

1 David M. Keithly, State Bar No. 292101
2 dkeithly@mortensontaggart.com
3 Sara K. Ross, State Bar No. 346153
4 sross@mortensontaggart.com
5 **MORTENSON TAGGART ADAMS LLP**
6 300 Spectrum Center Drive, Suite 1200
7 Irvine, California 92618
8 Telephone: (949) 774-2224
9 Facsimile: (949) 774-2545
10 Attorneys for Plaintiffs and Counterclaim
11 Defendants
12 ATLANTIC WAVE HOLDINGS, LLC
13 and STRIKEPOINT, LLC

10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

13 ATLANTIC WAVE HOLDINGS, LLC,
14 a Virginia limited liability company and
15 STRIKEPOINT CONSULTING, LLC, a
16 Virginia limited liability company,

16 Plaintiffs,

17 vs.

18 CYBERLUX CORPORATION, a
19 Nevada Corporation; MARK D.
20 SCHMIDT, an individual; and DOES 1
21 to 50, Inclusive,

21 Defendants.

CASE NO. 3:24-cv-00482-RBM-VET
Honorable Ruth Bermudez Montenegro

**DECLARATION OF WILLIAM
WELTER IN SUPPORT OF
PLAINTIFFS ATLANTIC WAVE
HOLDINGS, LLC AND
STRIKEPOINT CONSULTING,
LLC'S UPDATE RE: MOTION TO
VACATE**

DECLARATION OF WILLIAM WELTER

I, William Welter, declare as follows:

1. I am the Managing Director of Atlantic Wave Holdings, LLC, Secure Community, LLC, and Strikepoint, LLC (collectively, “Plaintiffs”) in the above-captioned matter. I have personal knowledge of the facts set forth herein and, if called upon to testify, could and would competently testify thereto. This declaration is submitted in support of Plaintiffs’ supplemental briefing on Defendant Cyberlux Corporation’s Motion to Vacate the domesticated judgment (Dkt. No. 9) and to provide updates on the litigation, disputes, and payments surrounding the Settlement Agreement.

2. Plaintiffs initiated a straightforward collection action in California to enforce the Virginia Judgment against Cyberlux's wholly-owned subsidiary, Datron, Inc., located in Vista, California. This action was necessary due to Defendants' consistent breaches of the settlement agreement and failure to comply with their payment obligations.

3. The original action in Virginia resulted in the Settlement Agreement (Dkt. No. 24-1) and the Amended Final Order and Judgment (“Virginia Judgment”) (Dkt. No. 9-2 at p. 29) which form the basis of Plaintiffs' collection efforts.

4. After Plaintiffs garnished Defendants' funds held in PNC and Towne Bank accounts, Defendants filed an emergency motion seeking access to the garnished funds. Defendants sought declarations regarding the validity and enforceability of the settlement agreement. Attached as **Exhibit A** is a true and correct copy of Defendants' filing.

5. The court initially allowed Cyberlux to access up to \$317,000 for payroll purposes and \$230,000 to pay Plaintiffs. This initial relief was granted to address alleged urgent payroll needs and partial payment obligations. Attached hereto as **Exhibit B** is a true and correct copy of the Court's May 31, 2024 Order.

1 6. Bank records obtained in discovery show that the same day the Court
2 issued the temporary order, Cyberlux requested a check for \$198,798.37 to pay its
3 attorneys' fees.

4 7. However, the same judge who signed the original order later found that
5 Defendants' request for declaratory relief was improperly filed. In the June 7, 2024,
6 Opinion and Order, the court dismissed Defendants' declaratory relief complaint and
7 awarded Plaintiffs their attorneys' fees for defending against the improperly brought
8 action. Attached hereto as **Exhibit C** is a true and correct copy of the Virginia Court's
9 June 7, 2024 Order.

10 8. Subsequently, on August 9, 2024, the court released \$183,798.34 from
11 PNC Bank and \$4,862.86 from Towne Bank to Plaintiffs. **Exhibits D** and **E** are true
12 and correct copies of the Orders releasing the remaining garnished funds to Plaintiffs.

13 9. On July 8, 2024, Cyberlux filed a Declaratory Relief action and a
14 Complaint for Temporary Preliminary Injunction in Virginia. Attached hereto as
15 **Exhibit F** is a true and correct copy of Defendants' July 8, 2024 filings.

16 10. Despite these filings claiming the need for emergency relief, Defendants
17 have done nothing to schedule a hearing or submit further briefing regarding their
18 emergency.

19 11. Additionally, Defendants have ignored several letters from Plaintiffs'
20 counsel regarding deposition scheduling, demonstrating their refusal to engage in the
21 legal process. For instance, letters sent by Plaintiffs' counsel on August 6, 2024,
22 August 9, 2024, and August 23, 2024, went unanswered. Attached hereto as **Exhibits**
23 **G, H, and I** are true and correct copies of the letters Plaintiffs' counsel sent to
24 Defendants' counsel that remain unanswered.

25 12. Defendants have also failed to respond to discovery requests and did not
26 appear for a deposition scheduled for August 27, 2024, resulting in a non-appearance.
27 Attached hereto as **Exhibit J** is a true and correct copy of the non-appearance
28 documents related to Defendants' failure to produce a witness on August 27, 2024.

1 13. In Texas, the Virginia judgment was domesticated, and garnishment
2 proceedings were initiated to obtain assets related to Cyberlux's subsidiary, Catalyst
3 Machine Works. However, Defendants filed a motion to vacate the domesticated
4 judgment, which automatically stayed the proceedings. Depositions of Cyberlux's
5 PMK and other personnel were scheduled for August 27, 2024, but did not occur due
6 to the motion to vacate.

7 14. When attempting to serve the PMK subpoena, the process server noted
8 that there were no vehicles parked at the address, and there was no answer at the door.
9 Employees in the leasing office confirmed that Catalyst / Cyberlux employees Neil
10 Whiteley and Phillip Tucker work at this address but are not currently in possession
11 of their office as they are negotiating the terms of their lease.

12 15. Defendants do not deny making late payments under the settlement
13 agreement. The agreement explicitly states that Defendants shall transmit thirty-six
14 (36) non-defeasible monthly payments of \$21,459.00 payable on the first day of each
15 month, beginning in July 2023. Time being of the essence, these monthly payments
16 were to continue on the first of each month until the total Settlement Consideration
17 due to Plaintiffs was paid. Defendants also agreed to accelerate and pay the full
18 outstanding balance of all sums owed under the Consent Judgment within twenty-one
19 (21) days of receiving payment for any contract to purchase drone aircraft (Dkt No.
20 24-1 at pp. 5-6).

21 16. The settlement agreement defines a late payment as any payment not
22 received by the first of each month, and states that any breach not cured within three
23 (3) calendar days will be considered a breach of the agreement (Dkt No. 24-1 at p.
24 10). Specifically, Section 21 of the Settlement Agreement (Dkt. No. 24-1 at p. 11)
25 states: "For the avoidance of doubt, any payment not received by the first of each
26 month shall be deemed late, any information requested shall be due in ten (10)
27 calendar days and, unless cured within 3 calendar days, will be considered a breach
28 of this Agreement."

1 17. Despite these clear terms, Defendants have made several late payments
2 and ceased payments due in June, July, and August 2024. This failure to make timely
3 payments constitutes a breach of the settlement agreement.

4 18. Defendants have claimed that Plaintiffs agreed to amend the terms of the
5 settlement agreement or payment terms. This claim is categorically false. Plaintiffs
6 never agreed to any modifications or amendments to the settlement agreement. The
7 terms of the agreement were clear and unambiguous, and Plaintiffs have consistently
8 sought compliance with these terms.

9 19. Plaintiffs' requests for information and payments were made in
10 accordance with the original terms of the settlement agreement. At no point did
11 Plaintiffs agree to alter or amend the payment schedule or any other terms of the
12 agreement. Defendants' assertions are unsupported and appear to be an attempt to
13 justify their continued non-compliance and breaches of the settlement agreement.

14 20. The settlement agreement explicitly states that any modification or
15 amendment must be in writing and signed by both parties. No such written
16 amendment exists. Plaintiffs have fulfilled their obligations under the agreement and
17 have made multiple attempts to secure compliance from Defendants, who have
18 continually failed to meet their contractual responsibilities.

19 21. On July 31, 2023, I requested information from Defendants regarding
20 the number of drones included in Cyberlux's contract with the Department of Defense
21 (Dkt. No. 9-3 at p. 22). Cyberlux never responded to this request.

