

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

**RECEIVED**  
DEC 29 2020  
SC Court of Appeals

APPEAL FROM Horry COUNTY  
Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge  
William A. McKinnon, Circuit Court Judge

Appellate Case No. 2020-000407

Douglas Kelsey.....Plaintiff,

v.

House of Blues Myrtle Beach Restaurant Corporation;  
HOB Entertainment, Inc.; and Travis Scott Wagoner.....Defendants.

AND

House of Blues Myrtle Beach Restaurant Corporation .....Third-Party Plaintiff,

v.

Throttlefest, LLC; American Outlaw Spirits Incorporated;  
Full Throttle LLC; and Full Throttle Sloon Shine, LLC.....Third-Party Defendants.

Of Whom House of Blues Myrtle Beach Restaurant Corporation is the Appellant and Throttlefest, LLC, American Outlaw Spirits Incorporated, Full Throttle LLC, and Full Throttle Sloon Shine, LLC are the Respondents.

**APPELLANT’S DESIGNATION OF MATTER TO BE INCLUDED  
IN THE CONSOLIDATED RECORD ON APPEAL**

In accordance with Rule 209 of the Appellate Court Rules, Respondents Penn America Insurance Company and Global Indemnity Group, Inc. (collectively “PAIC”), designate the following portions of the transcript, pleadings, orders, exhibits, or other materials, to be included in the Record on Appeal:

**Orders/Judgments**

1. Form 4 Order Granting Throttlefest LLC’s Motion to Dismiss re: Third-Party Complaint, filed Jan. 8, 2020
2. Order of Dismissal as to Throttlefest LLC, filed Feb. 4, 2020 by Judge Culbertson
3. Order of Dismissal as to Throttlefest LLC, filed Feb. 5, 2020 by Judge Culbertson

4. Form 4 Order Denying House of Blue's Motion to Alter or Amend, filed Mar. 4, 2020 by Judge Culbertson
5. Order of Dismissal as to Full Throttle LLC, Full Throttle Sloon Shine LLC, and American Outlaw Spirit, filed Mar. 26, 2020 by Judge McKinnon
6. Order Granting Motion to Reconsider in Part and Denying It In Part, filed July 31, 2020 by Judge McKinnon
7. Notice of Dismissal Without Prejudice as to American Outlaw Spirits, Inc., Michael Ballard, and Jesse James Dupree re: First-Party Complaint, filed Jan. 22, 2018
8. Form 4 Order Granting Throttlefest's Motion to Dismiss re: First-Party Complaint, filed Dec. 11, 2018
9. Form 4 Order Granting Full Throttle, LLC and Full Throttle S'Loon Shine, LLC's Motion to Dismiss re: First-Party Complaint, filed Aug. 13, 2019

### **Pleadings**

10. Complaint, filed May 12, 2017
11. First Amended Complaint, filed July 7, 2017
12. Second Amended Complaint, filed Oct. 15, 2019
13. House of Blue's Answer and Third-Party Complaint, filed Oct. 18, 2019
14. Throttlefest, LLC's Answer and Counterclaim, filed Dec. 5, 2019
15. Throttlefest, LLC's Motion to Dismiss, filed Dec. 5, 2019
16. Throttlefest, LLC's Memo in Support of Motion to Dismiss, with Exhibits, filed Dec. 30, 2019
17. House of Blue's Memo in Opposition to Throttlefest, LLC's Motion to Dismiss, filed Jan. 7, 2020
18. House of Blue's Motion to Alter or Amend Judge Culbertson's Order of Dismissal, with Exhibits, filed Feb. 14, 2020
19. Full Throttle LLC's Motion to Dismiss, filed Dec. 17, 2019
20. Full Throttle LLC's Memo in Support of Motion to Dismiss, with Exhibits, filed Jan. 3, 2020
21. Full Throttle Sloon Shine LLC's Motion to Dismiss, filed Dec. 17, 2019
22. Full Throttle Sloon Shine LLC's Memo in Support of Motion to Dismiss, with Exhibits, filed Jan. 3, 2020
23. American Outlaw Spirits' Motion to Dismiss, filed Dec. 17, 2019
24. American Outlaw Spirits' Memo in Support of Motion to Dismiss, with Exhibits, filed Jan. 3, 2020
25. House of Blue's Memo in Opposition to Full Throttle LLC, Full Throttle Sloon Shine LLC, and American Outlaw Spirits' Motion to Dismiss, with Exhibits, filed Feb. 5, 2020
26. House of Blue's Motion to Alter or Amend Judge McKinnon's Order of Dismissal, with Exhibits, filed Apr. 6, 2020
27. Full Throttle LLC, Full Throttle Sloon Shine LLC, and American Outlaw Spirits' Response in Opposition to Motion to Alter or Amend, filed Apr. 17, 2020

## Transcripts

28. Transcript of hearing before Judge Culbertson on Jan. 7, 2020
29. Transcript of hearing before Judge McKinnon on Feb. 5, 2020
30. Transcript of hearing before Judge McKinnon on July 23, 2020

## Exhibits

No additional exhibits were received at the hearings, all such documents having been attached to the parties' prior court filings.

Appellant certifies that this Designation contains no matter, which is irrelevant to the appeal.

Respectfully submitted,  
COLLINS & LACY, P.C.

