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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable William H. Seals, Jr., Circuit Court Judge

Case No. 2017-CP-10-6176

RECEIVED
DEC 02 2019
SC Court of Appeals

Samantha L. Antley, Respondent,

v.

Dart Shelter, LLC d/b/a The Shelter Kitchen & Bar
and Preston Yelverton, Defendants,

of Whom,

Dart Shelter, LLC d/b/a The Shelter Kitchen & Bar is the Appellant.

**APPELLANT'S MOTION
FOR EXTENSION OF TIME**

Appellant Dart Shelter, LLC d/b/a The Shelter Kitchen & Bar hereby moves for a 60-day extension of time in which it must file Appellant's Initial Brief and Designation of Matter. Appellant requires this extension due to the undersigned's having multiple deadlines around the current due date of December 2, 2019. In addition, on October 18, 2019, Appellant filed a notice of appeal of a "placeholder" order regarding the appointment of a receiver in this case, which was consolidated by the Court with the pending appeal on October 22, 2019. The formal Order Appointing Receiver was filed on October 25, 2019 and received by the undersigned on November 4, 2019. It is attached hereto as Exh. A. A Motion of Dart Shelter, LLC to Alter or Amend was filed on November 7, 2019, (Exh. B), which was heard by Judge Scarborough on November

13, 2019. A proposed order on that Motion was sent to Judge Scarborough on November 25, 2019, which we anticipate will be entered next week. Once that order is received, we will amend our Notice of Appeal to include all of these Orders. Consequently, we will need additional time once the final order on rehearing is received in order to prepare our Initial Brief in this consolidated appeal.

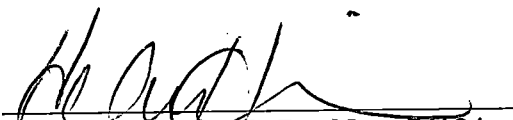
As noted above, Appellant's Initial Brief and Designation of Matter are currently due on December 2, 2019 and, with the 60-day extension, will be due on January 31, 2020. This is Appellant's second request for an extension.

Respectfully submitted,

MCANGUS GOUDELOCK & COURIE, LLC

November 27, 2019

By:


Helen F. Hiser, S.C. Bar No.: 76124
Benjamin B. Davis, S.C. Bar No.: 74955
735 Johnnie Dodds Blvd., Suite 200
P.O. Box 650007
Mount Pleasant, South Carolina 29465
(843) 576-2900

Thomas E. Lydon, S.C. Bar No. 10242
1320 Main Street, 10th Floor
P.O. Box 12519
Columbia, South Carolina 29211

*Attorneys for Appellant Dart Shelter, LLC d/b/a
The Shelter Kitchen & Bar*

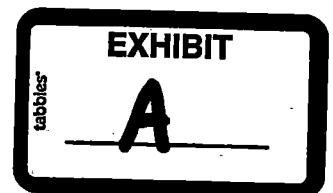
STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
 COUNTY OF CHARLESTON) CASE NO.: 2017-CP-10-6176

SAMANTHA L. ANTLEY.,)
)
 Plaintiff,)
)
 vs.) ORDER APPOINTING RECEIVER
)
 DART SHELTER LLC d/b/a The)
 Shelter Kitchen and Bar and)
 PRESTON YELVERTON,)
)
 Defendants.)

FILED
 2019 OCT 25 AM 11:11
 JULIE J. HARRINGTON
 CLERK OF COURT

This matter arises out of a Judgment in the principal amount of \$882,025.00 against Dart Shelter, LLC d/b/a The Shelter Kitchen and Bar (“Defendant”) enrolled in the office of the Clerk of Court for Charleston County on April 19, 2019. At a motion hearing held on September 13, 2019, I granted the Plaintiff’s Motion for Appointment of Receiver, appointing Mark W. McKnight, Esquire, of the Charleston County Bar as receiver on the judgment pursuant to S.C.Code Ann. §§ 15-39-430 and 15-65-10, et seq.

