

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)

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

IN THE COURT OF COMMON PLEAS
 CASE NO.: 2017-CP-10-6176

**ORDER RELATING TO VARIOUS
 MOTIONS**

This matter came before the Court on the following motions: Plaintiff's Motion for Rule to Show Cause or in the Alternative to Compel, filed October 23, 2019; Plaintiff's Notice of Motion and Motion for Expedited Hearing and Motion for Writ of Supersedeas, filed October 23, 2019; and Defendant's Motion to Alter or Amend, filed November 7, 2019. Present at the time of the hearing were: Mary Leigh Arnold, Esquire, Dan Slotchiver, Esquire, Andrew McCumber, Esquire and Edward Phipps, Esquire, for Plaintiff; Thomas Lydon, Esquire for Defendant; and Mark McKnight, Esquire, Receiver. Rutledge Young, Esquire was also present as outside counsel for Defendant.

Having reviewed the motions and materials submitted and having heard oral arguments, this Court finds and concludes as to the respective motions as follows:

Motion for Rule to Show Cause or in the Alternative to Compel

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The Court holds in abeyance Plaintiff's Motion for Rule to Show Cause or, in the Alternative, to Compel. Defendant is to respond on Monday, November 18, 2019 to Plaintiff's Request to Produce previously served in supplement to the original Rule to Show Cause filed August 7, 2019. Should Plaintiff find that Defendant does not adequately respond, Plaintiff has the right to draw such to the Court's attention in further supplement of this motion.

Notice of Motion and Motion for Expedited Hearing and Motion for Writ of Supersedeas

Rule 241(a), SCACR, provides that "[a]s a general rule, the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order ... and ... the relief ordered." However, Rule 241(b) notes that exceptions to the general rule are found in statutes, court rules and case law and provides a list that includes some but not all the exceptions. Rule 241(b), SCACR. Subsection (2) of Rule 241(b) provides that judgments which fall within the purview of S.C. Code Ann. §18-9-150 are excluded from the general rule.

S.C. Code S.C. Code Ann. §18-9-150 provides:

If the judgment appealed from directs the assignment or delivery of documents or personal property, the execution of the judgment shall not be stayed by appeal unless the things required to be assigned or delivered be brought into court or placed in the custody of such officer or receiver as the court shall appoint or unless an undertaking be entered into on the part of the appellant, with at least two sureties and in such amount as the court or a judge thereof shall direct, to the effect that the appellant will obey the order of the appellate court upon the appeal.

The subject Order of Appointment of Receiver is subject to the exclusion set forth in S.C. Code Ann. §18-9-150. Thus, the appeal recently filed by Defendant does not affect or stay the

rights and or obligations of the appointed Receiver, Mark McKnight, to proceed and fulfil his duties and obligations under the Order of Appointment of Receiver.

Motion to Alter or Amend Appointment of Receiver

On November 7, 2019, Defendant filed a Motion to Amend the Order Appointing the Receiver filed on October 25, 2019. The October 25, 2019 is amended to clarify that no bond is required for the Appointment of the Receiver. Further, as to the declaratory judgment action pending against Defendant Dart Shelter, LLC, in the United States District Court, Charleston Division, Civil Action No. 2:19-cv-02381, Defendant and its attorney will continue to be responsible for the defense of the lawsuit and the prosecution of its counterclaims, but the Receiver is to be kept apprised of the proceedings and may bring before this Court for approval any action the Receiver deems appropriate as to said action. All other terms of the Order Appointing the Receiver are not changed, modified or altered and remain in full force and effect.

AND IT IS SO ORDERED.

Hon. Mikell R. Scarborough
Master-In-Equity

Charleston, South Carolina

November ____, 2019



Charleston Common Pleas

Case Caption: Samantha L Antley VS Dart Shelter LLc , defendant, et al
Case Number: 2017CP1006176
Type: Master/Order/Other

So Ordered

s/Mikell R. Scarborough 3062

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