

STATE OF MISSOURI )  
 ) SS  
CITY OF ST. LOUIS )

**FILED**  
12-3-2014

**MISSOURI CIRCUIT COURT**  
**TWENTY-SECOND JUDICIAL CIRCUIT** BY \_\_\_\_\_  
(City of St. Louis) DEPUTY

\_\_\_\_\_, )  
 )  
Plaintiff, )  
 )  
vs. )  
\_\_\_\_\_, )  
 )  
Defendant. )

Case No. 1222-AC16914  
Division No. 28

ORDER

The Court has before it Defendant's Motion to Amend Judgment, or in the Alternative Motion for New Trial. Upon review of the record, the submissions of the parties, the relevant authorities, and the arguments of counsel, the Court now rules as follows.

Plaintiff brought this action for breach of oral contract, quantum meruit, conversion, and replevin seeking damages and the return of a 1971 Oldsmobile Cutlass Supreme (the vehicle). Defendant asserted counterclaims for breach of contract, action on account and quantum meruit seeking damages.

This matter was called for bench trial on September 26, 2013. Plaintiff appeared in person and through counsel. Defendant appeared in person and through counsel. Evidence was adduced and this Court took the matter under submission.

After careful review of the record and the evidence adduced at trial, this Court entered its judgment in favor of Plaintiff and against Defendant on Plaintiff's claim and in favor of Defendant-Counterclaim Plaintiff and against Plaintiff-Counterclaim Defendant on Defendant's

counterclaims. Defendant was ordered to return the vehicle and assign the title of same to Plaintiff. Damages were assessed against Plaintiff-Counterclaim Defendant in the amount of \$7,237.00.

Defendant seeks the order of this Court amending the Judgment to reflect that Defendant has a valid common law artisan's lien on the vehicle, that Defendant is entitled to possess the vehicle until paid in full pursuant to the Judgment and that if Plaintiff fails to pay Defendant in accordance with the Judgment, Defendant may levy upon the vehicle in order to collect the Judgment. In the alternative, Defendant seeks the order of this Court granting a new trial.

The Court may amend or modify its judgment "upon motion of any party" under Rule 78.07(d).

Rule 78.01 states in pertinent part as follows:

The court may grant a new trial of any issue upon good cause shown. A new trial may be granted to all or any of the parties and on all or part of the issues after trial by jury, court or master.

"On a motion for new trial, the trial court may reconsider its rulings on discretionary matters, such as the admissibility of evidence, and may order a new trial if it believes that its discretion was not wisely exercised and that the losing party was thereby prejudiced." Anderson v. Kohler Co., 170 S.W.3d 19, 23 (Mo. App. E.D. 2005).

"A person who has supplied material or performed labor in repairing a motor vehicle at the request of the vehicle's owner has a common-law artisan's lien to retain possession of it until paid." State v. Ecford, 239 S.W.3d 125, 128 (Mo. App. E.D. 2007); See also Herpel v. Farmers Ins. Co., 795 S.W.2d 508, 509-510 (Mo. App. E.D. 1990) ("A common law lien is the right of an artisan who has performed labor or furnished material to improve or repair a chattel at the request

of the owner to retain possession of the chattel until he is paid.”).

In this case, Defendant argues that the Judgment should be amended because the evidence at trial and the Court’s findings support that the elements of a common law lien have been met by Defendant because it improved the vehicle and the vehicle remains in its possession.

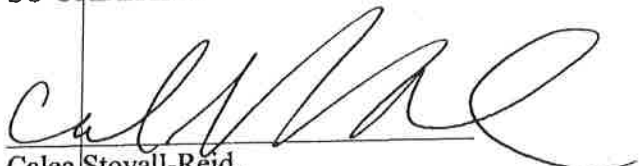
Defendant mischaracterizes the findings of this Court and the requisite elements of a common law lien. A common law lien only applies where the vehicle’s owner requests an improvement or repair. State v. Ecford, 239 S.W.3d at 128. This Court expressly found that the parties did not reach an agreement regarding the additional work and the scope of the work performed by Defendant.

The Court finds that Defendant’s argument is without merit. In addition, Defendant has not shown the requisite good cause under Rule 78.01 to be granted a new trial.

THEREFORE, it is Ordered, Adjudged and Decreed that Defendant’s Motion to Amend Judgment, or in the Alternative Motion for New Trial is hereby DENIED.

SO ORDERED:

March 3, 2014

  
Calea Stovall-Reid,  
Associate Circuit Judge

cc:  
Connie McFarland-Buttler, Attorney for Plaintiff  
Grant J Mabie, Attorney for Defendant