

Who Owns This Cunningham Corvette?

Ownership of the legendary 1960 Le Mans-winning Corvette is at stake in a tangled legal battle



The Cunningham Corvettes at Le Mans. Number 1, lost for many years, is the subject of a lawsuit

At this writing, a U.S. Bankruptcy Court trustee is set to auction off the ownership rights — whatever they might be — of Dan Mathis Jr. in regards to 1960 Corvette VIN 00867S103535.

This car is one of the legendary Cunningham Corvettes — one of the three that competed at the 1960 24 Hours of Le Mans.

The current bid of \$25,000 was made by Mathis's partners. Whether the auction will actually take place is yet to be determined, as Mathis still has time to appeal the Bankruptcy Court ruling that ordered the sale.

If the sale is completed, the winning bidder won't know if he or she has acquired any part of the ownership of this Corvette — but the winner will be buying into a very expensive lawsuit.

A checkered past

Chevrolet was unable to compete at the 24 Hours of Le Mans in 1960 because of its participation in the American manufacturers' racing ban. So Chevrolet gave "informal" assistance to privateer Briggs Cunningham, who entered three Corvettes in the Sarthe classic.

The Corvettes were numbered 1, 2 and 3. Car 1, raced by Cunningham and William Kimberley, and Car 2 both failed to finish. Car 3, driven by John Fitch and Bob Grossman, finished 8th overall and first in class.

This was a very impressive showing, but period racers were not terribly nostalgic about these cars. Upon return to the U.S., Cunningham decommissioned all three Corvettes, sold them as street machines, and they disappeared.

The hunt for #1

Noted Corvette restorer Kevin Mackay contacted Le Mans organizers to identify the VINs of the three Corvettes. That effort led to the acquisition of Car 3, which Mackay restored for Chip Miller, founder of Carlisle Events. That effort was documented in a movie, "The Quest." Car 2 found its way into the collection of SCMer Bruce Meyer. But Car 1 remained elusive. It was last seen in Tampa, FL, in the early 1970s, and it then disappeared from view. Nonetheless, Miller promised Mackay that if he was ever able to find it, he would give it to Mackay.

Discovered on the Internet

Miller searched for Car 1 to no avail. As he was dying from a rare blood disease, he instructed Briggs Cunningham historian Larry

Berman to publish the VIN of Car 1.

Rick Carr, son of Richard Carr, a Florida judge and car collector, was cleaning out his father's warehouse following his death in 2010. He came across a broken-down Corvette. Carr's Google search of the VIN led him to Berman's website and Berman. Berman referred him to Chip Miller's son, Lance, who immediately began negotiations with the Carr family that resulted in his purchase of Car 1 for \$75,000 on July 20, 2012. Three days later, he honored his father's promise and resold it to Mackay for the same \$75,000.

A short homecoming

Miller was happy that all this occurred on the eve of the 2012 Corvettes at Carlisle event, and he publicized that Car 1 would be shown there in its barn-find condition. The widespread publicity prompted a contact from Floridian Dan Mathis Jr., who informed Miller that Car 1 was owned by his father, Dan Mathis Sr., when it was stolen in the

1970s, which made him the rightful owner of Car 1 when his father died in 1993. And he had a Florida certificate of title to prove it.

Miller abruptly canceled the public showing, opting for a private showing instead. When Mathis and the local police arrived to claim the Corvette, Miller explained that it had been placed in safe-keeping while matters were being resolved. The police determined that this was a civil dispute and took no action. Litigation then ensued.

A simple case

Mathis filed suit in Federal District Court and presented a pretty simple case. He had a Florida certificate of title showing him as the owner of the Corvette. That was all that mattered. Miller had possession of the car, and should be ordered to give it to Mathis.

Miller's and Mackay's response was that it wasn't really that simple at all. Their lawyers contended that the certificate of title was not conclusive as to ownership — and was obtained under false pretenses to boot.

