

**IN THE SMALL CLAIMS COURT OF NOVA SCOTIA**

**Citation: *Eagles v. Chad Hiltz (Green Goblin Custom Cars), 2017 NSSM 82***

Claim No: SCK 460050

**BETWEEN:**

Robert Eagles

**Claimant**

-and –

Chad Hiltz,  
c.o.b. as “Green Goblin Custom Cars”

**Defendant**

Robert Eagles – Self Represented.

Chad Hiltz – Self Represented.

***Editorial Note: The electronic version of this judgment has been edited for grammar, punctuation and like errors, and addresses and phone numbers have been removed.***

**DECISION**

(1) Robert Eagles is the owner of a 1967 Chevrolet pick-up truck (“the truck”) which had been on his property for many years. In the spring of 2014, he met with Chad Hiltz, who operates a sole proprietorship, Green Goblin Custom Cars. Mr. Hiltz performs auto body work, custom paint jobs and restoration. According to all witnesses, he has developed quite a reputation for his work, both in the Annapolis Valley and on-line.

(2) Mr. Eagles hired Mr. Hiltz to perform restoration work on the truck. The rate quoted was \$30.00 per hour plus supplies. There was no written agreement. At all times, this was an oral contract. Unfortunately, that meant several of the terms were unstated and therefore, as noted below, I am left to determine from what evidence was presented the nature and terms of the parties’ agreement.

## Issues

(3) The issues in this matter are straightforward, did the Defendant Chad Hiltz, perform the restoration services in a skilful and workmanlike manner? If not, what is an appropriate level of damages?

## The Evidence

(4) Robert Eagles testified that he took the truck to Mr. Hiltz in the spring of 2014. He wanted the vehicle redone with a few things left as is. He wanted the vehicle to be "like new", an expectation I find to be overly optimistic. Mr. Eagles described the job as a "frame off restoration". The body panels were to be manufactured. The fenders, doors and hood had to be redone. In addition, the seat was to be covered, initially ordering leather seats but he modified this when the price was too high. The vehicle was with Mr. Hiltz until the middle of September 2015. He paid Mr. Hiltz several times throughout the period with the last of those payments made during the first week of August 2015. At that point, the remaining work was beyond what Mr. Hiltz was willing to do. For example, it was necessary to hook up the engine and other similar labour not related to body work. When Mr. Eagles took delivery, he noted several minor deficiencies which were remedied. There were additional items which form part of the claim, which are listed below:

(a) *Driver's Side Door* - according to Mr. Eagles, the door scrapes the bottom and it is necessary to slam the door to shut it properly. By contrast, the passenger side door works fine.

(b) *Wooden Box Liner*- Mr. Eagles alleges the box was cut with a handsaw or skill saw and it is not lined up neatly in the box of the truck.

(c) *Chrome Strips* - The chrome strips touched the newly painted surface resulting in marks, scratches and other blemishes.

(d) *Missed Spots* – The Claimant alleges certain spots were missed and not painted.

(e) *Engine Mounting* – The 1967 Chevrolet pick-up trucks were manufactured with two different types of engines, a "straight 6" and a V8. He was asked to install a V8 engine, but a 6 cylinder engine was delivered. Essentially, Mr. Hiltz put the block in the incorrect holes.

(5) Mr. Eagles testified that he paid a total of \$45,000 to Mr. Hiltz and paid for the parts separately, although their purchase was arranged by Mr. Hiltz. I took that to mean Mr. Eagles picked up some items as did Mr. Hiltz but the parts were always paid for by Mr. Eagles. Upon taking delivery of the truck, he took it to two acquaintances who identified the problems and estimated it would cost between \$15,000 - \$20,000. Accordingly, Mr. Eagles' claim is for \$20,000.

(6) Under cross-examination, he confirmed he agreed to pay Mr. Hiltz \$30 per hour. He was not provided an estimate as to the amount of time that it would take to do the job. (I note that, during the proceeding, Mr. Eagles did not question the time it took to complete the work.). He acknowledges there is money still outstanding on the contract, however, he denies owing anything further.

(7) With respect to the wood in the bed of the truck, he confirmed that he did not wish to pay \$1600 for the kit that was specially made for that type of truck. Instead, he spent \$60 on pieces of pine to be cut and installed. Likewise, he decided against the more expensive leather seats and had a lesser quality material installed. He noted the stitching in the seat was missing a few stitches. This service was sourced out by Mr. Hiltz. Mr. Eagles had someone repair it. He does not know who put in the window in the driver's side door. There are allegations by Mr. Hiltz of Mr. Eagles' threatening him. Mr. Eagles denies that emphatically. He confirms that the motor is not running at the moment.

(8) Chad Hiltz is the sole proprietor of Green Goblin Custom Cars, a business which builds and customize cars. In addition, he also runs a Facebook page and YouTube channel designed to show people how to fix vehicles. He has been rebuilding cars professionally for ten years and describes himself as self-taught. His work has been featured in various magazines, excerpts of which he has tendered into evidence. As noted in the hearing, the issue in this matter relates to the work he performed on the truck and not any other vehicle.

