

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH JUDICIAL CIRCUIT  
CASE NUMBER: 12-CP-10- 8241

GEORGE GIANNARAS as guardian and )  
Conservator for EMMANUEL )  
KEHAGIAS, )

Plaintiff, )

v. )

RICHARD RUTH SR. and JANE RUTH, )  
both individually and as owners/operators )  
of RICHARD RUTH'S BAR AND GRILL, )  
LLC, ADRIAN LAMAR SMALLS, and )  
2233 HIGHWAY 17 NORTH, LLC, )

Defendants. )

**SUMMARY JUDGMENT FOR  
THE DEFENDANT**

**2233 HIGHWAY 17 NORTH, LLC**

FILED  
2014 JAN 15 AM 11:14  
JULIE J. ARMSTRONG  
CLERK OF COURT  
BY \_\_\_\_\_

This matter came before the Court on January 7, 2014 upon Motion for Summary Judgment by the Defendant 2233 Highway 17 North, LLC. The moving Defendant appeared by and through its legal counsel F. Truett Nettles, II, Esquire of Charleston, South Carolina. The Plaintiff appeared by and through its legal counsel Roy T. Willey, IV, Esquire and Renee Anderson, Esquire, of The Anastopoulo Law Firm, LLC in North Charleston, South Carolina. Based on allegations of the Plaintiff, statements of opposing counsel and applicable state law, the moving Defendant is entitled to a Summary Judgment pursuant to Rule 56(c) SCRPC.

The Court finds and concludes that the Plaintiff's first cause of action against the moving Defendant is based on S.C. Code Ann. §61-4-580 and §61-6-2220. Those statutes apply to the serving of alcoholic beverages by the holder of a permit or license to sell or distribute alcoholic beverages. There is no evidence that the moving Defendant was involved in the serving or

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selling of alcoholic beverages. Therefore, the Plaintiff's first cause of action is dismissed with prejudice.


The Court finds and concludes that the Plaintiff's second cause of action against the moving Defendant for common law negligence is likewise is defective. Based on representations of the parties, the Court finds that there was a valid, oral, month-to-month lease between the moving the Defendant and the co-Defendant Bar & Grill. As a commercial landlord, the moving Defendant did not have a duty to protect patrons of the commercial tenant Bar & Grill from criminal acts of third parties. Cramer v. Balcor Property Management, Inc. 312 S.C. 440, 441 S.E. 2d 317 (1994); Jackson v. Swordfish Investments, LLC, 365 S.C. 608, 620 S.E. 2d 54 (2005). In this case, there was no allegation or argument that the moving Defendant undertook to provide security inside the co-Defendant Bar & Grill.

In its response to the moving Defendant's Motion for Summary Judgment, the Plaintiff also argues that the moving Defendant and the co-Defendant Bar & Grill were "partners." The Court closely queried legal counsel for the Plaintiff regarding specific facts or allegations to support the existence of a partnership. The Court finds and concludes that there were not sufficient allegations or facts to suggest a partnership between the moving the Defendant and the co-Defendant Bar & Grill. See Wyman v. Davis, 223 S.C. 172, 74 S.E. 2d 694 (1953). Therefore, it is

ORDERED ADJUDGED AND DECREED that the Defendant 2233 Highway 17 North, LLC have Summary Judgment against the Plaintiff and all claims against this Defendant shall be and are hereby dismissed with prejudice; and

IT IS SO ORDERED.

Dated: Jan 10, 2014  
Charleston, South Carolina

  
JUDGE R. MARKLBY DENNIS, JR.  
PRESIDING

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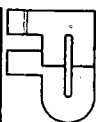
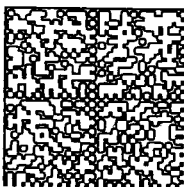
*RWD/2*

# ANASTOPOULO

## LAW FIRM

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