

State of South Carolina  
County of Aiken

Court of Common Pleas

Stephan Shugart, )  
)  
Plaintiff, )  
v. )  
)  
Historic Hospitality, )  
LLC, )  
)  
Defendant. )

Transcript of Record  
2019-CP-02-02426

**RECEIVED**  
DEC 07 2020  
**SC Court of Appeals**

August 31, 2020  
Aiken, South Carolina  
(Via remote platform)

B E F O R E:

The Honorable Courtney Clyburn-Pope, Judge.

A P P E A R A N C E S:

Stephan Shugart, pro se

James Ferguson Knox, Esquire  
Attorney for the Defendant

Bethanie K. Creppon  
Circuit Court Reporter

I N D E X

WITNESS

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(No Witnesses.)

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NO.

DESCRIPTION

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(No Exhibits.)

## P R O C E E D I N G S

\* \* \*

1  
2  
3 THE COURT: The first motion I have is Stephan  
4 Shugart vs. Historic Hospitality, LLC.

5 Do we have Mr. Knox on the line?

6 MR. KNOX: Good morning, Your Honor. How are  
7 you doing today?

8 THE COURT: Good morning, Mr. Knox. I'm well.  
9 How are you, sir?

10 MR. KNOX: I'm very well. Thank you. I hope  
11 you had a good weekend.

12 THE COURT: I did. Today is the first day of  
13 school for us here in Aiken.

14 All right. Is -- do you have co-counsel with  
15 your or is it just you, Mr. Knox?

16 MR. KNOX: Yes, Your Honor. It's just me.

17 THE COURT: All right. Very good. This is  
18 your motion. Is Mr. -- is it Mr. Shugart?

19 MR. SHUGART: Yes, Your Honor.

20 THE COURT: Good morning. How are you, sir?

21 MR. SHUGART: Oh, fine, thank you. Yourself?

22 THE COURT: Doing well, thank you.

23 Mr. Shugart, it is my understanding that you're pro  
24 se.

25 MR. SHUGART: That's correct, Your Honor.

1 THE COURT: And you still wish to go forward  
2 pro se?

3 MR. SHUGART: Yes, I do, please.

4 THE COURT: All right. Mr. Knox --  
5 Mr. Shugart, the way this is going to work is that  
6 this is Mr. Knox's motion, and so I will hear from  
7 him first and allow you the opportunity to respond  
8 to his motion. Do you have a copy of that motion,  
9 sir?

10 MR. SHUGART: Yes, I do.

11 THE COURT: All right. Very good.

12 All right. Mr. Knox, I'll hear from you, sir.

13 MR. KNOX: Okay. And just to clarify one  
14 thing, Your Honor -- I'm sure you see the caption --  
15 there's four defendants. I'm here today  
16 representing Defendant Shah Investments, LLC in this  
17 motion.

18 THE COURT: All right.

19 MR. KNOX: So this is a motion for summary  
20 judgment. And I give you a bit of a, I guess, lay  
21 of the land and what has brought us here today.

22 So Mr. Shugart was a guest at the Hotel Aiken,  
23 which I'm sure you're familiar with, in September of  
24 2016. On the -- we believe the date is actually  
25 September 29th. We're not quite sure. It's not

1 material to this motion today.

2 But on or about September 29th, Mr. Shugart was  
3 exiting the hotel premises into the parking lot. At  
4 that time, he allegedly struck his head on the  
5 branch of an ornamental shrub and has claimed  
6 injuries resulting from that impact. At the time,  
7 in 2016, the entity that owned and operated that  
8 particular hotel was Shah Investments, LLC; again,  
9 the movant today.

10 The plaintiff did file the complaint on --  
11 September of 2019, and he named four defendants. We  
12 had a motions hearing in March, sometime, in 2020.  
13 Two defendants were removed. It was determined that  
14 Shah Investments is the appropriate defendant. So I  
15 filed this motion -- excuse me -- on the grounds  
16 that we owe no duty to the plaintiff, as this was an  
17 open and obvious condition that caused his alleged  
18 injuries.