22 22. On September 8, 2023, I again asked whether an extra payment made by
23 Defendants was "related to the \$5k per drone sold" provision in the Settlement
24 Agreement (Dkt. No. 9-3 at p. 38). Cyberlux never responded to this request.

25 23. I renewed my request on October 2, 2023, emphasizing the significance
26 of the information by stating, "Also, the agreement calls for accelerated payments
27 (\$5,000 per drone sold). Can you please let us know how many drones were sold?
28

1 Would be nice to conclude these matters. Thanks" (Dkt. No. 9-3 at p. 55). Again,
2 Cyberlux did not respond.

3 24. On October 9, 2023, I made another request for basic information: "Can
4 you advise how many drones were sold?" (Dkt. No. 9-3 at p. 62). Once more,
5 Cyberlux ignored this request for information they agreed to promptly provide under
6 the settlement agreement.

7 25. On November 2, 2023, I again asked for information related to drone
8 sales: "Also, the initial drone transaction was mid-September. If the transaction has
9 proceeded and if they pay the \$5k per drone, that would conclude matters (beside the
10 stock issues). As mentioned to you before, our goal has been to make a clean cut
11 between the two companies. The proposed / new SA appears to prolong that by
12 another 3 years. Lastly, any documents relevant to the drone transaction will be
13 helpful. I've held back on requests for same thus far, however, I think reviewing the
14 documents on the drone transaction will now be very helpful" (Dkt. No. 9-3 at p. 75).
15 Cyberlux ignored this request as well.

16 26. Finally, on December 5, 2023, I once again requested information about
17 drone sales: "We are still concerned about the Drone sales and the necessity to fulfill
18 all the terms of and under the settlement agreement (\$5k per Drone) upon the sale. As
19 mentioned we have been dealing with this matter since fall 2021 and are ready to
20 conclude. To that end, I ask again can you please send documentation relevant to the
21 Drone sales" (Dkt. No. 9-3 at p. 80). Cyberlux also ignored this request.

22 27. The settlement agreement defines requested information as being late if
23 not received within ten (10) calendar days and states that any breach not cured within
24 three (3) calendar days will be considered a breach of the agreement (Dkt. No. 24-1
25 at p. 11, § 21).

26 28. Defendants' last regular payment was made in May 2024. Since then,
27 Defendants have not made any further payments. This cessation of payments, coupled
28

1 with Defendants' refusal to provide any information on the number of drones sold,
2 further complicates the accurate determination of the total amount owed.

3 29. Despite receiving \$38 million under a US Government contract to supply
4 drones to Ukraine, Defendants have consistently failed to provide the required
5 information and payments as stipulated in the settlement agreement.

6 30. Following the garnishment of Defendants' funds held in PNC and Towne
7 Bank accounts in Virginia and subsequent court orders, Plaintiffs applied the
8 remaining garnished funds to reduce the total amount Defendants owe. Specifically,
9 \$183,798.34 from PNC Bank and \$4,862.86 from Towne Bank were released to
10 Plaintiffs on August 9, 2024. These amounts were applied to partially satisfy
11 Defendants' outstanding obligations under the settlement agreement.

12 31. As of August 2024, the outstanding amounts due under the Settlement
13 Agreement are as follows:

14 ○ Atlantic Wave Holdings, LLC and Secure Community, LLC (AWH/SC):
15 Principal: \$430,295.59, Interest Due: \$95,000.62, Total Owed: \$525,296.21

16 ○ StrikePoint, LLC: Principal: \$372,669.40, Interest Due: \$79,916.69,
17 Total Owed: \$452,586.09

18 ○ Grand Total Owed: \$977,882.31

19 32. Despite these received payments, Defendants have failed to make timely
20 and complete payments as required under the Settlement Agreement. The cessation
21 of payments since May 2024, coupled with Defendants' refusal to provide necessary
22 information on drone sales, complicates the accurate determination of the total
23 amount owed. This persistent non-compliance underscores the need for immediate
24 court intervention to ensure that Plaintiffs can enforce their rightful claims under the
25 settlement agreement and secure the assets needed to satisfy the judgment.

26 33. There is a remaining dispute over the Caveat Emptor status of Cyberlux's
27 stock. According to the settlement agreement, Defendants promised that the Caveat
28 Emptor status would be removed from their stock on or before December 31, 2023.

1 As of the date of this filing, the Caveat Emptor status has not been removed. On
 2 September 1, 2024, I accessed OTCMarkets.com and searched for CYBL stock.
 3 Attached hereto as **Exhibit K** is a true and correct copy of the information I obtained
 4 from OTCMarkets.com regarding CYBL stock. While this dispute remains
 5 unresolved, it is not a subject of Plaintiffs' collection action, which deals solely with
 6 the enforcement of the amended final judgment and order.

7 34. I reviewed Defendants' bank records obtained in discovery. These
 8 records confirmed that Defendants received a payment of \$38.7 million from a US
 9 Government contract to supply drones to Ukraine on September 8, 2023. Due to
 10 extensive third-party financial information contained in the bank records, Plaintiffs
 11 are not filing the bank records publicly, but Plaintiffs will submit these records for the
 12 Court to review in camera upon the Court's request.

13 35. Despite receiving a substantial \$38 million payment from a US
 14 Government contract in September 2023, Defendants misused these funds for
 15 personal expenses and transfers instead of fulfilling their obligations under the
 16 settlement agreement.

17 36. Bank records obtained in discovery reveal that Defendants transferred
 18 significant sums of money to personal accounts, friends, and family members,
 19 beginning on the same day the \$38 million was transferred into Cyberlux's account.
 20 Instead of making the required payments to Plaintiffs, Defendant Mark D. Schmidt
 21 and his associates diverted these funds for personal use. Specific transfers include:

- 22 • **September 8, 2023:** \$250,000 phone transfer authorized by Mark
 23 Schmidt
- 24 • **September 11, 2023:** \$213,000 wire to Fletcher Jones Motorcars for a
 25 vehicle purchase
- 26 • **September 14, 2023:** \$187,500 phone transfer authorized by Mark
 27 Schmidt
- 28 • **September 19, 2023:** \$55,000 transfer to Schwab account

- 1 • **September 20, 2023:** \$600,000 phone transfer authorized by Mark
- 2 Schmidt
- 3 • **September 26, 2023:** \$692,689.64 member debit memo
- 4 • **October 16, 2023:** \$850,000 transfer to Schmidt's Edward Jones account
- 5 • **October 16, 2023:** \$994,460 transfer to G2G Global LTD
- 6 • **October 23, 2023:** \$6,000 transfer to Schwab account
- 7 • **November 7, 2023:** \$25,000 transfer to Schmidt
- 8 • **January 4, 2024:** \$108,555.42 transfer to Schmidt
- 9 • **January 29, 2024:** \$25,000 transfer to Schmidt
- 10 • **February 7, 2024:** \$20,000 transfer to Schmidt
- 11 • **March 6, 2024:** \$290,000 transfer to Schmidt
- 12 • **April 11, 2024:** \$50,000 transfer to Schmidt
- 13 • **April 11, 2024:** \$25,000 transfer to Holly Schmidt
- 14 • **April 11, 2024:** \$25,000 transfer to Schmidt

15 37. The total amount of these transfers is \$4,417,205.06. These unauthorized
 16 transfers are a clear violation of the settlement agreement, which required Defendants
 17 to make timely payments to Plaintiffs and provided for accelerated payments upon
 18 receipt of substantial funds from drone contracts (Dkt. No. 24-1 at pp. 5-6, §§ 4.a-
 19 4.c).

20 38. Additionally, on August 12, 2024, Brett Rosen, on behalf of RB Capital
 21 Partners, Inc., filed a case against Cyberlux Corporation for breach of contract and
 22 declaratory relief in the United States District Court for the Southern District of
 23 California. This complaint alleges that Cyberlux has defaulted on several promissory
 24 notes amounting to \$5,686,960. Attached hereto as **Exhibit L** is a true and correct
 25 copy of the complaint filed by RB Capital Partners, Inc.

26 ///

27 ///

28 ///

1 I declare under penalty of perjury under the laws of California that the
2 foregoing is true and correct.

3 Executed this 3rd day of September, 2024, in Tappahannock, VA.

4
5 /s/ William Welter

6 WILLIAM WELTER

7 Managing Director of Atlantic Wave
8 Holdings, LLC, Secure Community,
9 LLC, and Strikepoint, LLC
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DocuSign Envelope ID: D741C8C4-A675-4EF1-BE7F-A4435D9C5383

EXHIBIT 3

1 CYBERLUX CORPORATION; and
2 MARK D. SCHMIDT,

3 Counterclaimants,

4 v.