By: s/Christian Stegmaier  
CHRISTIAN STEGMAIER  
SC Bar No. 68648  
[cstegmaier@collinsandlacy.com](mailto:cstegmaier@collinsandlacy.com)  
AMY L. NEUSCHAFER  
SC Bar No. 73922  
[aneuschafer@collinsandlacy.com](mailto:aneuschafer@collinsandlacy.com)  
LAURA R. BAER  
SC Bar No. 101076  
[lbaer@collinsandlacy.com](mailto:lbaer@collinsandlacy.com)  
1330 Lady Street, Sixth Floor (29201)  
Post Office Box 12487  
Columbia, South Carolina 29211  
(803) 256-2660 (main)  
(803) 771-4484 (facsimile)

ATTORNEYS FOR APPELLANT HOUSE OF  
BLUES MYRTLE BEACH RESTAURANT  
CORPORATION

**APPELLANT'S DESIGNATION OF MATTER  
TO BE INCLUDED IN THE CONSOLIDATED  
RECORD ON APPEAL**

Columbia, South Carolina  
December 21, 2020

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Throttlefest, LLC; American Outlaw Spirits Incorporated;  
Full Throttle LLC; and Full Throttle Sloon Shine, LLC.....Third-Party Defendants.

Of Whom House of Blues Myrtle Beach Restaurant Corporation is the Appellant and Throttlefest, LLC, American Outlaw Spirits Incorporated, Full Throttle LLC, and Full Throttle Sloon Shine, LLC are the Respondents.

**CERTIFICATE OF SERVICE**

I certify that I have served APPELLANT’S DESIGNATION OF MATTER TO BE INCLUDED IN THE CONSOLIDATED RECORD ON APPEAL by mailing a copy of same in the United States mail, with sufficient postage affixed thereto on this 21<sup>st</sup> Day of December, 2020, to the following:

M. Dawes Cooke, Jr., Esquire  
Jeffrey M. Bogdan, Esquire  
Barnwell Whaley Patterson & Helms, LLC  
P. O. Drawer H  
Charleston, SC 29402-0197  
**Counsel for Respondent Throttlefest, LLC**

Brian C. Duffy, Esquire  
Kara Shea Grevey, Esquire  
Duffy & Young, LLC  
96 Broad Street  
Charleston, SC 29401  
**Counsel for Respondents American Outlaw Spirits Incorporated; Full Throttle, L.L.C.; and Full Throttle Sloon Shine, LLC**

COLLINS & LACY, P.C.

By: s/Christian Stegmaier  
CHRISTIAN STEGMAIER  
SC Bar No. 68648  
[cstegmaier@collinsandlacy.com](mailto:cstegmaier@collinsandlacy.com)  
AMY L. NEUSCHAFER  
SC Bar No. 73922  
[aneuschafer@collinsandlacy.com](mailto:aneuschafer@collinsandlacy.com)  
LAURA R. BAER  
SC Bar No. 101076  
[lbaer@collinsandlacy.com](mailto:lbaer@collinsandlacy.com)  
1330 Lady Street, Sixth Floor (29201)  
Post Office Box 12487  
Columbia, South Carolina 29211  
(803) 256-2660 (main)  
(803) 771-4484 (facsimile)

ATTORNEYS FOR APPELLANT HOUSE OF  
BLUES MYRTLE BEACH RESTAURANT  
CORPORATION

**CERTIFICATE OF SERVICE**

Columbia, South Carolina  
December 21, 2020



Christian Stegmaier | D: 803.255.0454 | E: cstegmaier@collinsandlacy.com

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**VIA U.S. MAIL AND EMAIL**

The Honorable Jenny A. Kitchings  
South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29201  
[ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)

**Re: *Douglas Kelsey v. House of Blues Myrtle Beach Restaurant Corporation, HOB Entertainment, Inc., and Travis Scott Wagoner; House of Blues Myrtle Beach Restaurant Corporation v. Throttlefest LLC, American Outlaw Spirits Incorporated, Full Throttle, L.L.C., and Full Throttle Sloon Shine, LLC***  
**Appellate Case No. 2020-000407**  
**Claim No. 188372477-001-GL**  
**C&L File No. 001133-00111**

Dear Ms. Kitchings:

Please find enclosed for filing are the following:

1. Appellant's Motion to File Initial Briefs Out-of-Time, together with our firm's check in the amount of \$50.00 for the filing fee;
2. Initial Brief of Appellant (as to Respondents American Outlaw Spirits Incorporated, Full Throttle, LLC, and Full Throttle Sloon Shine, LLC) with Proof of Service of same;
3. Initial Brief of Appellant (as to Respondent Throttlefest, LLC) with Proof of Service of same; and
4. Designation of Matter.

Pursuant to the Supreme Court's Amended Order "re: Operation of the Appellate Courts During the Coronavirus Emergency" (2020-05-29-02, Appellate Case No. 2020-000447), we have not included any additional copies. If any additional copies are required, please let us know.

By copy of this letter and enclosures, we are serving same on counsel.

The Honorable Jenny A. Kitchings  
December 21, 2020  
Page 2

Thank you for your time and attention. Should you have any questions or concerns, please do not hesitate to contact us.

Respectfully,

*s/Christian Stegmaier*

Christian Stegmaier

CS/net  
Encl.

The Honorable Jenny A. Kitchings

December 21, 2020

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*cc (via U.S. Mail and email):*

M. Dawes Cooke, Jr., Esquire

Jeffrey M. Bogdan, Esquire

Brian C. Duffy, Esquire

Kara Shea Grevey, Esquire

Hasler  
12/21/2020  
US POSTAGE \$007.50<sup>00</sup>  
ZIP 29201  
011E11873897

**Collins & Lacy**  
ATTORNEYS AT LAW

1330 Lady Street, Sixth Floor (29201) Post Office Box 12187 | Columbia, SC 29211

The Honorable Jenny A. Kitchings  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

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