

Bovis Kyle attorney, Tim Burson, wins surety case

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Some cases are interesting, some are dangerous, and some are fun. Some take interesting and unexpected twists and turns based on bizarre facts. Bovis Kyle attorney **Tim Burson** obtained a decision for Liberty Mutual Surety in one of these cases when the US Bankruptcy Court in Atlanta issued its ruling after a trial that was held earlier this year. The US Bankruptcy Court issued judgment on August 22, 2013, rejecting a disputed vehicle title claim by a used car dealer-former employer-roommate-romantic partner against a Liberty title bond principal.

The claim arose after Liberty issued a Georgia title bond in 2011 for its bond principal on a 2004 Mini Cooper which was originally sold in Oklahoma. The principal, who had tried to get a title in Oklahoma and California before coming to Georgia, asserted that she had paid for the vehicle and that her ex-lover as the owner of a used car dealership had unlawfully included the vehicle in his dealership inventory and floor plan security loan and prevented her from receiving the car title in Oklahoma. Liberty interpleaded its penal sum into federal district court in Georgia asserting that if the principal prevailed in the dispute between the principal and the claimant, Liberty should get its bond sum back. The floor plan lender never asserted a claim and did not intervene in any of the litigation. The two competing claimants had been in separate litigation in Oklahoma for several years with salacious claims against each other. Liberty's principal filed for bankruptcy protection in Georgia shortly after the district court interpleader action was filed. The district court first stayed the interpleader proceeding and ultimately transferred the interpleader to the Georgia bankruptcy court as an adversary proceeding. The bankruptcy court joined the interpleader with a separate adversary by the bond claimant, which included a host of exemption and discharge objections for alleged fraud, embezzlement and conversion. After a two day trial the bankruptcy court took the case under advisement and in August 2013 ruled in favor of the dealership owner and declared almost \$50,000 of debt owed by the bankruptcy debtor to the claimant as non-dischargeable based on findings of dishonesty and fraud. However the bankruptcy court rejected the claims against the debtor with respect to the vehicle and ordered the entire bond sum paid by Liberty returned to Liberty. American States Insurance Company vs. Angela Libien and A-1 Truck Company d/b/a Speedsportz, LLC, United States Bankruptcy Court-Northern District of Georgia, Atlanta Division Adversary Proceeding Case Number 12-05615-JRS.