



University of Tennessee, Knoxville  
**Trace: Tennessee Research and Creative  
Exchange**

---

Tennessee Department of State, Opinions from the  
Administrative Procedures Division

Law

---

1-17-2014

Harmon, Michael L. & Wallace Auto Sales vs. safety

Follow this and additional works at: [http://trace.tennessee.edu/utk\\_lawopinions](http://trace.tennessee.edu/utk_lawopinions)

---

This Initial Order by the Administrative Judges of the Administrative Procedures Division, Tennessee Department of State, is a public document made available by the College of Law Library, and the Tennessee Department of State, Administrative Procedures Division. For more information about this public document, please contact [administrative.procedures@tn.gov](mailto:administrative.procedures@tn.gov)

**BEFORE THE COMMISSIONER OF THE  
TENNESSEE DEPARTMENT OF SAFETY AND HOMELAND SECURITY**

**IN THE MATTER OF:**

**TENNESSEE DEPARTMENT OF  
SAFETY AND HOMELAND  
SECURITY**

**DOCKET NO: 19.05-124332J  
(D.O.S. Case No. N7734)**

**v.**

**One 1999 Dodge Ram 1500  
VIN NO.: 3B7HC12YXXG190236  
Seized From: Michael Harmon  
Date of Seizure: April 21, 2013  
Claimant: Michael Harmon  
Lien Holder: Wallace Auto Sales**

**INITIAL DEFAULT ORDER**

This matter was heard in Knoxville, Tennessee, on January 8, 2014, before Rob Wilson, Administrative Law Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety. Nina Harris, Staff Attorney for the Department of Safety, represented the State.

The subject of this hearing was the proposed forfeiture of the subject property for its alleged use in violation of T.C.A. §53-11-201 et seq. and §40-33-201 et seq.

Michael Harmon, Claimant, did not appear at the hearing. The State therefore moved for an initial **default** and dismissal of the case. The motion was **granted** based upon the following findings of fact and conclusions of law.

## FINDINGS OF FACT

1. Claimant was sent notice of the hearing by certified mail at his address of record. A copy of the USPS Track & Confirm statement shows that the notice was delivered on December 10, 2013.
2. Claimant failed to appear on the day of the hearing. Nor did an attorney appear on Claimant's behalf.
3. The State had its witnesses available and was ready to go forward to prove its case.

## CONCLUSIONS OF LAW AND ANALYSIS

1. Department of Safety Rule 1340-2-2-.17(1) provides, in relevant part:
  - (d) No default shall be entered against a claimant for failure to attend except upon proof, by the filing of the return receipt card, that the Legal Division has given notice of hearing.
  - (e) Upon default by a party, an administrative judge may enter either an initial default order or an order for an uncontested proceeding.
2. Department of Safety Rule 1340-2-2-.17(2) states, in relevant part:

Upon a default by a claimant, a claimant's claim shall be stricken by initial default order.
3. The State's motion for default being granted, it is therefore **ordered** that Claimant's **claim be stricken**. The claim being stricken, it is as if no claim had ever been filed, which constructively evokes T.C.A. §40-33-206(c). That section states: "If a

claim . . . is not filed with the applicable agency within the time specified . . . the seized property shall be forfeited and disposed of as provided by law.”

Accordingly, the 1999 Dodge Ram 1500 is hereby forfeited to the seizing agency subject to the lien of Wallace Auto Sales.

This Initial Order entered and effective this \_\_\_\_\_ day of \_\_\_\_\_ 2014.

---

Rob Wilson  
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,  
this \_\_\_\_\_ day of \_\_\_\_\_ 2014.



---

J. Richard Collier, Director  
Administrative Procedures Division