IT IS ORDERED that Mark W. McKnight take possession of any and all real and personal property belonging to the Judgment Debtor including, without limitation, any land, buildings, improvements, leases, vehicles, equipment, furniture, fixtures, books, records, commissions, bank and brokerage accounts, cash on hand, deposits, choses in action and any other tangible or intangible items or documents of the Judgment Debtor (hereinafter referred to as “the Property”), and to perform the acts and functions as set forth below:



A. To continue to operate the business as an ongoing concern until this Court Orders otherwise;

B. To evaluate the business to determine if any part of the Property should be liquidated in order to satisfy the Judgment, provided, however, that no Property shall be liquidated without the Receiver first obtaining approval of the Court;

C. To evaluate the business to determine if costs, expenses, wages or distributions can be adjusted in order to satisfy the Judgment;

D. To demand and collect all fees, commissions, sales, rents and other income payable to the Judgment Debtor.

E. To engage the services of such firms, companies, persons, independent contractors, employees, agents and the like, as he deems necessary and proper, including, without limitation, accountants, managers, consultants, attorneys and the like, subject to the approval of this Court and of the Judgment Creditor, which approval shall not be unreasonably withheld.

F. To institute such suits as the Receiver may find necessary or proper with authority to obtain legal counsel of the Receiver's choice, at the expense of the receivership estate, but subject to the approval of this Court and of the Judgment Creditor, which approval shall not be unreasonably withheld.

G. To prosecute, negotiate, compromise, settle or take such other action(s) with respect to claims of the Judgment Debtor against third parties as he deems advisable, subject to the approval of the Judgment Creditor, which approval shall not be unreasonably withheld;

H. To file monthly reports with this Court certified by the Receiver as being correct. Until the receivership estate shall have funds available, the Plaintiff shall advance all costs, expenses and fees incurred by the Receiver. All costs, expenses and fees incurred by the Receiver shall be accounted for while the appeal is pending, and the court retains the authority to allocate the Receiver's costs and expenses to the final judgment.

I. To hold all funds collected in an interest bearing account until such time as this Court approves disbursement.

IT IS FURTHER ORDERED, that the Defendant and its members, officers, employees and agents fully cooperate with the Receiver and immediately turn over to the Receiver all Property described herein whether currently in its possession or control or that shall come into its possession and control after the date hereof; and it is

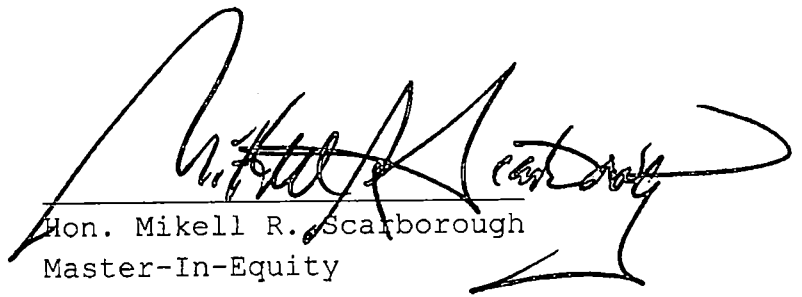
FURTHER ORDERED, that the Defendant is restrained and enjoined from converting, disposing of or transferring any Property which may constitute assets of the receivership estate, and is specifically required to protect those assets for the benefit of the receivership estate; and it is

FURTHER ORDERED, that the Receiver is entitled to a fee in the amount of Two Hundred Fifty and no/100 (\$250.00) per hour and Five percent (5%) of the gross proceeds collected for his services]; and it is

FURTHER ORDERED, that the Receiver shall act in such capacity until the Judgment Debt, together with the costs and expenses of the receivership, and interest thereon, is paid and satisfied in full or until further Order of this Court; and it is

FURTHER ORDERED, that notwithstanding the above paragraph, the Receiver may be relieved at his request at any time.

AND IT IS SO ORDERED.

