

**F I L E D**

Clerk of the Superior Court

**MAY 27 2005**

By. M. BARHAM, Deputy

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN DIEGO**

**DATE: MAY 27, 2005 DEPT. 74 REPORTER: NOT REPORTED  
CSR#:**

**PRESENT HON: LINDA B. QUINN,  
JUDGE**

**CLERK: MARY JEAN BARHAM**

**REPORTER'S ADDRESS:  
P.O. BOX 120128  
SAN DIEGO, CA 92112-4104**

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GIC 825487 JIM KOEHLER,  
Plaintiff,

vs.

JOHN TYCZKI, JR., Individually;  
and dba J and M Autobody; Marc  
McGowan, Individually and dba  
J and M Autobody; J & M AUTOBODY  
INC.,  
Defendants.

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**STATEMENT OF DECISION**

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Judgment is entered for plaintiff and against all defendants on his claim of negligence in the amount of \$102,776.

The award includes:

- \$38,545.00 for repairs less \$18,574.00 previously paid on the claim
- \$60,000.00 for loss of use
- \$22,805.00 for storage fees

The plaintiff may sell the parts that have been stored at a reasonable market price and apply the proceeds to the storage fees with notice to defendant of the amount received. The court finds that the amount ordered for repair of the car does not exceed the value at the time of loss. There is insufficient evidence to find for the plaintiff on the

remaining causes of action pled. Costs awarded the plaintiff shall include \$300.00 owed to his expert and \$840.00 incurred as part of the costs of inspection.

Defendant is entitled to an offset of the amount of \$18,574.00 against damages awarded plaintiff. The subrogation claim presented to defendant for the collision damage in this action is valid. *St. Paul Fire and Marine Insur. Co. v. Murray Plumbing and Heating* 65 Cal. App. 3d 66.

The parties had a written contract for defendants to perform paint and body work for plaintiff in the amount of \$6,060.00. The contract was breached by defendant. The contract is rescinded and amounts paid by plaintiff to defendant are awarded to him.

There is insufficient evidence to find that defendant wrongfully detained any property of plaintiff and there is insufficient evidence to find that defendant is liable to plaintiff under plaintiff's conversion cause of action.

Counsel for plaintiff is requested to prepare a proposed Judgment.

DATED: MAY 27, 2005

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HONORABLE LINDA B. QUINN  
JUDGE OF THE SUPERIOR COURT

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO</b> <input type="checkbox"/> COUNTY COURTHOUSE, 220 W. BROADWAY, SAN DIEGO, CA 92101-3814 <input checked="" type="checkbox"/> HALL OF JUSTICE, 330 W. BROADWAY, SAN DIEGO, CA 92101-3827 <input type="checkbox"/> FAMILY COURT, 1555 6TH AVE, SAN DIEGO, CA 92101-3294 <input type="checkbox"/> MADGE BRADLEY BLDG., 1409 4TH AVE., SAN DIEGO, CA 92101-3105 <input type="checkbox"/> KEARNY MESA BRANCH, 8950 CLAIREMONT MESA BLVD., SAN DIEGO, CA 92123-1187 <input type="checkbox"/> NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92083-6643 <input type="checkbox"/> EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020-3941 <input type="checkbox"/> RAMONA BRANCH, 1428 MONTECITO RD., RAMONA, CA 92065-5200 <input type="checkbox"/> SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910-5649 <input type="checkbox"/> JUVENILE COURT, 2851 MEADOW LARK DR., SAN DIEGO, CA 92123-2792 <input type="checkbox"/> JUVENILE COURT, 325 S. MELROSE DR., VISTA, CA 92083-6634	<b>FOR COURT USE ONLY</b>  <b>F I L E D</b>  Clerk of the Superior Court  <b>MAY 27 2005</b>  By: M. BARHAM, Deputy
PLAINTIFF(S)/PETITIONER(S) <b>JIM KOEHLER</b>	JUDGE: LINDA B. QUINN  DEPT: 74
DEFENDANT(S)/RESPONDENT(S) <b>JOHN TYCZKI, JR., et al.</b>	CASE NUMBER <b>GIC825487</b>
<b>CLERK'S CERTIFICATE OF SERVICE BY MAIL (CCP 1013a(4))</b>	

I, certify that: I am not a party to the above-entitled case; that on the date shown below, I served the following document(s):  
**STATEMENT OF DECISION**

on the parties shown below by placing a true copy in a separate envelope, addressed as shown below; each envelope was then sealed and, with postage thereon fully prepaid, deposited in the United States Postal Service at:  San Diego  Vista  El Cajon  
 Chula Vista  Ramona, California.

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**SAN DIEGO, CA 92122-3910**

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**CLERK OF THE SUPERIOR COURT**

Date: May 27, 2005 by M. Barham, Deputy  
M. BARHAM, Deputy