

1 Barnett. Costs incurred by the United States incident to the seizure and custody of the 2008 BMW
2 335i shall be borne by the United States.

3 b. BMW FS has a security interest in the defendant vehicle and is the true
4 and bona fide holder of a Retail Installment Contract ("Contract") executed by claimant "Thomas
5 Moran" on or about June 22, 2008. The pre-seizure contractual obligations between the parties to
6 that contract, BMW FS and "Thomas Moran," remain in full force and effect and have not been
7 altered by the filing of or the resolution of the forfeiture action. The United States is not, and has
8 never been, a party to the Contract. Any disputes concerning the terms and conditions of the
9 Contract or the performance of any conditions or obligations arising from the Contract are to be
10 resolved by BMW FS and "Thomas Moran" in the proper forum. BMW FS understands and agrees
11 that by entering into the Joint Motion for Judgment of Forfeiture it waives any rights to further
12 litigate its interest in the vehicle against the United States.

13 c. The person or persons who made the seizure or the prosecutor shall not be
14 liable to suit or judgment on account of such seizure in accordance with Title 28, United States
15 Code, Section 2465. Claimants have agreed that by entering into this joint motion, they have not
16 "substantially prevailed" within the meaning of 28 U.S.C. § 2465. All parties shall bear their own
17 costs and expenses, including attorney fees. Judgment is entered in favor of the United States on
18 its complaint.

19 d. Claimants have warranted and represented as a material fact that they are the
20 sole owners of the defendant vehicle, and have further warranted that no other person or entity has
21 any right, claim or interest in the defendant, and that they will defend and indemnify the United
22 States against any and all claims made against it on account of the seizure of the defendant vehicle.

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e. The Claimants, their agents, employees, or assigns, shall hold and save harmless the United States of America, its agents and employees, from any and all claims which might result from the seizure of the defendant vehicle.

This case is hereby ordered closed. Let judgment be entered accordingly.

DATED: 6/30/09


WILLIAM Q. HAYES, Judge
United States District Court