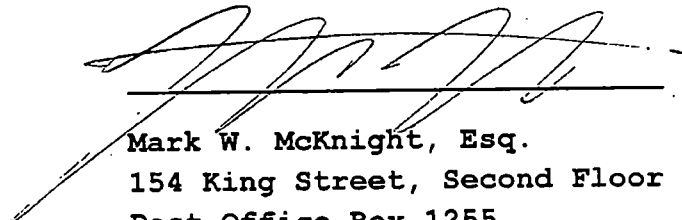


Hon. Mikell R. Scarborough
Master-In-Equity

Charleston, South Carolina

October 18, 2019

I CONSENT TO THE APPOINTMENT.



Mark W. McKnight, Esq.
154 King Street, Second Floor
Post Office Box 1255
Charleston, SC 29402
(843) 577-2837
(843) 722-4094/Fax

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS

Samantha L. Antley,

Case No. 2017-CP-10-6176

Plaintiff,

)
)
) **MOTION OF DART SHELTER, LLC**
) **TO ALTER OR AMEND**
)

vs.

Dart Shelter, LLC d/b/a The Shelter
Kitchen and Bar and Preston Yelverton,

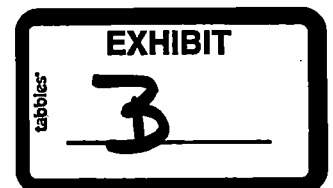
Defendants.)

TO: MARY LEIGH ARNOLD, ESQUIRE AND DANIEL SLOTCHIVER,
ESQUIRE, ATTORNEYS FOR PLAINTIFF

You will please take notice that on November 13, 2019, at 3:30 p.m, the undersigned will move before the Honorable Mikell R. Scarborough, Charleston County Master in Equity, pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure, for an Order altering or amending the Order Appointing Receiver filed on October 25, 2019. Written notice of this Order was received by counsel for Defendant Dart Shelter, LLC on November 4, 2019.

The grounds for this Motion are as follows:

1. The Order does not address Defendant Dart Shelter, LLC's request that Plaintiff be required to post a bond as a condition of the receivership, in order to protect Defendant should it ultimately have a right to damages pursuant to Section 15-65-90 of the South Carolina Code. Although the Court specifically denied the request for a bond on the record at the hearing on September 13, 2019, this issue is not addressed in the Order.



2. The Order states that the Receiver shall have the authority to “prosecute, negotiate, compromise, settle or take such other action(s) with respect to claims of the Judgment Debtor against third parties as he deems advisable...” However, the Order does not specifically address how this applies to the declaratory judgment action presently pending in United States District Court, *Westchester Surplus Lines Insurance Company v. Dart Shelter, LLC, et al.*, Case No. 2:19-cv-02381-DCN, which the Court was made aware of at the hearing on September 13, 2019.

This motion will be based upon the pleadings in this matter, the South Carolina Rules of Civil Procedure, and applicable state statutes and case law.

MCANGUS GOUDELOCK & COURIE, LLC

s/Thomas E. Lydon

Thomas E. Lydon (SC Bar. No. 10242)
Post Office Box 12519, Capital Station
Columbia, South Carolina 29211-2519
(803) 779-2300
Attorney for Defendant Dart Shelter, LLC
d/b/a The Shelter Kitchen and Bar

November 7, 2019

Helen Hiser

From: efiledonotreply@sccourts.org
Sent: Thursday, November 07, 2019 1:32 PM
To: Tommy Lydon
Cc: Myra Rutland
Subject: Courtesy NEF RE: 2017CP1006176

***** IMPORTANT NOTICE - READ THIS INFORMATION *****
NOTICE OF ELECTRONIC FILING [NEF]

A filing has been submitted to the court RE: 2017CP1006176

Official File Stamp: 11-07-2019 01:29:27 PM
Court: CIRCUIT COURT
Common Pleas
Charleston
Case Caption: Samantha L Antley VS Dart Shelter LLc , defendant, et al
Document(s) Submitted: Motion/Alter and/or Amend
Filed by or on behalf of: Thomas E. Lydon

This notice was automatically generated by the Court's auto-notification system.

