

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS  
FOR THE THIRTEENTH JUDICIAL CIRCUIT

Andrew P. (Andy) Ballard,  
Plaintiff,

vs.

Tim Roberson, Rick Thoennes, Rick  
Thoennes III, and Warpath Development,  
Inc.,  
Defendants.

Case Number: 2008-CP-23-5739

**ORDER MODIFYING  
ORDER FOR RECEIVERSHIP**

**RECEIVED**

**MAR 20 2017**

**SC Court of Appeals**

This matter is before the Court on the motion of Plaintiff Andrew Ballard to modify this Court's Order Appointing Receiver dated April 23, 2014 ("Order Appointing Receiver"). The Court held a hearing on January 27, 2014, on this and other motions, and all parties were represented by their respective counsel at the hearing. The Court granted the motion at the hearing, and now enters this written Order to memorialize the Court's decision.

The Order Appointing Receiver was entered for the purpose of investigating, marshalling, and protecting the assets of the Defendants while they pursued their appeal of the Court's Judgment of October 3, 2013 (the "Judgment"). On July 15, 2015, the South Carolina Court of Appeals affirmed the Judgment (with a reduction of the amount to \$3,125,000.00). On September 8, 2016, the South Carolina Supreme Court denied Defendants' petition for certiorari to review the decision of the Court of Appeals, and on September 12, 2016, the Court of Appeals issued the remittitur to this Court.

Defendants have exhausted their appeals, and the Judgment is now final. It is undisputed that the Judgment is wholly unsatisfied and that the Defendants have failed to apply their assets

toward satisfaction of the Judgment. Accordingly, pursuant to S.C. Code § 15-65-10(2), it is appropriate for the Receiver to take action to carry the Judgment (as modified by the Court of Appeals) into effect.

The Order Appointing Receiver is therefore modified as follows:

1. The Receiver is henceforth directed to perform his duties solely in aid of execution pursuant to S.C. Code Ann. § 15-65-10(2) and (3). Any other actions by the Receiver will be ancillary to this function.
2. The Receiver is directed to no longer pay living expenses to the Defendants.
3. The Receiver is empowered to pay over to the Plaintiff assets now in his possession or control or hereafter coming into Receiver's possession and control, which assets shall be applied by Plaintiff toward the satisfaction of Plaintiff's judgment. All such payments shall be made to Plaintiff's counsel, who shall be responsible for the application of the assets to the Judgment.
4. The Receiver continues to possess all the powers and authority previously granted him in the Order Appointing Receiver so as to enable him to carry out his duties, including the continued right to seize assets of the Defendants and turn them over to Plaintiff's counsel, to be applied toward satisfaction of the Judgment.
5. All of the Receiver's fees and costs going forward shall be directly paid from the assets of the Defendants. Payment of those fees and costs, as well as reimbursement to Plaintiff's counsel for prior payments of the Receiver's fees and costs, are not to be applied in satisfaction of the Judgment.

6. Except as modified by the above, the terms and provisions of the Order Appointing Receiver and the Charging Order entered April 23, 2014, shall remain in full force and effect.
7. The application of this Order to Defendant Rick Thoennes, III, shall be addressed by a separate order on Plaintiff's motion to determine the portion of the Judgment that is not discharged by that Defendant's bankruptcy.

**IT IS SO ORDERED.**

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Edward W. Miller  
Judge, South Carolina Circuit Court

\_\_\_\_\_, 2017  
Greenville, South Carolina



Greenville Common Pleas

**Case Caption:** Andrew P Andy Ballard , plaintiff, et al vs. Tim Roberson ,  
defendant, et al  
**Case Number:** 2008CP2305739  
**Type:** Order/Other

So Ordered

s/ Edward W. Miller

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