5 ATLANTIC WAVE HOLDINGS,
6 LLC; SECURE COMMUNITY, LLC,
and STRIKEPOINT CONSULTING,
LLC,

7 Counterclaim Defendants.

8
9 I, Mark D. Schmidt, declare:

10 1. I am the President and Chief Executive Office of Defendant and
11 Counterclaimant Cyberlux Corporation ("Cyberlux"). I am also individually a
12 Defendant and Counterclaimant. I have personal knowledge of the facts contained
13 within this Declaration based upon me being involved with the transactions that are
14 the subject of this lawsuit and this Declaration. If called as a witness, I would
15 competently testify as to the following facts based on my personal knowledge.

16 2. On or about June 15, 2023, Cyberlux, Schmidt, Atlantic Wave Holdings,
17 LLC ("Atlantic Wave"), Secure Community, LLC ("Secure"), and Strikepoint
18 Consulting, LLC ("Strikepoint") entered into a settlement agreement ("Settlement
19 Agreement") arising from the lawsuit entitled *Atlantic Wave Holdings, LLC; and*
20 *Secure Community, LLC v. Cyberlux Corporation and Mark D. Schmidt*, Circuit
21 Court of the City of Richmond, Virginia, Case No. CL22-3882 (the "Virginia
22 Action"), in which Plaintiffs sued to enforce certain contracts to be performed in
23 Virginia through overreaching and economic duress. A true and correct copy of the
24 Settlement Agreement is attached hereto as **Exhibit A**.

25 3. Pursuant to the terms of the Settlement Agreement, an Amended Final
26 Order and Judgement [sic] ("Settlement Judgement") memorializing the monetary
27 component of the settlement was filed in the Virginia Action on June 28, 2023, a true
28 and correct copy of which is attached hereto as **Exhibit B**. In fact, the Settlement

DocuSign Envelope ID: D741C8C4-A675-4EF1-BE7F-A4435D9C5383

Judgment provides, in part, that “the parties hereto have reached a settlement agreement that resolves the current need for continuing litigation.” Settlement Judgment at Page 1. Further, in Plaintiffs’ state court action filed in San Diego County Superior Court and removed to this Court, Plaintiffs alleged: “In connection with the Settlement Agreement, on June 28, 2023, the Court in the Underlying Lawsuit entered an Amended Final Order and Judgment....” Complaint, at Paragraph 18 [Dckt. 1, Ex. A].

4. As conceded by Plaintiffs in their underlying state court complaint, provided that with respect to the settlement payment to be made by Cyberlux, “Under the terms of the Settlement Agreement in paragraph 4(a) Defendants agreed to specific payment terms.” Complaint, at Paragraph 19 [Dckt. 1, Ex. A].

5. Following the Settlement Agreement reached in the Virginia Action, Cyberlux made payments to Atlantic Wave as follows:

Date	Payee	Amount
7/3/2023	Atlantic Wave Holdings, LLC	\$10,737.50
7/3/2023	Atlantic Wave Holdings, LLC	\$5,364.75
7/3/2023	Atlantic Wave Holdings, LLC	\$4,513.89
9/8/2023	Atlantic Wave Holdings, LLC	\$575,000.00
9/8/2023	Strikepoint Consulting, LLC	\$50,000.00
10/4/2023	Strikepoint Consulting, LLC	\$20,000.00
11/2/2023	Strikepoint Consulting, LLC	\$19,000.00
12/4/2023	Strikepoint Consulting, LLC	\$19,000.00
1/2/2024	Strikepoint Consulting, LLC	\$19,000.00
2/1/2024	Strikepoint Consulting, LLC	\$19,000.00
3/1/2024	Strikepoint Consulting, LLC	\$19,000.00
4/1/2024	Strikepoint Consulting, LLC	\$19,000.00
TOTAL		\$779,616.14

True and correct copies of the wire payment confirmations are attached hereto as **Exhibit C**. As more fully set forth in the concurrently filed Declaration of Douglas Grimes, Cyberlux’s payments were either made by the deadlines provided in the Settlement Agreement (including the 3-day cure period), or were timely based upon the Plaintiffs’ oral modification of the Settlement Agreement, upon which Cyberlux

DocuSign Envelope ID: D741C8C4-A675-4EF1-BE7F-A4435D9C5383

1 relied.

2 6. In fact, as more fully explained in the concurrently filed Declaration of
3 Douglas Grimes, the parties agreed to a different payment plan post-settlement.
4 Further, as confirmed by William Welter, Atlantic Wave's principal and legal
5 counsel, following Cyberlux's overpayment of September 8, 2023, equal to \$575,000,
6 Cyberlux had an "overage" of \$167,402.56 to apply to future payments.

7 7. Under the Settlement Agreement, the combined principal amount owed
8 to Strikepoint was \$650,000, and the combined principal amount owed to Atlantic
9 Wave was \$1,110,363.89. To date, \$254,000 has been paid to Strikepoint, leaving a
10 principal balance of \$396,000, and \$595,616.14 has been paid to Atlantic Wave,
11 leaving a principal balance of \$591,102.45.

12 8. [REDACTED]

13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED].

21 9. Plaintiffs and I and Cyberlux also have a dispute regarding whether
22 Cyberlux continues to owe Atlantic Wave payments pursuant to a patent license
23 agreement which was procured through misrepresentations, undue influence, and
24 overreaching by Plaintiffs in the Virginia litigation. Cyberlux contends that this
25 patent license agreement and the resultant settlement of that agreement was procured
26 through misrepresentation, undue influence and overreaching because Mr. Welter, a
27 Florida licensed lawyer, did not advise me to obtain separate counsel in accordance
28 with Florida Rule of Professional Responsibility 4-4.3.

10. Datron World Communications, Inc. was acquired by Cyberlux in September 2023, after Cyberlux entered into the Settlement Agreement with the Plaintiffs that is the subject of this litigation.

11. On April 16, 2024, I was informed by Towne Bank, which is the bank in which both I and Cyberlux have bank accounts, that it was served with a Garnishment Summons obtained by Atlantic Wave Holdings, LLC and Secure Community, LLC, which resulted in the freezing of bank accounts. This Garnishment Summons and the resulting freezing of Cyberlux's bank accounts has and continues to materially interfere with Cyberlux's day-to-day operations and is causing immediate and irreparable harm to Cyberlux as it is preventing Cyberlux from paying bills and its employees, and related obligations as they come due.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 18th day of April, 2024, at Vienna, Austria.

DocuSigned by:
Mark D. Schmidt
CB9EE73498DE446...

Mark D. Schmidt

Exhibit B

Virginia:

In the Circuit Court of the City of Richmond, John Marshall Courts Building

ATLANTIC WAVE HOLDINGS, LLC,

AND

SECURE COMMUNITY, LLC,

Plaintiffs,

v.

Case No. CL22-3882

CYBERLUX CORPORATION,

AND

MARK D. SCHMIDT,

Defendants.

ORDER

On May 31, 2024 came the parties, by counsel, to be heard on the Defendants' "Emergency Motion for Declaratory Relief," filed on May 21, 2024. Upon consideration of the filings, evidence, and arguments included in the record in the above-styled matter, the Court grants Defendants' temporary injunction only.

IT IS HEREBY ORDERED:

- (1) All judgment liens, garnishments, writs of fieri facias, and notice of judgment liens against Defendants' accounts at any third party bank (s) and/or entity(s), including but not limited to funds sequestered in accounts with Towne Bank and PNC Bank are hereby lifted up to \$550,000.00 effective immediately. This lift will stay in effect until June 11, 2024 at 5:00 p.m.
- (2) Defendants may use up to \$317,000.00 for the purpose of making payroll and shall provide in-camera proof of payments to the Court within forty-eight (48) hours of any such payments. For the purposes of this Order, payroll is defined as the distribution of payments to company employees and consultants who are entitled to receive compensation as well as other work benefits.¹
- (3) Defendants may use up to \$230,000 for the purpose of making regularly scheduled settlement payments to Plaintiffs and provide in-camera proof of payments to the Court.

¹ The Defendants shall provide a spreadsheet of all payments made pursuant to this Order with information noting how it complies with this Order.

(4) Plaintiffs will refrain from issuing any new garnishments, writs of fieri facias and notice of judgment liens to any and all third party bank(s) and/or entity(s) until close of business² on June 11, 2024.