The following people were served electronically:

Benjamin B. Davis for Dart Shelter LLc, Shelter Kitchen & Bar The
Salah Hani Hibri
Andrew Joseph McCumber for Samantha L Antley
Edward L. Phipps for Samantha L Antley
Thomas E. Lydon for Shelter Kitchen and Bar The, Dart Shelter LLc, Shelter
Kitchen & Bar The
Mary Leigh Arnold for Samantha L Antley
Daniel Scott Slotchiver for Samantha L Antley
Shawn M. Bevans for Dart Shelter LLc, Shelter Kitchen & Bar The

The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:

Preston Yelverton

~~~~ CONFIDENTIALITY NOTICE ~~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

The Honorable William H. Seals, Jr., Circuit Court Judge

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Case No. 2017-CP-10-6176

Samantha L. Antley, ..... Respondent,

v.

Dart Shelter, LLC d/b/a The Shelter Kitchen & Bar  
and Preston Yelverton, ..... Defendants,  
of Whom,

Dart Shelter, LLC d/b/a The Shelter Kitchen & Bar is the ..... Appellant.

**PROOF OF SERVICE**

I certify that I have served the Appellant's Motion for Extension of Time on Samantha L. Antley, by depositing a copy of it in the United States Mail, postage prepaid, addressed to her attorneys of record, and to other counsel of record as follows:

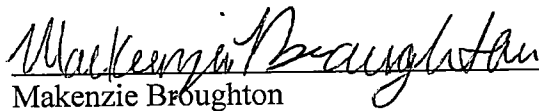
Daniel S. Slotchiver, Esq.  
Andrew J. McCumber, Esq.  
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751 Johnnie Dodds Blvd., Suite 100  
Mount Pleasant, South Carolina 29464

Mark A. Mason, Esq.  
Salah Hibri, Esq.  
The Mason Law Firm  
Post Office Box 1271  
Mt. Pleasant, South Carolina 29465-1271

Edward L. Phipps, Esq.  
Phipps Law Firm, LLC  
155 King Street, Floor 2  
Charleston, South Carolina 29401

Mary L. Arnold, Esq.  
749 Johnnie Dodds Blvd., Ste. B  
Mount Pleasant, South Carolina 29464

November 27, 2019

  
Makenzie Broughton  
Legal Assistant to Helen F. Hiser  
McANGUS GOUDELOCK & COURIE LLC  
735 Johnnie Dodds Blvd., Suite 200

PO Box 650007  
Mount Pleasant, South Carolina 29465  
(843) 576-2900

*Attorneys for Appellant*

**Reply To**

HELEN F. HISER  
Direct Dial: (843) 576-2930  
helen.hiser@mgclaw.com

November 27, 2019

**Via U.S. Mail**

The Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, South Carolina 29211

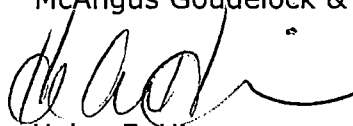
RE: Samantha L. Antley v. Dart Shelter, LLC d/b/a The Shelter Kitchen &  
Bar and Preston Yelverton  
Civil Action No.: 2017-CP-10-6176 (Charleston)  
Date of Incident: September 24, 2015  
Carrier Claim No.: JY15J0673002  
MGC File No.: 20205.18007  
Appeal No.: 2019-001101

Dear Ms. Kitchings:

Enclosed please find the original and seven (7) copies of Appellant's Motion for Extension of Time, and the original and one copy of the Proof of Service in the above-referenced matter. Please file the originals and return a clocked-in copy in the enclosed self-addressed, stamped envelope. Also enclosed is our firm's check in the amount of \$50 for filing the motion.

If you have any questions, please do not hesitate to contact me.

Sincerely,  
McAngus Goudelock & Courie, LLC

  
Helen F. Hiser

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DEC 02 2019

SC Court of Appeals

Enclosures

cc: Daniel S. Slotchiver, Esq.  
Andrew J. McCumber, Esq.  
Edward L. Phipps, Esq.  
Salah H. Hibri, Esq.  
Mark A. Mason, Esq.  
Mary L. Arnold, Esq.



**mgc** | INSURANCE  
DEFENSE

POST OFFICE BOX 15007  
MT. PLEASANT, SC 29465

20205.18007/HFH/mtb  
The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

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