removing, transferring, erasing, or otherwise disposing of any business or financial records relating to defendants' business, including but not limited to any business or financial records relating to monies obtained from any North Carolina consumer on or after January 1, 2020; and
- xiii. transferring, withdrawing, concealing, disposing, or encumbering any of defendants' assets without permission of the Court or written permission of the Attorney General. The exception is the payment of routine and ordinary business expenses.

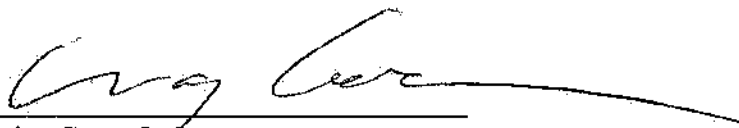
2. That, pursuant to N.C. Gen. Stat. § 75-14, defendants release all vehicles, which were towed on or after the date of state of emergency and currently being stored by defendants, to the owner of the vehicle upon payment of one half of the asserted lien amount pursuant to N.C.

Gen. Stat. § 44A-4 into the Wake County Clerk of Superior Court to be held pending the outcome of this litigation. This asserted lien amount shall include only towing (no unit fee for tractor trailer and shall not exceed \$1,500), storage fee (no unit fee), and no DMV filing fees. Removal of boots for tractor trailers shall not exceed \$500 and shall not exceed \$250 for other vehicles. Unit fees shall not apply.

3. Defendants shall operate under the requirements listed in this Preliminary Injunction in order to continue operation. The asserted lien amount limits in paragraph 2 shall apply to any future vehicles towed until this action is resolved. Unit fees shall not apply. Removal of boots for tractor trailers shall not exceed \$500 and shall not exceed \$250 for other vehicles. Future operation under Paragraph 3 does not require payment of asserted lien amount into the Wake County Clerk of Superior Court unless the owner opts to exercise that option.

4. This Preliminary Injunction is for the pendency of this action. Furthermore, this Preliminary Injunction is not a final determination in this matter.

**SO ORDERED** this the 22<sup>nd</sup> day of May, 2020, at 3:57 o'clock p.m.

  
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Superior Court Judge