

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL DISTRICT
CIVIL ACTION No. 2020-CP-26-00484

JOHN KUBILIS,)
)
Plaintiff,)

-vs-

ORDER GRANTING
DEFAULT JUDGMENT

WAYNE HUNTER WALLACE, and)
THE STAR TAVERN, LLC d/b/a)
STAR TAVERN)

Defendants,)

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SC Court of Appeals

Date of Hearing: September 21, 2020
Presiding Judge: The Honorable Robert E. Hood
Plaintiff's Counsel: George N. Spirakis for Kenneth R. Moss
Defendant's Counsel Wallace: Pro Se
Defendant's Counsel Star Tavern: Pro Se Not Present
Court Reporter: Kay Richardson

PROCEDURAL BACKGROUND

This matter comes before the Court upon Plaintiff's Motion for an Order Granting Default Judgment as to both Defendants. Plaintiff is seeking a monetary judgment from the Defendants for injuries sustained from an assault and battery. Plaintiff's Motion is supported by Plaintiff's Complaint and Plaintiff's Testimony.

Present at the WebEx hearing was Plaintiff's counsel, George N. Spirakis for Kenneth R. Moss. The Plaintiff was present and did testify. Defendant Star Tavern was not present for the hearing nor did an attorney appear on its behalf. Defendant Wallace was at the first hearing by WebEx but due to a technical problem was not able to respond. The hearing was reheard with the technical problem addressed and Defendant Wallace was heard. This action began by the filing

of the Summons and Complaint on January 22, 2020. Both Defendants' were served by certified mail. Defendant Star Tavern signed for the certified mail on February 7, 2020 and was recorded with the Court on February 13, 2020. An attempt to serve Defendant Wallace was made on February 5 & 14, 2020 but he could not be served. On April 8, 2020 Plaintiff filed an order of Publication. Also on April 8, an Affidavit of Default was filed in regards to Defendant Star Tavern. On April 22, 2020 an Order of Publication was granted. On June 16, 2020 an Affidavit of Default was filed in regards to Defendant Wallace. On July 7, 2020 an Order of Default was granted on both Defendants. Notice of the motion hearing was served on the Defendants evidenced by a Notice of Hearing and Certificate of Service both filed with the Court on September 10, 2020.

It appears to the Court that there is just cause for granting the order and, based on the testimony of the Plaintiff, the Complaint, and legal argument, and cross-examination by Defendant Wallace, the Court finds and concludes as follows:

BACKGROUND

This matter arises out of a dispute between the Defendants and the Plaintiff. Plaintiff argues that Defendant Wallace did commit assault and battery of him at the Defendant Star Tavern's bar and Defendant Star Tavern failed to protect the Plaintiff from the assault and battery. Accordingly, Plaintiff sustained injuries from the Defendant Wallace's actions.

FINDINGS OF FACT

1. On or about March 29, 2018, Plaintiff walked to Star Tavern where he was admitted entrance into the bar as invitee.
2. At the time of the events described below, Plaintiff was a customer of Defendant Star Tavern.

3. Defendant Wallace was also a customer of Defendant Star Tavern and frequented this business often.
4. Defendant Wallace had many altercations with various individuals at Star Tavern prior to March 29, 2018, however, Star Tavern continued to admit entrance to Wallace.
5. Defendant Wallace was known to carry knives on his person.
6. While Plaintiff was visiting the bar in Star Tavern on March 29, 2018, Defendant Wallace approached Plaintiff and then struck him in the head knocking Plaintiff to the floor in a semi-conscious state.
7. As a result of Defendant Wallace's battery, Plaintiff was arrested, lost a tooth, suffered a concussion, hurt his leg, suffered bleeding from his ear, injured his eye, and was bruised on various parts of his body.
8. The attack occurred in public in front of the other customers, humiliating and embarrassing Plaintiff Kubilis.
9. Agent(s) and/or employee(s) of Defendant Star Tavern made false statements to the Horry County Police Department in attempts to protect Defendant Wallace.
10. As a direct and proximate result of the incident, Plaintiff suffered severe and painful bodily injury, mental pain and suffering, mental anguish, humiliation, embarrassment, shock, and emotional distress.
11. Also, as a result of the arrest, Plaintiff was terminated from his positions with the Myrtle Beach Police Department and a local Fire Department.
12. Plaintiff testified that he had costs in this Law Suit that amounted to \$521.64.
13. Plaintiff testified that he had medical expenses of \$10,478.00 and will have future medical expenses in the amount of \$6,000.00.

14. Plaintiff testified that he had lost income in the amount of \$10,000.00.
15. The Court after hearing from the Plaintiff and Defendant Wallace finds in favor of the Plaintiff and awards him damages and costs.

CONCLUSIONS OF LAW AND ORDER

IT IS THEREFORE ORDERED that Plaintiff's Motion for an Order of Default is hereby GRANTED.

IT IS FURTHER ORDERED that the Plaintiff be awarded a judgment in the amount of \$125,000.00 in damages and costs.

IT IS SO ORDERD.

The Honorable Robert E. Hood.
Presiding Judge Fifteenth Judicial Circuit

_____, South Carolina

Dated: September _____, 2020