19 So it's not disputed that Mr. Shugart, the  
20 plaintiff, was a guest and, as a result, was an  
21 invitee. And the duty owed by the hotel was that to  
22 an invitee, and that duty is simply to warn the  
23 guests or invitees of blatant or hidden dangers that  
24 the property owner should have known about or did  
25 know about. And the defendant here has no duty to

1 warn the plaintiff of open and obvious conditions or  
2 dangers.

3 Further, the entire basis of invitor's  
4 liability rests upon superior knowledge of that  
5 danger that causes the guest harm. And if that  
6 superior knowledge is lacking, there is no  
7 liability. So we have done depositions and they're  
8 part of the exhibits that I attached with my motion  
9 to -- or, excuse me, memorandum in support of this  
10 motion.

11 So it's undisputed that Mr. Shugart had exited  
12 and entered the hotel several times prior to this  
13 alleged accident. He testified that the morning  
14 prior, he had exited the hotel to get breakfast; his  
15 truck was parked in the parking lot immediately in  
16 front of the hotel where the shrub was located.

17 He believes he checked in the day prior to the  
18 alleged accident. He had to enter and exit the  
19 hotel to transport his luggage. More specifically  
20 though, he did state in his deposition that: "The  
21 bush that I came in contact with, I couldn't see  
22 because of the foliage that was concealing behind  
23 the limb. And that's what I struck my head on.  
24 There was foliage. If you looked for the foliage,  
25 yes, you would see it."

1           So it's undisputed that the plaintiff here had  
2 knowledge of the condition and the alleged danger  
3 that caused his injuries. Moreover, we would -- we  
4 also argue that, based on the doctrine of  
5 comparative negligence, even if we were somewhat at  
6 fault or negligent, which we were not -- we're not  
7 admitting to that -- it's clear that the plaintiff  
8 here, his negligence is greater than 50 percent. As  
9 a result, we do ask for summary judgment.

10           THE COURT: All right, Mr. Knox. Thank you,  
11 sir.

12           Mr. Shugart?

13           MR. SHUGART: Yes, Your Honor.

14           THE COURT: Very good. I'll hear any response  
15 you have to give me, sir.

16           MR. SHUGART: Yes. First off, the period of  
17 time between 20-- -- the accident and September 29th,  
18 2016, to when I filed the suit was partly because I  
19 had a lawyer here in Philadelphia, where I reside,  
20 send several mailings to the hotel that were  
21 returned un-received. So there was no communication  
22 between myself, with my lawyer here in Philadelphia,  
23 and the hotel for quite a period of time. It was  
24 only when I filed suit that I was able to get  
25 Mr. Knox in front of Judge Nettles to divulge who

1 was the property owner at the time of my accident.

2 But, up until that time, I didn't have any  
3 knowledge or foreknowledge of anyone that had  
4 responsibility of the property at the time.

5 THE COURT: Okay. Well, his motion is not  
6 based upon any type of statute of limitations. His  
7 motion is purely based that he did not owe a legal  
8 duty -- or that the hotel did not owe a legal duty.  
9 And so I want to hear your response to that, sir.

10 MR. SHUGART: Okay. Just, first off, when I  
11 appeared before Judge Nettles, Mr. Knox -- and, by  
12 the way, Mr. Knox, I'm glad to see you're doing  
13 well. That must have been quite an ordeal for you.

14 So, apart from that, he had presented Judge --  
15 to the judge, Rule 12(c), I believe. And the judge  
16 ruled and denied his motion at that time. The 300  
17 days expired on August 10th. There was no  
18 mediation. And now I'm up against this motion. I  
19 believe it's Rule 5 -- 5 -- I forget the  
20 alphabetical -- but, anyway, I deny the fact that  
21 that rule applies, simply because it's too  
22 arbitrary. And, in this situation, there's too many  
23 considerations to look at individually.

24 One thing in particular is that upon exiting  
25 the rooms there at the Hotel Aiken -- it's the

1 annex, not the actual hotel itself. It sits back  
2 behind the hotel and it's bordered by the parking  
3 lot.

4 Now, I sent along to the Court pictures and a  
5 video for you to look at. The point being that upon  
6 exiting any of the rooms into the breezeway, the  
7 covered sidewalk, you are not able to see any of the  
8 hedges that line the parking lot. They're concealed  
9 by the masonry pillars, so you have no visual  
10 contact with any of the hedges that sit out facing  
11 the parking lot from the inside of the breezeway,  
12 the sidewalk.