(5) This Order expires by close of business on June 11, 2024.

The Court **NOTES** the Defendants' objection to the Court's ruling, including the Court's ruling on jurisdiction. The Court further **NOTES** that it will accept, *in camera*, documentation of the payment of payroll and payments on the judgment owed. The Court hereby **ORDERS** the remainder of this matter be **TAKEN UNDER ADVISEMENT** pending the issuance of a written ruling.

The Clerk is **DIRECTED** to forward a certified copy of this Order to the parties.

The Court **DISPENSES** with the parties' endorsements pursuant to Rule 1:13.

It is so **ORDERED**.

ENTER:

5/31/2024


Jacqueline S. McClenney, Judge

² For purposes of this Order close of business shall be 5:00 p.m.

Exhibit C

Virginia:

In the Circuit Court of the City of Richmond, John Marshall Courts
Building

ATLANTIC WAVE HOLDINGS, LLC,

AND

SECURE COMMUNITY, LLC,

Plaintiffs,

v.

Case No. CL22-3882

CYBERLUX CORPORATION,

AND

MARK D. SCHMIDT,

Defendants.

OPINION AND ORDER

On May 31, 2024 came the parties, in person and by counsel, to be heard on the Defendants' "Emergency Motion for Declaratory Relief," filed on May 21, 2024. The Court, having considered the filings of the parties and having heard their arguments thereon, took the Defendants' Emergency Motion for Declaratory Relief under advisement.¹ After due consideration, the Court **DECIDES** as follows.

RELEVANT BACKGROUND

On August 24, 2022 the Plaintiffs filed their "Complaint" against the Defendants, alleging two claims of Breach of Contract,² Contractual/Equitable Audit, and *Quantum Meruit*. The parties subsequently entered into a Settlement Agreement, dated June 15, 2023,³ wherein the Defendants agreed to pay a total amount of \$1,572,500.00 to the Defendants in scheduled monthly payments.⁴ The Court entered an agreed "Order of Final Judgment" on June 21, 2023 and then an agreed "Amended Final Order and Judgment" on

¹ See page 2 of the "Order," entered by this Court on May 31, 2024. The Court **NOTES** that it received correspondence from counsel for PNC Bank via electronic mail in response to its May 31, 2024 Order. Counsel indicated that the Defendants were required to post a bond pursuant to §8.01-477 of the Code of Virginia, 1950, as amended. However, §8.01-477 is inapplicable because a motion to quash an execution was not brought before the Court.

² According to the Complaint, the parties entered into a patent license agreement on July 15, 2019 and a second agreement on October 8, 2021. Compl. ¶¶ 7, 10. The Plaintiff alleges that the Defendants breached both contracts. See *id.* ¶¶ 35-43.

³ Although the Amended Final Order and Judgment includes language referencing the Settlement Agreement, the Settlement Agreement was neither filed nor attached to the Amended Final Order and Judgment. A copy of the Settlement Agreement is attached as Exhibit 1 to the Defendants' "Memorandum in Support of Defendants' Emergency Motion for Declaratory Relief."

⁴ See paragraph 2(c) of the Settlement Agreement.

June 28, 2023. The Amended Final Order and Judgment provides that the Settlement Agreement “resolves the current need for continuing litigation.”

The Plaintiffs initiated garnishment proceedings on April 2, 2024.⁵ Then, on April 18, 2024, the Plaintiffs requested that the Clerk of this Court issue a writ of *fiery facias* against the Defendants. On April 19, 2024 the Clerk of this Court issued the writ of *fiery facias* and the Defendants filed a “Certificate” wherein the Plaintiffs certified that a “Notice of Judgment Lien” was served on Towne Bank that same day. The Plaintiffs initiated additional garnishment proceedings on April 22, 2024.⁶

On May 21, 2024 the Defendants filed their Emergency Motion for Declaratory Relief, as well as a “Memorandum in Support of Defendants’ Emergency Motion for Declaratory Relief.”⁷ The Plaintiffs filed an “Opposition to Defendants’ Emergency Motion for Declaratory Relief and Motion for Sanctions” on May 29, 2024. The Defendants later filed a “Reply to Plaintiffs’ Response to Defendants’ Emergency Motion for Declaratory Relief” on May 31, 2024. The Defendants requested attorney’s fees and costs incurred in bringing forth their Motion, and the Plaintiffs requested attorney’s fees and costs incurred in defending against the Defendants’ Motion.⁸

LAW AND ANALYSIS

In its Emergency Motion for Declaratory Relief, filed under the case number assigned to the underlying breach of contract action, the Defendants seek declaratory relief against the Plaintiffs. Specifically, the Defendants seek a declaratory judgment that:

1. The Settlement Agreement remains in effect;
2. The Settlement Agreement is a valid, enforceable, and binding contract;
3. The terms of the Settlement Agreement are clear, complete, and certain; and

⁵ On April 2, 2024 the Plaintiffs filed a “Suggestion for Summons in Garnishment” in each of the following case numbers: CL22-3882-01, CL22-3882-02, and CL22-3882-03. The garnishment summons in CL22-3882-01 and CL22-3882-02 were dismissed on April 19, 2024. The garnishment summons in CL22-3882-03 was dismissed on April 26, 2024. The garnishment summons in all three cases were dismissed because they listed the “Date of Judgment” as June 28, 2024, which had not yet occurred.

⁶ On April 22, 2024 the Plaintiffs filed a “Suggestion for Summons in Garnishment” in each of the following case numbers: CL22-3882-04, CL22-3882-05, and CL22-3882-06. The garnishment summons in these cases remain outstanding.

⁷ The Defendants argued a request for injunctive relief at the hearing *and* included it in its Memorandum but did not style its Motion to request injunctive relief nor include injunctive relief in its prayer for relief.

⁸ Defs.’ Emergency Mot. for Declaratory Relief 4; Pls.’ Opp’n to Defs.’ Emergency Mot. for Declaratory Relief & Mot. for Sanctions 5.

4. During the term of the Settlement Agreement, the Plaintiffs may not issue garnishments, writs of *fiery facias*, or notice of judgment liens by improperly relying on this Court's "Amended Final Order and Judgment," entered on June 28, 2023.⁹

The Plaintiffs argue that the Amended Final Order and Judgment is final.

Accordingly, the Plaintiffs contend that—by filing a Motion, as opposed to a separate declaratory judgment action—the Defendants failed to properly file an action for declaratory relief. In response, the Defendants argue that the Amended Final Order and Judgment is not final, as it dismisses the Plaintiffs' Complaint *without prejudice*.¹⁰ Therefore, the Defendants assert that the Court has the authority to address their Motion. In the present case, there is no dispute that the plain language of the Amended Final Order and Judgment dismissed the underlying breach of contract action without prejudice. At issue is whether the dismissal of the underlying breach of contract action "without prejudice" allows the Court to award the requested declaratory relief to the Defendants.

In *Primov v. Serco*, the Supreme Court of Virginia distinguished dismissal of a suit "without prejudice" from dismissal of a suit "with prejudice."¹¹ "A dismissal without prejudice terminates the action and concludes the rights of the parties *in that particular action*."¹² Although the Defendants argue that the Amended Final Order and Judgment cannot be final because the Settlement Agreement, referenced therein, contemplates the need for support by this Court to address disputes or future challenges with the settlement, a dismissal without prejudice "does not prohibit the *refiling of the action*."¹³ The Amended Final Order and Judgment, dismissing the present case without prejudice, effectively terminated the underlying breach of contract action and concluded the rights of the parties in *this particular case*. Therefore, the Defendants request for declaratory relief, brought forth as a motion in the underlying breach of contract action, was improperly filed and must be denied.

⁹ Def.'s Emergency Mot. for Declaratory Relief 4.

¹⁰ See paragraph (e) of the Amended Final Order and Judgment.

¹¹ 296 Va. 59, 69 (2018).

¹² *Id.* (quoting *United States v. California*, 507 U.S. 746, 756 (1993)).

¹³ *Id.* (emphasis added). A dismissal of a suit "with prejudice," by contrast, "is defined as an adjudication on the merits, and final disposition, barring the right to bring or maintain an action on the same claim or cause." *Id.* (quoting *Reed v. Liverman*, 250 Va. 97, 99 (1995)).