(9) Mr. Hiltz described the truck as "junk" when it was brought to him. He refused Mr. Eagles' request to provide an estimate because he could not predict how much time it would take to do the work. He spoke to Allison Armstrong, an engine builder in the Annapolis Valley, about putting a V8 in the truck. When the work was finished, Mr. Eagles was not happy with the cost but he did not express any difficulty with the workmanship. He did not know Mr. Eagles had changed the engine to a six cylinder, and all of the arrangements he made were of no use. He did not want to pull the engine ahead to the holes for fear of damaging the transmission. Mr. Hiltz had already purchased engine parts to install the V8 including a header and bleeder, which were now incorrect. Mr. Eagles wanted drum brakes installed although Mr. Hiltz did not recommend them.

(10) According to Mr. Hiltz, Mr. Eagles initially requested leather seats. Unfortunately, these could not be obtained and additionally, the cost was prohibitive, and therefore Mr. Hiltz ordered the kit which is in the truck. He was advised Mr. Eagles accepted the threads as they are. With respect to the windows, he confirmed he did not install them and therefore, the rubbers were not his mistake.

(11) During evidence, a viewing of the vehicle was conducted in the parking lot behind the Kentville Justice Centre building. There are photographs in evidence which accurately depict the alleged deficiencies which form the basis of Mr. Eagles' claim. I requested a demonstration of the driver's side door. It does not close neatly and scrapes when being shut. The parties were then given an opportunity to provide further evidence.

(12) Allison Bell gave evidence for the Claimant. Mr. Bell is a retired automotive technician having spent over 40 years working in high-performance engines specifically for racing. He was also a race driver for a time. He has known Mr. Eagles since the early 1970s and considers him a friend.

(13) He met with Mr. Eagles when the truck was delivered to him. He believed the truck was supposed to have been finished before it was delivered. However, he did not feel the truck was completed, even though all parts are now on the truck. He believes the parts and pieces do not fit well and need to be adjusted.

(14) Specifically, he noted the brake line and fuel line were not installed correctly. The engine block was not in the correct hole.

(15) He also noted the issue with the driver's side door and he does not believe the door sits correctly in relation to the truck body. He assumed it would be done differently because there was much body fill used on the doors.

(16) On cross-examination, he noted several dull spots on the truck body. He does not follow Mr. Hiltz's website. His knowledge of bodywork comes from building race cars. When he met with Mr. Eagles to view the car, his initial instructions were to check for road damage. He indicated that he was required to move the engine along with the transmission to install the 6-cylinder model. He felt it was necessary to use the appropriate mounting for whichever was used.

(17) He confirmed that he would not have recommended drum brakes, even though they would have been factory installed. Drum brakes require more maintenance and are less reliable. In redirect evidence, he confirmed braking power of the vehicle would be adequate even though the car had drum brakes.

(18) Mr. Hiltz testified that the difficulties with the door were not present when he delivered the car. The rubber did not fall out. He was adamant that Mr. Eagles wanted the wood deck using pine rather than the kit. He simply brought the wrong material.

(19) Mr. Hiltz agrees the contract was how Mr. Eagles described it. The truck was left unfinished with \$1800 owing. He submits Mr. Eagles did not want it completed because there was money still owing, and only now he is alleging poor workmanship. He would like the opportunity to work the matter out.

(20) Mr. Eagles submits that his complaints with the truck are justified. He acknowledged that there was lots of time spent. He has no difficulty with Mr. Hiltz's rate of \$30 per hour. The problems essentially are the driver's side door, the leather seat, the wood in the bed and the engine block. Mr. Hiltz's final submission was simply that Mr. Eagles received what he ordered.

## **The Law**

(21) The law respecting the provision of services is governed by the *Consumer Protection Act*. Subsection 26 states:

**Implied conditions or warranties**

26(1) In this Section and Section 27, “consumer sale” means a contract of sale of goods or services including an agreement of sale as well as a sale and a conditional sale of goods made in the ordinary course of business to a purchaser for his consumption or use but does not include a sale

- (a) to a purchaser for resale;
- (b) to a purchaser whose purchase is in the course of carrying on business;
- (c) to an association of individuals, a partnership or a corporation; or
- (d) by a trustee in bankruptcy, a receiver, a liquidator or a person acting under the order of a court.

(2) In this Section and Section 27, “purchaser” means a person who buys or agrees to buy goods or services.

(5) There shall be implied in every consumer sale of services a condition, on the part of the seller, that the services sold shall be performed in a skilful and workmanlike manner.

(22) There is no evidence this was in any way related to a commercial venture on Mr. Eagles’ part. Therefore, I find this was a consumer sale, namely for the restoration of the 1967 Chevrolet pick-up truck.

(23) If I find Mr. Hiltz breached the contract, then the purpose of an award of damages is to put the parties in the position as if the breach had not occurred.

(24) It is necessary to review the specific allegations of the parties.