13 So upon exiting and making a hard right into  
14 the parking lot, that's when I struck my head on a  
15 protruding branch leading out into the parking lot.  
16 Because it was concealed -- a concealed hazard, the  
17 rule does not apply, because it wasn't open and  
18 obvious. It was as though, if you allow me to  
19 say -- growing up, we used to say you get  
20 cold-cocked hit; cold-cocked, being hit from behind.  
21 And that's exactly what it was. It was me being --  
22 exiting into the parking lot and being knocked to  
23 the ground violently. And I was unconscious for a  
24 few seconds. And someone there in the parking lot  
25 helped me up.

1           Also, too, my last point is that if upon --  
2           upon exiting the breezeway, the covered sidewalk, I  
3           was walking my dog. So I wasn't looking straight  
4           ahead. I was looking ahead to the dog on her  
5           six-foot leash. So there wasn't any opportunity for  
6           me to avoid that. So, given the fact that it was  
7           concealed, it was a hidden hazard, the rule is too  
8           arbitrary and it does not apply in this case.

9           THE COURT: All right, Mr. Shugart.

10           Mr. Knox, do you have anything in response,  
11           sir?

12           MR. KNOX: No, Your Honor, other than -- I  
13           mean, I've already stated it. But in the  
14           depositions, his testimony was, and he just stated  
15           it himself, that the branch was protruding past the  
16           column. And, again, he did state that "the bush I  
17           came in contact, I couldn't see because of the  
18           foliage." So he stated he saw the foliage.

19           Obviously, the foliage is not just suspended in  
20           midair on its own. I think a reasonable person  
21           would ascertain that behind that foliage is a limb  
22           or branch, and that when you're proceeding and  
23           walking directly towards it, you're probably going  
24           to hit it.

25           THE COURT: All right. Thank you, Mr. Knox.

1           And, Mr. Shugart, just one other question for  
2           you, sir. Well, I've got the --

3           Mr. Knox, do I have a copy of that deposition?

4           MR. KNOX: Yes, Your Honor. It's attached as  
5           an exhibit to our memorandum.

6           THE COURT: Very good. All right. Mr. Knox,  
7           anything further, sir?

8           MR. KNOX: No, Your Honor.

9           THE COURT: All right. Mr. Shugart, what I'm  
10          going to do is take this under advisement. I'll get  
11          you-all a decision by the end of the day.

12          MR. SHUGART: I appreciate it, Your Honor. And  
13          thank you.

14          MR. KNOX: Good seeing you, Mr. Shugart.

15          THE COURT: Thank you for your appearances.

16                   -- END OF TRANSCRIPT OF RECORD --

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## C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

I, the undersigned, Bethanie K. Creppon, Circuit Court Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal in the Circuit Court for Aiken County, South Carolina, on the 31st of August, 2020.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

November 19, 2020

s/Bethanie K. CrepponBethanie K. Creppon  
Circuit Court Reporter

# Letter to Appellate Court Clerk South Carolina Court of Appeals

November 29, 2020

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**SC Court of Appeals**

The Honorable Jenny Kitchings  
Clerk South Carolina Court of Appeals

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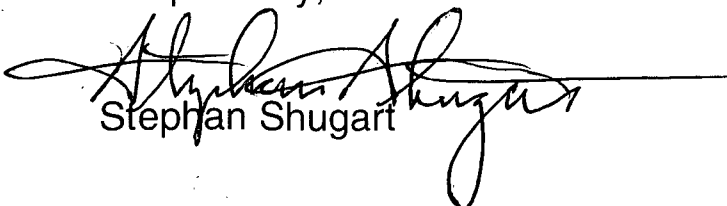
Columbia, South Carolina 29211

RE: Historic Hospitality, LLC Shaw Investments, Shah Enterprises,  
LLC, Southern Hotel Properties, Respondent, v. Stephan Shugart,  
Appellant Case No. 2019-CP-02-0246

