

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

) IN THE COURT OF COMMON PLEAS
) FIFTEENTH JUDICIAL CIRCUIT
) Civil Action No. 2021-CP-26-01512

Thomas Wade Long and Clyde Kiser, individually
and on behalf of TnW and More, LLC

Plaintiffs,

v.

Timothy D. Kettner, Donald Kettner, and TNT and
More, Inc. d/b/a Crab Catchers on the Waterfront,

Defendants.

**ORDER ON PLAINTIFFS' MOTION FOR
TEMPORARY RESTRAINING ORDER**

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SC Court of Appeals

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HORRY COUNTY, SC

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THIS MATTER comes before the Honorable Steven H. John for an Emergency Temporary Restraining Order and is based upon Plaintiffs' Motion for an Expedited Emergency Temporary Restraining Order, accompanying exhibits, the Affidavits of Thomas Wade Long and Steve Powell, and Defendants Donald Kettner and TNT and More, Inc. d/b/a Crab Catchers on the Waterfront's Reply to Plaintiffs' Motion.

I FIND AS FOLLOWS:

1. Defendants intend to close the shared pier and walkway that Plaintiffs and their tenants use to access fourteen (14) boat slips. This pier is the sole means by land which Plaintiffs and their tenants can access their boat slips.
2. Defendants contend there exist rotten and damaged boards on the pier that present an unsafe condition for use of the pier. Defendants posted signage stating they intend to close the pier and access for three days, beginning Friday, May 27, 2022 through Sunday, May 29, 2022, which is Memorial Day weekend.
3. Thomas Wade Long attested by affidavit that upon inspection, there are no damaged or rotten boards requiring the shutdown of the pier and denial of access. This finding

was confirmed by South Carolina licensed, professional engineer Steve Powell, who examined the pier on Monday, May 23, 2022, and attested by affidavit that the pier was not unsafe.

4. In this action, on July 27, 2021, a Consent Order was signed by Judge William P. Keesley which states in part: “During the pendency of this action, the Defendants agree that they shall undertake no further actions to remove, repair, assemble or disassemble any portion of the marina utilized by the Plaintiffs and TnW and More, LLC unless necessary to comply with the law and/or any regulatory agency, in which event written consent shall be sought from the Plaintiffs. In the event Plaintiffs fail to respond within 7-days’ notice of a request for written consent without justification provided, then Defendant may comply with any lawful order or directive from any court of competent jurisdiction or any regulatory agency. Written notice must be emailed to counsel for the Plaintiffs and the Defendants simultaneously along with written notice to the Plaintiffs.”

5. Defendants did not provide Plaintiffs any court order, law, or communication from a governmental regulatory agency requiring that the pier be repaired nor did they seek consent from the Plaintiffs to perform any work.

6. Based upon the filings, the affidavits, as well as the pictures provided to the Court, there appears to be no unsafe condition existing on the pier. The denial of access to the pier during Memorial Day weekend would result in significant and irreparable harm to Plaintiffs and their tenants, who operate charter fishing boats, commercial fishing, and Jet Ski rentals. The Plaintiffs and their tenants would suffer monetarily, and their reputations would be harmed if they were forced to close the business they have had reserved to conduct well before this Motion.

7. However, while there is currently no existing emergency regarding the pier, it does appear that certain repairs/maintenance may be necessary. It is therefore,

ORDERED

That the Defendants, their agents, and employees are restrained from closing the shared walkway and pier Friday, May 27, 2022 through Sunday, May 29, 2022 and from blocking access to the walkway and pier pending a final hearing in this matter and undertaking any repair unless Plaintiffs consent, or the proposed work is specifically mandated by an appropriate regulatory agency, or further Order of the Court. In this regard, the Parties are further,

ORDERED to consult and agree to a repair/maintenance schedule within ten (10) days of the date of this Order. All terms of Judge Keesley's Consent Order remain in full force and effect. Since the Court believes this Order confirms the previous Consent Order, no bond is required to be posted by the Plaintiff for this Order.

May __, 2022
Conway, South Carolina

The Honorable Steven H. John
Chief Administrative Judge



Horry Common Pleas

Case Caption: Thomas Wade Long , plaintiff, et al VS Timothy D Kettner , defendant,
et al
Case Number: 2021CP2601512
Type: Order/Other

So Ordered

s/ Steven H. John, Resident Circuit Judge, #129