RULING

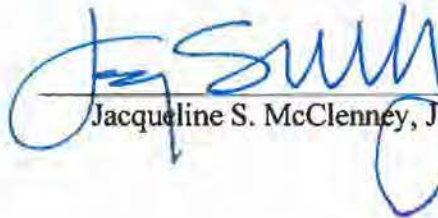
For the foregoing reasons, the Court **RULES** that the Defendants' Emergency Motion for Declaratory Relief is **DENIED**. The temporary injunction awarded to the Defendants by the May 31, 2024 Order of this Court is hereby **DISSOLVED**.¹⁴ It is the **ORDER** of this Court that the Plaintiffs' Motion for Sanctions is **DENIED**. It is the further **ORDER** of this Court that the Defendants' request for attorney's fees is **DENIED**. The Court **FINDS** that the Plaintiffs are entitled to reasonable attorney's fees incurred in defending against the Defendants' Emergency Motion for Declaratory Relief. Accordingly, counsel for the Plaintiff is **DIRECTED** to file an "Affidavit of Attorney's Fees" with the Clerk's Office of this Court within seven (7) days of the entry of this Order. Counsel for the Plaintiffs **SHALL** send a courtesy copy of the Affidavit for Attorney's Fees to court staff via electronic mail, copying opposing counsel. The Plaintiffs' request for attorney's fees is hereby **TAKEN UNDER ADVISEMENT** pending receipt of the Affidavit of Attorney's Fees.¹⁵

The Clerk is **DIRECTED** to forward a certified copy of this Order to the parties.

The Court **DISPENSES** with the parties' endorsements pursuant to Rule 1:13.

It is so **ORDERED**.

ENTER: 6/7/2024


Jacqueline S. McClenney, Judge

¹⁴ Pursuant to the Court's May 31, 2024 Order, the temporary injunction was set to expire on June 11, 2024 at 5:00 p.m. on June 11, 2024.

¹⁵ The Court will consider the amount of the attorney's fees award based on the Affidavit of Attorney's Fees to be submitted by counsel for the Plaintiffs.

Exhibit D

VIRGINIA:

IN THE CITY OF RICHMOND CIRCUIT COURT

ATLANTIC WAVE HOLDINGS, LLC,

Plaintiff/Judgment Creditor,

and

SECURE COMMUNITY LLC,

Plaintiff/Judgment Creditor,

v.

Case No: CL22-3882-05 *Jsm*

CYBERLUX CORPORATION,

Defendant/Judgment Debtor,

and

PNC BANK,

Co-Defendant/Garnishee.

ORDER

THIS DAY came the plaintiffs/judgment creditors, Atlantic Wave Holdings, LLC and Secure Community, LLC, by counsel, and the co-defendant/garnishee, PNC Bank, upon the Writ of Fieri Facias issued on April 19, 2024, the Notice of Judgment Lien served on PNC Bank and Cyberlux Corporation, plaintiff's Suggestion in Garnishment, the Garnishment Summons with a return date of June 18, 2024, and the Garnishee's Answer to said Garnishment Summons that it has withheld \$183,798.34 pursuant to the garnishment.

WHEREUPON the Court finds that the co-defendant/garnishee withheld the sum of \$183,798.34 pursuant to the Writ of Fieri Facias and the garnishment and the judgment creditors are entitled to the funds. It is

ORDERED that the plaintiff recover from the garnishee the sum of \$183,798.34. The garnishee is directed to forward a check in the amount of \$183,798.34 to Caudle and Caudle, P.C., 1910 Byrd Avenue, Suite 118, Richmond, VA 23230 with in the time required by §8.01-516.1 of the Code of Virginia (1950). In addition, the Clerk directed to forward an attested copy of this order to all parties in this matter.

Endorsement of the defendant and garnishee are waived pursuant to Rule 1:13 of the Rules of the Supreme Court of Virginia.

I ask for this:



Robert Keith Caudle, III, (VSB No. 43450)
Counsel for Plaintiff/Judgment Creditor
Caudle and Caudle, P.C.
1910 Byrd Avenue, Suite 118
Richmond, Virginia 23230
P: 804-358-4961
F: 804-353-1036
robcaudle@caudleandcaudle.com

ENTER:

8/9/2024



JUDGE

Exhibit E

VIRGINIA:

IN THE CITY OF RICHMOND CIRCUIT COURT

ATLANTIC WAVE HOLDINGS, LLC,

Plaintiff/Judgment Creditor,

and

SECURE COMMUNITY LLC,

Plaintiff/Judgment Creditor,

v.

Case No: CL22-3882-04 JSm

MARK D. SCHMIDT,

Defendant/Judgment Debtor,

and

TOWNE BANK,

Co-Defendant/Garnishee.

ORDER

THIS DAY came the plaintiffs/judgment creditors, Atlantic Wave Holdings, LLC and Secure Community, LLC, by counsel, and the co-defendant/garnishee, Towne Bank, upon the Writ of Fieri Facias issued on April 19, 2024, the Notice of Judgment Lien served on Towne Bank and Mark D. Schmidt, plaintiff's Suggestion in Garnishment, the Garnishment Summons with a return date of June 18, 2024, and the Garnishee's Answer to said Garnishment Summons that it has tendered a check to the Court in the amount of \$4,862.86 pursuant to the garnishment.

WHEREUPON the Court finds that the co-defendant/garnishee withheld the sum of \$4862.86 and tendered the funds to the Court pursuant to the Writ of Fieri Facias and the garnishment and the judgment creditors are entitled to the funds, it is

ORDERED that the plaintiff recover from the garnishee the sum of \$4,862.86. The Clerk is directed to forward the funds paid into the Court to Caudle and Caudle, P.C., 1910 Byrd Avenue, Suite 118, Richmond, VA 23230. In addition, the Clerk directed to forward an attested copy of this order to all parties in this matter.

Endorsement of the defendant and garnishee are waived pursuant to Rule 1:13 of the Rules of the Supreme Court of Virginia.

ENTER: 8 / 9 2024


JUDGE

I ask for this:



Robert Keith Caudle, III, (VSB No. 43450)
Counsel for Plaintiff/Judgment Creditor
Caudle and Caudle, P.C.
1910 Byrd Avenue, Suite 118
Richmond, Virginia 23230
P: 804-358-4961
F: 804-353-1036
robcaudle@caudleandcaudle.com

Exhibit F

COMMONWEALTH OF VIRGINIA



RICHMOND CITY CIRCUIT COURT

Civil Division

400 NORTH 9TH STREET

RICHMOND VA 23219

(804) 646-6506

Summons

**To: SECURE COMMUNITY LLC
RYAN BROWN, PLLC
1739 CLARENDON BLVD
ARLINGTON VA 22209**

Case No. 760CL24002960-00

The party upon whom this summons and the attached complaint are served is hereby notified that unless within 21 days after such service, response is made by filing in the clerk's office of this court a pleading in writing, in proper legal form, the allegations and charges may be taken as admitted and the court may enter an order, judgment, or decree against such party either by default or after hearing evidence.

Appearance in person is not required by this summons.

Done in the name of the Commonwealth of Virginia on, Thursday, August 01, 2024

Clerk of Court: EDWARD F JEWETT

by


(CLERK/DEPUTY CLERK)

Instructions:

Hearing Official:

Attorney's name:

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND

CYBERLUX CORPORATION and
MARK D. SCHMIDT, individually
Plaintiffs,

v.

Case No.

ATLANTIC WAVE HOLDINGS, LLC
AND SECURE COMMUNITY, LLC

Defendants.

VERIFIED COMPLAINT FOR TEMPORARY PRELIMINARY INJUNCTION

Plaintiffs Cyberlux Corporation and Mark D. Schmidt, (hereinafter, collectively, “Defendants”), by counsel, state as follows for its Verified Complaint for Preliminary Injunction against Defendants Atlantic Wave Holdings, LLC and Secure Community, LLC (hereinafter “Defendants”).

INTRODUCTION

Plaintiffs bring this Emergency Application to seek immediate relief from Defendants’ practice of violating written and oral settlement agreements and acting in bad faith against usual and prudent business practices by breaching the implied covenant of good faith and fair dealing and sequestering Plaintiffs’ business operation funds, while dishonestly using this Court’s judgment order to justify its unfair performance of its obligations under the settlement agreements.

Without an immediate injunction from this Court, Defendants will continue to use the pretext of this Court’s judgment order to injure and harass Plaintiffs.

PARTIES

1. Plaintiff, Cyberlux is a corporation, formed under the laws of the State of Nevada.
2. Plaintiff, Schmidt is an individual residing in the state of North Carolina and is the president of Cyberlux.