Dear Honorable Jenny Kitchings,

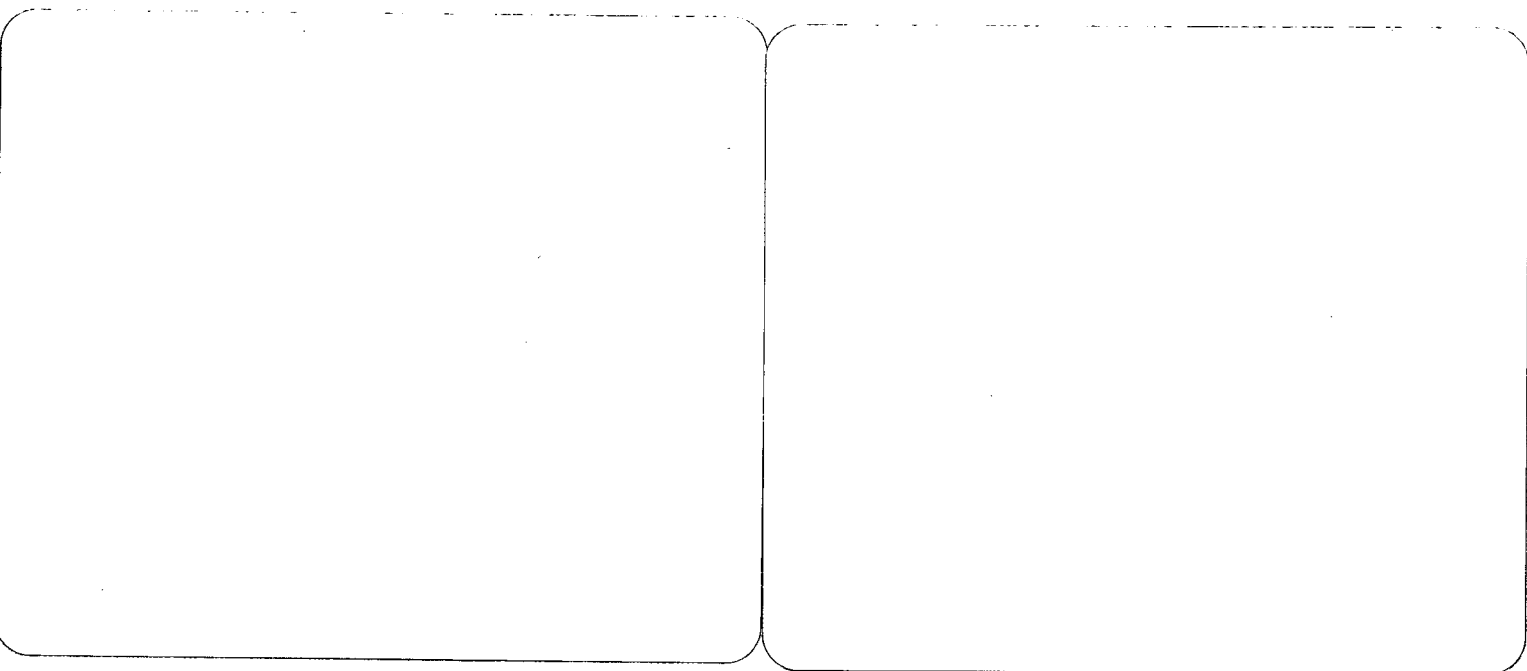
This letter is to advise all parties that the court reporter for my case  
that was heard in Aiken County Court of Common Pleas, Courney  
Clyburn Pope, Circuit Court Judge has delivered the transcript on  
November 19, 2020 via my personal email,  
[stephanshugart@gmail.com](mailto:stephanshugart@gmail.com).

Respectfully,

  
Stephan Shugart

Cc: Court Administrator South Carolina Court of Appeals

Cc: James F. Knox, Turner & Padgett, Graham & Laney P.A.



Stephan Sugarb  
546 Gates Street  
Philadelphia, Pa 19128

The Honorable Jenny Abbot Kitchings  
South Carolina Court of Appeals  
1220 Senate Street  
P.O. Box 11629  
Columbia, SC 29201

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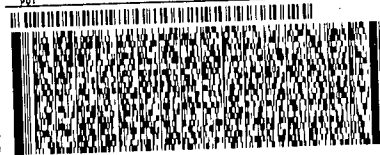
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