Not so simple after all...

Depositions and other discovery in the case established that Mathis had not been completely forthcoming about the facts.

On August 6, 2012, Mathis had entered into a partnership concerning the Corvette with Domenico M. Idoni. The partnership was documented in a two-page agreement that was clearly not written by an attorney. The terms of the agreement are not completely clear, but they seem to give Idoni a 70% interest in the Corvette in exchange for his financing the litigation efforts.

Idoni had become aware that the last Florida title had been issued to Jerry Moore in 1974. Idoni contacted Moore and assisted him in obtaining a replacement title from the Florida Department of Motor Vehicles. Moore then transferred the title to Mathis, who obtained a new certificate of title in his name on August 17, 2012.

Which story is true?

The parties tell very different stories.

Mathis claims that his father drag-raced the Corvette in NHRA events in the 1970s. Miller has challenged him to provide photographs to support that assertion; none have been produced.

Mathis states that he recalls the unusual "cherry chocolate" color

when his father raced the “ugly ’Vette.” Carr asserts that the car was an entirely different color when his father purchased it, and he claims that he can establish that his father painted it the “cherry chocolate” color. This suggests that Mathis is fabricating his memories.

Carr acknowledges that his father never obtained a valid certificate of title, and he never attempted to get one, as the Corvette was not being driven. But Carr is inconsistent about how his father acquired the Corvette. At one time, he said it was purchased from a junkyard, which would explain the lack of a title. But at another time, he said it was purchased from “a gentleman in Tampa.”

Ownership transfers are key

In either case, it will be important to determine how the ownership transferred from one owner to another. Clear ownership seems to end with Moore. To whom did he sell the car? Mackay’s and Miller’s ownership is derived from Carr, and his is derived from whomever he bought the car from. If his seller did not have good title, then Carr could not pass good title to Miller. These gaps need to be filled in.

Carr doubts that the Corvette was actually stolen from Mathis Sr., as there is no record of a stolen-property report ever having been filed. But that was over 35 years ago. Would the Florida authorities have records going back that far?

No quick answers

In the first of what will probably be many preliminary rulings, the court refused to order Miller to give the Corvette to Mathis. The court also refused to grant immediate judgment to Miller and Mackay, ruling that, if everything Mathis has alleged in his court filings is assumed to be true (which is required at this stage of a proceeding), then he had stated a technically sufficient case that he owned the Corvette — and he should be allowed to go to trial and try to prove it.

Bankruptcy gums the works

After these preliminary rulings were made, discovery brought up

some very important additional facts. While all of this had been going on, Mathis filed for bankruptcy, but he did not list the Corvette — or his claim to ownership — as an asset in his bankruptcy filings.

That violated the bankruptcy rules. When you file bankruptcy, you are required to turn over all of your assets (with limited exceptions that don’t include the Corvette) to the trustee, who sells them and divides the money among your creditors. As a result, the bankruptcy proceeding was revived, and the Bankruptcy Court ruled that the trustee could sell whatever rights Mathis had to the Corvette — but without determining what they might be.

Sale pending

It is unclear exactly what Mathis owns, and therefore what the purchaser will actually receive. But it does appear that, whatever Mathis had, he transferred it to the partnership with Idoni. Therefore, the purchaser would likely step into Mathis’s shoes with respect to the partnership.

In a recent twist, Idoni testified that, when he entered into the partnership with Mathis, he was acting on behalf of his partnership with a Gino Borelli, who was financing the legal efforts. Idoni and Borelli have made the \$25,000 offer to the trustee. If they end up with the winning bid, they would end up with 100% of the partnership, and all of Mathis’s rights to the Corvette.

Much more to come

In our next installment of this Legal Files, we will report on what happens with the trustee’s sale, and where that leaves the parties in the litigation. We’ll also thicken the plot with additional facts that add more twists and turns to the legal analysis. This case is a long way from over. ♦

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