3. Defendant Atlantic Wave Holdings (“AWH”) is a Virginia limited liability company, with principle place of businesses in Richmond, Virginia.
4. Defendant Secure Community, LLC (“Secure”) is a Virginia limited liability company.
5. Cyberlux Corporation is a corporation organized under the laws of Nevada. Defendant Mark D. Schmidt is Cyberlux’s CEO.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction, and this Court has personal jurisdiction over Plaintiffs under Va. Code § 8.01-328.1.
7. This Court is a proper venue pursuant to Va. Code § 8.01-620.

FACTUAL ALLEGATIONS

8. Defendants sued Plaintiffs in Virginia State Circuit Court in 2023 for alleged breaches of 2021 agreements entered between the parties.
9. Defendants obtained discovery sanctions against Plaintiffs, including liability sanctions. The Virginia court thereafter ordered a trial limited to damages.
10. In the face of these sanctions, Plaintiffs entered into a Settlement Agreement (hereinafter “Agreement”) with Defendants that called for a total amount of \$1,572,500 to be paid in scheduled monthly installments.
11. At the request of Defendants, Plaintiffs agreed to a Stipulated Judgment memorializing the total amount due, which Judgment incorporated the Settlement Agreement containing the payment schedule.
12. This Stipulated Judgment was not on the merits nor did it recite any finding of legal liability by Plaintiffs and resulted in a dismissal of Defendants’ Complaint.
13. Soon after executing the confidential Settlement Agreement, the parties renegotiated terms, including payment deadlines.¹

¹ On or about June 30, 2023, the parties reached an agreement that Plaintiffs would pay 25% of the scheduled July monthly payments to Defendants on July 3, 2023 and would pay an additional \$10,737 to Defendants on July 6, 2023. Thereafter, all remaining payments would be back on the payment schedule referenced in the Settlement Agreement, beginning August 1, 2023. This agreement was confirmed in emails between the parties. Representatives of the parties communicated regularly and Defendants orally agreed upon the schedule of the payments described in this footnote upon which Plaintiffs relied and upon which the parties performed. On July 3rd and July 6, 2023, Plaintiffs made the agreed-upon payments bringing all amounts due under the Settlement Agreement current immediately upon making the July payments.

14. Pursuant to the Settlement provisions and the renegotiated terms, Plaintiffs timely made all payments and continue to make payments to date. Both before and after the Settlement Agreement was renegotiated, Plaintiffs continue to timely make payments in accordance with the written and oral agreements made with Defendants who continue to accept such payments.
15. Plaintiffs performed or substantially performed all of the material duties that the Settlement Agreement and the subsequent agreements and amendments reached required except for those things for which Plaintiffs were excused from performing.²
16. Despite the parties' agreements on payments and Plaintiffs' performance pursuant to the agreements, Defendants initiated a lawsuit in California, seeking to enforce the Agreement.³
17. Defendants, being fully aware of the above referenced federal case, without notice, and without disclosing the Settlement Agreement, initiated a second state court action in California against Defendants, petitioning that court to enter a stipulated judgment, using the Virginia Amended Order. Again, without disclosing the Settlement Agreement.
18. Finding little success with their improper actions in California, Defendants initiated even more improper actions, attempting to side-step the Agreement and this Court by initiating Administrative actions in Virginia using the garnishment system. Defendants engaged garnishment attorneys and were well aware that Virginia's garnishment system is administrative with little to no judicial involvement.
19. Defendants acted in bad faith and against usual and prudent business practices by ignoring the terms of the written and oral contracts and initiating garnishment proceedings, writs of fieri facias and judgment liens with several banks including Towne Bank and PNC Bank, successfully seeking to sequester Plaintiffs' operational funds in excess of \$500,000, while dishonestly using this Court's judgment order to justify its unfair performance of its obligations under the settlement agreement.

² On or about September 5, 2023, Plaintiffs and William Welter on behalf of Defendants conferred and mutually agreed that, as of September 2023, the total remaining amounts due to Defendants, collectively, was \$386,138.44 and the remaining amount due to Strikepoint Consulting, a Virginia Liability Company, under the Settlement Agreement was \$49,652.70. On or about September 8, 2023, Plaintiffs wired payments to Defendants in excess of the amounts then-due pursuant to the Settlement Agreement. The parties agreed that those amounts paid by Plaintiffs in excess of the amounts then due under the Settlement Agreement would be credited to future monthly payments due under the Settlement Agreement.

³ See Case No. 3:24-cv-00196-RBM-VET, *Atlantic Wave Holdings, LLC, et. al. v. Cyberlux Corporation, et.al*, in the United States District Court Southern District of California.

20. Defendants violated the written and oral agreements and through their actions acted in bad faith against usual and prudent business practices, breaching the implied covenant of good faith and fair dealing and have expressed their intention to continue such violations.

COUNT I – TEMPORARY INJUNCTION

21. Plaintiffs adopt and incorporate by reference paragraphs 1-20 of its Temporary, Preliminary Injunction, as if set forth fully herein.
22. Plaintiffs have a substantial likelihood of success on the merits and will be irreparably harmed in a manner which cannot be adequately compensated by money damages if a temporary, preliminary injunction is not granted.
23. The irreparable harm to be suffered by the Plaintiffs if the injunction is not granted outweighs the harm that the Defendants would suffer if the injunction is granted.
24. The public interest will be served by granting the temporary, preliminary injunction.
25. Plaintiffs are therefore entitled to a preliminary injunction against Defendants prohibiting the continuation of their unlawful actions.

WHEREFORE, Plaintiffs request that this Court issue a temporary injunction awarding Plaintiffs the following relief:

Finding that Defendants Atlantic Wave Holdings, LLC and Secure Community, LLC, and their agents, servants, employees, directors, officers, attorneys and representatives, and all persons acting in concert or participating with them, are hereby enjoined and restrained during the pendency of this action from engaging in, committing, or performing, directly or indirectly, any and all of the following acts: Attempting to enforce the Amended Final Order and Judgment entered on June 28, 2023, in the Circuit Court of the City of Richmond, Case No. CL22-3882-4 by any means, including, but not limited to, garnishment, writ of execution, writ of fieri facias, writ of possession, judgment lien or judgment debtor exam, in any manner and in any state, including, but not limited to, the State of California, where Defendants have attempted to domesticate the Amended Final Order and Judgment.

Dated July 8, 2024

Respectfully Submitted,

**CYBERLUX CORPORATION LLC AND
MARK D. SCHMIDT**

By /s/ Jimmy F. Robinson, Jr.

Jimmy F. Robinson, Jr., Esquire

Virginia States Bar Number 43622

jimmy.robinson@ogletreedeakins.com

Counsel for Plaintiffs

OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

901 East Byrd Street, Suite 1300

Riverfront Plaza, West Tower

Richmond, VA 23219

Tel.: (804) 663-2336

Fax: (855) 843-1809

Service: RICHMOND CITY CC ILIPSCOMB at 2024JUL11 09:11 CL24002919-00

SERVICE OTHER THAN BY VIRGINIA SHERIFF

COMMONWEALTH OF VIRGINIA

VA. CODE §§ 8.01-293, 8.01-320, 8.01-325

Case No. CL24002919-00

Service No. 2 (Clerk's use only)

RICHMOND CITY

Circuit Court

CYBERLUX CORPORATION

v.

ATLANTIC WAVE HOLDINGS, LLC

SECURE COMMUNITY, LLC, RYAN BROWN, PLLC, 1739 CLARENDON BLVD, ARLINGTON, VA 22209-

is the name and address of the person upon whom service of the following is to be made:

☐ Summons and Complaint☒ COMPLAINT

I, the undersigned, swear/affirm that

1. ☐ I am an official or an employee of an official who is authorized to serve process of the type described in the attached Proof of Service and my title and bailiwick are as follows:

or,

☒ I am a private process server (list name, address and telephone number below).

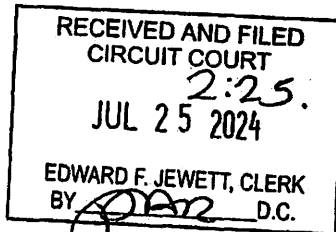
A. S. Fewright 1011 E main St Richmond, VA 804 775-2100

or,

- ☐ I am an investigator employed by an attorney for the Commonwealth or the Indigent Defense Commission and have retired or resigned from my prior position as a law-enforcement officer in good standing. I affirm that the sheriff for the jurisdiction where process was served has agreed that such investigators may serve process. (List name, title and agency below.)

