

default by Order of this Court dated February 5, 2018. Thereafter, Defendant moved to set aside the default. Judge D. Craig Brown denied Defendant's motion after a hearing and extensive briefing was conducted with respect to same. Judge Brown's denial is via Order Denying Defendant's Motion to Set Aside Default dated January 15, 2019. Defendant Yelverton was dismissed from this action by stipulation on April 10, 2018. Notice of the damages hearing was sent to all parties by the Court. With the Defendant in Default and having been duly served with all pleadings as well as the notice of this hearing, this matter is now properly before this Court to determine Plaintiffs' damages as prayed for in the Complaint.

The Plaintiff, Samantha L. Antley, was present and represented by Daniel S. Slotchiver and Andrew J. McCumber, Esq. of Slotchiver & Slotchiver, LLP and Edward L. Phipps, Esq. of the Phipps Law Firm, LLC. The Defendant, Dart Shelter LLC, was represented by Benjamin B. Davis, Esq. of McAngus, Goudelock, and Courie, LLC, as well as other lawyers who did not take an active role in the hearing. A variety of evidence was presented during the hearing, including live testimony by four (4) witnesses.

Dr. Craig Rowin was tendered, without objection, as an expert in plastic surgery. Dr. Rowin testified as to the Plaintiff's previous and future medical treatment in connection with her injuries, as well as the nature of the procedures, recovery time, and pain involved with the same. The Plaintiff also testified, and provided extensive testimony about her damages, including the circumstances of the underlying incident giving rise to her injuries, the nature of her injuries, the manner in which the injuries interfered with her normal activities, the pain and suffering she endured and continues to endure. Finally, Mr. B.J. Kale, a SLED certified security officer and owner of Trifecta Security Group, LLC, who previously was a contractor for the Shelter, providing security services prior to the incident at issue. Mr. Kale testified regarding proper protocol for

handling confrontations involving intoxicated persons. Mr. Kale testified that the manner in which the incident giving rise to these claims was handled was in contravention to industry standards. Further, Mr. Kale testified that he personally observed a number of incidents during his tenure at The Shelter, and that the number of incidents presented during the hearing was far in excess of any other of his clients.

The Defendant called one witness, Mr. Thomas Berry, one of the owners of Dart Shelter, LLC. Mr. Berry was examined regarding steps his business undertook to protect the safety of its patrons. Also submitted for consideration was the Complaint, the Affidavit of Preston Yelverton, photographs of Plaintiff's injuries, a complete copy of her various medical records and billing statements relative to Plaintiff's treatment and care, a copy of every 911 dispatch to the Shelter Bar & Grill over a three-year period, and a copy of the S.C. Life Expectancy Table (S.C. Code Ann. § 19-1-150). Having considered the entire record of this case, which is included herein and made a part hereof, I make the following Findings of Fact and Conclusions of Law as required by Rule 52, SCRPC.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

"[B]y suffering a default, the defaulting party is deemed to have admitted the truth of the plaintiff's allegations and have conceded liability." *Austin v. Specialty Transp. Servs., Inc.*, 358 S.C. 298, 319 (Ct. App. 2004) (quoting *Roche v. Young Bros.*, 332 S.C. 75, 81 (1998)). Since the Defendant was found in default, this Court only considered the damages in this case. "The purpose of actual or compensatory damages is to compensate a party for injuries suffered or losses sustained. The goal is to restore the injured party, as nearly as possible through the payment of money, to the same position he or she was in before the wrongful injury occurred." *Clark v. Cantrell*, 339 S.C. 369, 378 (2000). In this regard, the Plaintiff is a very attractive young female.

The Plaintiff is a college graduate and works at a boutique/salon whereby appearance is most likely

important to her career. On or about September 25, 2015, the Plaintiff was severely beaten which resulted in permanent damages. More than three years after the event, a curvature to the Plaintiff's nose is clearly visible, as is a scar on her face, both of which are due to the attack. The Plaintiff states that she experiences pain and suffering daily. The record shows the Plaintiff incurred medical bills in the amount of \$13,395.00, as well as future medical bills of \$18,010.00 for total medical bills of \$31,405.00. This Court also considered that the Plaintiff has a life expectancy of 55 years and may suffer pain and disfigurement for the remainder of her life. Thus, the Court awards actual damages in the amount of \$432,025.00.

Further, after a consideration of all of the evidence presented, and analyzing the Defendant's conduct using the factors as outlined in *Gamble v. Stevenson* (305 S.C. 104, 406 S.E.2d 350 (1991)) and S.C. Code Ann. § 15-32-520, this Court is of the opinion that a substantial amount of punitive damages is warranted. In that regard, the Court finds the Defendant's conduct was willful reckless, and wanton, and that the Plaintiff carried her burden of proof regarding punitive damages. In this regard, the Court finds the Defendant very culpable in that the Defendant removed the Plaintiff and her attacker from the premises knowing that they were intoxicated and that a violent altercation was developing. Additionally, the Defendant did nothing to separate the parties and prevent or deescalate a violent situation. The duration of this hostile event took place during the time the Plaintiff was in the bar and continued even after they were ejected from the bar. The Defendant was aware of this problem and continued to overserve the individuals involved in this altercation, which was a major contribution to the violent attack suffered by the Plaintiff. Regarding past conduct and as outlined above, B.J. Kale testified that he personally observed a number of incidents similar to this in the past at the bar and that the number of incidents at the bar

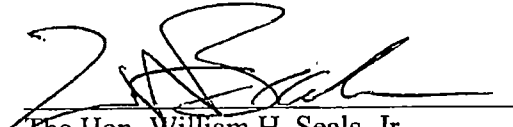
was in excess of any of his other clients. Furthermore, this Court finds that a substantial award of punitive damages in this case will likely deter other similar businesses in the area as the verdict gets disseminated into the business community. Also, the award by this Court in punitive damages is reasonably related to the harm and not disproportionate to the actual damages. Furthermore, this Court opined from the record that the Defendant is able to pay the verdict. However, this Court is troubled by the fact that the Plaintiff continued to go to the bar several times even after this event occurred. The Court takes this factor into account as well as the above factors in determining punitive damages, thus hereby awarding punitive damages in the amount of \$450,000.00, for a total damages award of \$882,025.00.

BASED UPON THE FOREGOING,

IT IS ORDERED, ADJUDGED and DECREED that the Plaintiff, Samantha L. Antley, is hereby awarded judgment against the Defendant, Dart Shelter, LLC, in the amount of **\$432,035.00** in actual damages; **\$450,000.00** in punitive damages for a total judgment in the amount of **\$882,035.00**.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that the Clerk of this Court shall enter judgment in the foregoing amount against Defendant Dart Shelter, LLC, in the Judgment Rolls of Charleston County, South Carolina.

AND IT IS SO ORDERED!



The Hon. William H. Seals, Jr.
Presiding Judge
Court of Common Pleas for the Ninth Judicial Circuit

March 22, 2019

Charleston County, South Carolina