



introduced, and which this Court has made part of the record in this case, Dean's Scrap Metal followed the law it was required to follow and is not liable to the Plaintiff, Ms. Moffett, even though Dean's crushed her vehicle without her permission. Dean's observed the vehicle, received an Affidavit of Ownership, even though falsified, and paid a reasonable price for what was offered as junk. The fact that Leon Dees was committing what appears to be a serious criminal act does not make Dean's Scrap Metal responsible. Ms. Moffett's 1999 Buick Century was one (1) of eleven (11) vehicles purchased by Dean's that day. In comparing the prices paid for the other vehicles, Ms. Moffett's car was not the highest valued item, but it was also not the least valued. If Ms. Moffett's vehicle had been "brand new" or in what some call a "mint condition", then it could be argued that Dean's Scrap Metal violated some duty a reasonable person would have had in that situation to conduct a further investigation into the vehicle's background. Here, however, there was no testimony that this vehicle was anything particularly more or less than any other vehicle that Dean's buys and destroys on a daily basis.

It could well be argued that the law relating to scraping of vehicles should put more of an obligation on the metal recycling company than it currently does. Examples might include a requirement that the recycler wait for three (3) days or five (5) days or seven (7) days or longer before destroying a vehicle, or a requirement that the recycler receive clearance from law enforcement that the vehicle is not stolen prior to crushing it, or a requirement that the seller produce in fact a bona fide title to the vehicle before the recycler can purchase it. Unfortunately for Ms. Moffett, those requirements are not currently in our law and this Court, like any Court, is authorized only to follow the law, and not write new law, which is a function under our system of government reserved for the Legislature.

As part of that function, the Legislature included in the statutes establishing the Metal Recycling law a section where the Legislature clearly expressed its intent that victims of theft of metal property be fully compensated ("full restitution" be ordered) when the criminal who stole such property is sentenced for that theft. See Section 13A-8-34, Code of Alabama, 1975, amended 2007. Ms. Moffett certainly has the option of contacting the District Attorney's Office regarding the possible prosecution of Leon Dees for theft of her vehicle and, in the event of conviction, an order from the criminal court judge of restitution from Leon Dees.

Although the sympathy of this Court certainly rests with the Plaintiff, Ms. Moffett, the law which this Court must follow directs that Judgment be entered in favor of the Defendant, and it is so ordered. Costs having been prepaid, no order is made as to same. All parties have fourteen (14) days to file an appeal. Done and entered this 4th day of September, 2009.