2. I am not a party to, or otherwise interested in, the subject matter in controversy in this case.
 3. I am 18 years of age or older.
 4. I served, as shown below, the above-named person upon whom service of process was to be made with copies described above.

- Date and time of service: 7/19/24 4:00pm
 — Place of service: 1739 Clarendon Blvd, Arlington, VA
 — Method of service: STREET ADDRESS, CITY AND STATE



☒ Personal Service	☐ Not Found
☒ Being unable to make personal service, a copy was delivered in the following manner: ☐ Delivery to family member (not temporary sojourner or guest) age 16 or older at usual place of abode of person to be served after giving information of its purport. List name, age of recipient, and relation of recipient to party _____ ☐ Posted on front door or such other door as appears to be the main entrance of usual place of abode (other authorized recipient not found). ☐ (Garnishment Summons Only, § 8.01-511) Copy mailed to judgment debtor after serving the garnishee on date of service below unless a different date of mailing is shown.	
DATE OF MAILING _____	

7/19/24
 DATE
 State/Commonwealth of VA
 Subscribed and sworn to/affirmed before me this day of July, 2024
 by Albert F. Jewett
 PRINT NAME OF SIGNATORY
 DATE 7/19/2024
 SIGNATURE A. S. Fewright
 City [] County of Richmond
 TITLE Process Server
 NOTARY PUBLIC (My commission expires 5/31/2025)
 Registration No. 21084673 may 2025

RYAN A. BROWN, PLLC d/b/a ARLINGTON LAW GROUP
DESIGNATION OF NATURAL PERSONS TO ACCEPT SERVICE OF PROCESS

In accordance with Virginia Code §13.1-1015 (2)(b)(ii), Ryan A. Brown, Esq., the sole member of Ryan A. Brown, PLLC d/b/a Arlington Law Group, a Virginia professional limited liability company (the "Corporate Registered Agent"), executes the following written instrument to designate natural persons at the office of the Corporate Registered Agent upon whom any process, notice, or demand directed to the Corporate Registered Agent may be served and in support thereof states:

1. I, Ryan A. Brown, Esq., am the sole member of the Corporate Registered Agent.
2. The Corporate Registered Agent maintains an office in the Commonwealth of Virginia located at 1739 Clarendon Blvd., Arlington, Virginia, 22209.
3. The Corporate Registered Agent provides a registered agent service for customers in the Commonwealth of Virginia.
4. The Corporate Registered Agent therefore will from time to time accept service of process, notice, or demand for entities and individuals in the Commonwealth of Virginia.
5. The Corporate Registered Agent has seven (7) staff members who may be potentially on site whose names are: Ryan A. Brown, Esq., Eric M. Lemmer, Esq., James F. Anderson, Esq., Bridget A. Alzheimer, Esq., Anthony N. Hernandez-Villanueva, Anna S. Goldberg and Marissa N. Whitaker.
6. All employees of the Corporate Registered Agent are considered agents of the Corporate Registered Agent for the purposes of performing the duties required of the Corporate Registered Agent as a registered agent in the Commonwealth of Virginia.
7. As such, any service of process, notice, or demand directed to the Corporate Registered Agent may be accepted by: Ryan A. Brown, Esq., Eric M. Lemmer, Esq., James F. Anderson, Esq., Bridget A. Alzheimer, Esq., Anthony N. Hernandez-Villanueva, Anna S. Goldberg and Marissa N. Whitaker.
8. In accordance with Virginia Code §13.1-1015 (2)(b)(ii) presentation of this written instrument or a copy thereof to the individual attempting service of process shall constitute sufficient proof that any of the above-named individuals may accept service as an agent of the Corporate Registered Agent.

Ryan A. Brown, PLLC d/b/a Arlington Law Group

By: 
 Title: Member

Date

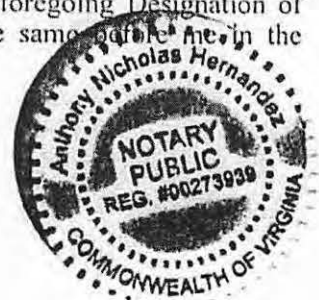
6/28/2024

COMMONWEALTH OF VIRGINIA
 COUNTY OF ARLINGTON

} TO-WIT:

I, the undersigned Notary Public in and for the Commonwealth and County aforesaid, do hereby certify that Ryan A. Brown, Esq., whose name is signed to the foregoing Designation of Natural Persons to Accept Service of Process, has ACKNOWLEDGED the same before me in the Commonwealth and County aforesaid on this day, June 28, 2024.


 ANTHONY NICHOLAS HERNANDEZ, REG. NO. 00273939, NOTARY PUBLIC
 MY COMMISSION EXPIRES: JUNE 30, 2028



COMMONWEALTH OF VIRGINIA



RICHMOND CITY CIRCUIT COURT

Civil Division

400 NORTH 9TH STREET

RICHMOND VA 23219

(804) 646-6506

Summons

To: ATLANTIC WAVE HOLDINGS LLC
RYAN BROWN, PLLC
1739 CLARENDON BLVD
ARLINGTON VA 22209

Case No. 760CL24002960-00

The party upon whom this summons and the attached complaint are served is hereby notified that unless within 21 days after such service, response is made by filing in the clerk's office of this court a pleading in writing, in proper legal form, the allegations and charges may be taken as admitted and the court may enter an order, judgment, or decree against such party either by default or after hearing evidence.

Appearance in person is not required by this summons.

Done in the name of the Commonwealth of Virginia on, Thursday, August 01, 2024

Clerk of Court: EDWARD F JEWETT

by

A handwritten signature in black ink, appearing to read "Edward F. Jewett", written over a horizontal line.

(CLERK/DEPUTY CLERK)

Instructions:

Hearing Official:

Attorney's name:

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND

CYBERLUX CORPORATION and
MARK D. SCHMIDT, individually
Plaintiffs,

v.

Case No.

ATLANTIC WAVE HOLDINGS, LLC
AND SECURE COMMUNITY, LLC

Defendants.

COMPLAINT FOR DECLARATORY RELIEF

Plaintiffs Cyberlux Corporation and Mark D. Schmidt, (hereinafter, collectively, "Plaintiffs"), by counsel, state as follows for its Complaint against Defendants Atlantic Wave Holdings, LLC and Secure Community, LLC (hereinafter "Defendants").

PARTIES

1. Plaintiff, Cyberlux is a corporation, formed under the laws of the State of Nevada.
2. Plaintiff, Schmidt is an individual residing in the state of North Carolina and is the president of Cyberlux.
3. Defendant Atlantic Wave Holdings ("AWH") is a Virginia limited liability company, with principle place of businesses in Richmond, Virginia.
4. Defendant Secure Community, LLC ("Secure") is a Virginia limited liability company.
5. Cyberlux Corporation is a corporation organized under the laws of Nevada. Defendant Mark D. Schmidt is Cyberlux's CEO.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction, and this Court has personal jurisdiction over Plaintiffs under Va. Code § 8.01-328.1.
7. This Court is a proper venue pursuant to Va. Code § 8.01-262.

FACTUAL ALLEGATIONS

8. Defendants sued Plaintiffs in Virginia State Circuit Court in 2023 for alleged breaches of 2021 agreements entered between the parties.
9. Defendants obtained discovery sanctions against Plaintiffs, including liability sanctions. The Virginia court thereafter ordered a trial limited to damages.
10. In the face of these sanctions, Plaintiffs entered into a Settlement Agreement (hereinafter "Agreement") with Defendants that called for a total amount of \$1,572,500 to be paid in scheduled monthly installments.
11. At the request of Defendants, Plaintiffs agreed to a Stipulated Judgment memorializing the total amount due, which Judgment incorporated the Settlement Agreement containing the payment schedule.
12. This Stipulated Judgment was not on the merits nor did it recite any finding of legal liability by Plaintiffs and resulted in a dismissal of Defendants' Complaint.
13. Soon after executing the confidential Settlement Agreement, the parties renegotiated terms, including payment deadlines.¹
14. Pursuant to the Settlement provisions and the renegotiated terms, Plaintiffs timely made all payments and continue to make payments to date. Both before and after the Settlement Agreement was renegotiated, Plaintiffs continue to timely make payments in accordance with the written and oral agreements made with Defendants who continue to accept such payments.
15. Plaintiffs performed or substantially performed all of the material duties that the Settlement Agreement and the subsequent agreements and amendments reached required except for those things for which Plaintiffs were excused from performing.²

¹ On or about June 30, 2023, the parties reached an agreement that Plaintiffs would pay 25% of the scheduled July monthly payments to Defendants on July 3, 2023 and would pay an additional \$10,737 to Defendants on July 6, 2023. Thereafter, all remaining payments would be back on the payment schedule referenced in the Settlement Agreement, beginning August 1, 2023. This agreement was confirmed in emails between the parties. Representatives of the parties communicated regularly and Defendants orally agreed upon the schedule of the payments described in this footnote upon which Plaintiffs relied and upon which the parties performed. On July 3rd and July 6, 2023, Plaintiffs made the agreed-upon payments bringing all amounts due under the Settlement Agreement current immediately upon making the July payments.