**The Claims**

(25) In reviewing the evidence, I have found for the Claimant in part. The photographs in evidence show the truck was largely rusted and required a complete rebuild. The cost was \$45,000 in labour and \$25,000 in parts. The Claimant seeks \$20,000, which is almost 29% of what he paid. The Claimant has entered two figures, \$15,000 and \$20,000 without any details of the work to be done to rectify each deficiency.

(26) It is worth noting that I did not fully accept the evidence and claims of either of the parties. For his part, Mr. Hiltz is sketchy on some of the details. I find he believes what he says, but there is no evidence shown of what he described he would do or any limitations placed on the work. In addition, he does not seem to appreciate that if he were to hire out some of the tasks necessary to complete a job, he is ultimately responsible for the quality of the work of a third party, and thus, liable to his customer. One exception is if the contract is between the buyer or customer and the supplier.

(27) Mr. Eagles’ evidence is thin and incomplete. The evidence of Mr. Bell is the assistance of a friend more so than a third party expert on motor vehicle repair. His evidence was limited in scope as well. He did not call into evidence the auto repair persons who quoted \$15,000 to \$20,000 to repair deficiencies. There is no evidence as to what they considered a deficiency or what work was required to be done to rectify it.

Further, Mr. Eagles has not taken any steps toward completing the repairs. Thus, he has not mitigated his losses which he is required to do.

(28) That said, I do not believe Mr. Eagles' complaints were solely motivated by costs. It is clear he was disappointed in the work. As noted below, there were certain deficiencies which could not be overlooked.

(29) I shall deal with each claim in the order presented by the Claimant.

(30) *Driver's Side Door* – As the Claimant testified, the door sticks and scrapes the bottom of the door along the body of the truck. The passenger's side door operates as it should. I have included this deficiency in the award below.

(31) *Passenger's Side Door Windows* - I accept the evidence of Mr. Hiltz that the windows were replaced by a third party. The rubber pieces may be attributed to that person. In my view, the evidence is not conclusive that the rubber trim which keeps falling away from the window is related to the work performed by Mr. Hiltz.

(32) *Seat Covering* – Mr. Eagles had requested leather seats, but found the cost prohibitive. Instead, he ordered a replacement which was factory made and had several stitches missing. No evidence was provided as to the cost of repairing the seat. In any event, I find he accepted the covering as the less expensive alternative. I award nothing under this head of damages.

(33) *Wooden Box Liner* – Originally, Mr. Eagles sought a box liner kit but found the cost prohibitive. He opted for pine to be cut and installed. I find the decision to opt for the lesser version was Mr. Eagles'. The work was performed by Mr. Hiltz. Mr. Hiltz could have refused to do the work that way. Perhaps in hindsight, he wished he had. The use of pine resulted in a diminution in value. The way in which it was cut and installed by Mr. Hiltz diminished it further. In other words, while I have considered the current appearance in my award, the amount attributable to Mr. Hiltz is minimal.

(34) *Chrome Strips* – The chrome strips are installed so they rub against the paint. There is no evidence this cannot be corrected without destroying the work done.

(35) *Missed Spots* – In both the photographs and the viewing, several lighter spots were noted. No evidence was provided which I accept as to how to buff that out or paint over it. I award a lesser sum.

(36) *Engine Mounting* – The engine was originally to be a V8. However, I find Mr. Eagles ordered a 6 cylinder engine. Mr. Hiltz ought to have installed it properly. Again, I have no evidence as to its cost.

(37) I find there remained the following deficiencies to be corrected: the engine block was to be moved, the driver's side door was not installed correctly and there were smaller issues with the paint and wooden box liner. I find the work was not finished, although it was intended to be when Mr. Eagles took delivery of the truck. Therefore, the

services were not completed in a skilful and workmanlike manner. Mr. Hiltz is liable for damages.

### **Damages**

(38) The amount claimed by Mr. Eagles, \$20,000, is almost 29% of the total Mr. Eagles paid to have the work done from the truck's original stripped down and rusty condition (\$70,000) or 44% of the amount Mr. Hiltz charged for labour (\$45,000). Even if I had compensated for all deficiencies, I would have found such a percentage to be excessive, far greater than the position either party would have been in had the breach not occurred.

(39) It is impossible to determine the cost of remedying the deficiencies without evidence, which I accept. Similarly, I cannot estimate the diminution in value, however, I must assign a value to represent the deficiencies. To that end, I opt to make a global award of \$4800 for the original claim. Mr. Hiltz has proven he has expended the additional time on the truck. I award \$1800 for the counterclaim to be set-off against the amount awarded to Mr. Eagles.

(40) Taking all of this into account, I find the Defendant, Chad Hiltz, liable to the Claimant, Robert Eagles, for a total of \$3000, with each party bearing their own costs.

(41) An order shall issue accordingly.

Dated at Halifax, NS,  
on October 27, 2017;

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**Gregg W. Knudsen, Adjudicator**

Original:	Court File
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