² On or about September 5, 2023, Plaintiffs and William Welter on behalf of Defendants conferred and mutually agreed that, as of September 2023, the total remaining amounts due to Defendants, collectively, was \$386,138.44 and the remaining amount due to Strikepoint Consulting, a Virginia Liability Company, under the Settlement Agreement was \$49,652.70. On or about September 8, 2023, Plaintiffs wired payments to Defendants in excess of the amounts then-due pursuant to the Settlement Agreement. The parties agreed that those amounts paid by Plaintiffs in excess of the amounts then due under the Settlement Agreement would be credited to future monthly payments due under the Settlement Agreement.

16. Despite the parties' agreements on payments and Plaintiffs' performance pursuant to the agreements, Defendants initiated a lawsuit in California, seeking to enforce the Agreement.³
17. Defendants, being fully aware of the above referenced federal case, without notice, and without disclosing the Settlement Agreement, initiated a second state court action in California against Defendants, petitioning that court to enter a stipulated judgment, using the Virginia Amended Order. Again, without disclosing the Settlement Agreement.
18. Finding little success with their improper actions in California, Defendants initiated even more improper actions, attempting to side-step the Agreement and this Court by initiating Administrative actions in Virginia using the garnishment system. Defendants engaged garnishment attorneys and were well aware that Virginia's garnishment system is administrative with little to no judicial involvement.
19. Defendants acted in bad faith and against usual and prudent business practices by ignoring the terms of the written and oral contracts and initiating garnishment proceedings, writs of fieri facias and judgment liens with several banks including Towne Bank and PNC Bank, successfully seeking to sequester Plaintiffs' operational funds in excess of \$500,000, while dishonestly using this Court's judgment order to justify its unfair performance of its obligations under the settlement agreement.
20. Defendants violated the written and oral agreements and through their actions acted in bad faith against usual and prudent business practices, breaching the implied covenant of good faith and fair dealing and have expressed their intention to continue such violations.

**COUNT I – DECLARATORY JUDGMENT
FOR BREACH OF CONTRACT**

21. Plaintiffs adopt and incorporate by reference paragraphs 1-20 of its Declaratory Judgment Action as if set forth fully herein.
22. The parties executed the written Agreement, a valid, binding, and enforceable contract.
23. As set forth above, Plaintiffs and Defendants entered into an oral contract, the terms of which were to modify the timing and amounts of payments required under

³ See Case No. 3:24-cv-00196-RBM-VET, *Atlantic Wave Holdings, LLC, et. al. v. Cyberlux Corporation, et.al*, in the United States District Court Southern District of California.

the Settlement Agreement and to credit Plaintiffs' overpayments toward payments to be scheduled to be made in the following months.

24. The parties' oral agreement is a valid, binding, and enforceable contract.
25. In Virginia, every contract contains an implied covenant of good faith and fair dealing and Defendants breached their implied duty of good faith and fair dealing of both the written and oral agreements.
26. There is an actual controversy of a justiciable nature that exists between the Plaintiffs on the one hand and the Defendants on the other.
27. A judicial declaration on whether the written and oral agreements are enforceable and have been breached is appropriate. Such a declaration is not premature, would serve a useful purpose of clarifying and settling the legal relations at issue, and will afford relief from the uncertainty, insecurity and controversy giving rise to this proceeding.
28. Plaintiffs are entitled to declaratory relief that:
 - a. The parties entered into an oral contract modifying the payment schedule set forth in the written settlement agreement.
 - b. Both the written and oral agreements are enforceable, valid and binding contracts.
 - c. The parties agreed that the September 8, 2023 wired payments paid by Plaintiffs in excess of the amounts then due under the Settlement Agreement would be credited to future monthly payments due under the Settlement Agreement.
 - d. After the September 8, 2023 wired payments, Plaintiffs made timely payments pursuant to the terms of the Settlement Agreement which were unconditionally accepted by Defendants.
 - e. Defendants improperly initiated garnishments, writ of fieri facias, and notices of judgment lien processes, improperly relying on this Court's Amended Final Order and in breach of the written and oral agreements.
 - f. Defendants' actions breached both the written and oral settlement agreements.
 - g. Defendants breached their implied duty of good faith and fair dealing by acting in bad faith and against usual and prudent business practices by ignoring the terms of the written and oral contracts and breaching the implied covenant by acting dishonestly in its contractual rights and acting arbitrarily and unfairly in the performance of its obligations under the settlement agreement.

Wherefore for the reasons stated above, Plaintiffs pray that this Court enter an Order declaring (i) the parties entered into an oral contract modifying the payment schedule set forth in the written settlement agreement; (ii) both the written and oral agreements are enforceable, binding contracts; (iii) the parties agreed that the September 8, 2023 wired payments paid by Plaintiffs in excess of the amounts then due under the

Settlement Agreement would be credited to future monthly payments due under the Settlement Agreement; (iv) after the September 8, 2023 wired payments, Plaintiffs made timely payments pursuant to the terms of the Settlement Agreement which were unconditionally accepted by Defendants; (v) Defendants acts of issuing garnishments, judgment liens and writs of fieri facias were improper and breached both the written and oral settlement agreements; (vi) Defendants breached their implied duty of good faith and fair dealing by acting in bad faith and against usual and prudent business practices by ignoring the terms of the written and oral contracts and breaching the implied covenant by acting dishonestly in its contractual rights. (vii) Defendants must release all sequestered funds from Plaintiffs' bank accounts and reimburse Plaintiffs for its attorneys' fees and costs associated with the unauthorized litigation initiated against Plaintiffs including all attorneys' fees necessitated by the bringing of this Complaint, court costs, and any other and further relief as the Court deems appropriate.

Dated July 8, 2024

Respectfully Submitted,

**CYBERLUX CORPORATION LLC AND
MARK D. SCHMIDT**

By /s/ Jimmy F. Robinson, Jr.

Jimmy F. Robinson, Jr., Esquire

Virginia States Bar Number 43622

jimmy.robinson@ogletreedeakins.com

Counsel for Plaintiffs

OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

901 East Byrd Street, Suite 1300

Riverfront Plaza, West Tower

Richmond, VA 23219

Tel.: (804) 663-2336

Fax: (855) 843-1809

SERVICE OTHER THAN BY VIRGINIA SHERIFF

COMMONWEALTH OF VIRGINIA

VA. CODE §§ 8.01-293, 8.01-320, 8.01-325

Case No. CL24002960-00

Service No. 2 (Clerk's use only)

RICHMOND CITY

Circuit Court

CYBERLUX CORPORATION

v.

ATLANTIC WAVE HOLDINGS LLC

ATLANTIC WAVE HOLDINGS LLC, RYAN BROWN, PLLC, 1739 CLARENDON BLVD, ARLINGTON, VA 22209-

is the name and address of the person upon whom service of the following is to be made:

☐ Summons and Complaint

☒ COMPLAINT

I, the undersigned, swear/affirm that

1. ☐ I am an official or an employee of an official who is authorized to serve process of the type described in the attached Proof of Service and my title and bailiwick are as follows:

or,

- ☐ I am a private process server (list name, address and telephone number below).

or,

- ☐ I am an investigator employed by an attorney for the Commonwealth or the Indigent Defense Commission and have retired or resigned from my prior position as a law-enforcement officer in good standing. I affirm that the sheriff for the jurisdiction where process was served has agreed that such investigators may serve process. (List name, title and agency below.)

2. I am not a party to, or otherwise interested in, the subject matter in controversy in this case.
3. I am 18 years of age or older.
4. I served, as shown below, the above-named person upon whom service of process was to be made with copies described above.

— Date and time of service:

— Place of service:

— Method of service:

STREET ADDRESS, CITY AND STATE

☐ Personal Service	☐ Not Found
☐ Being unable to make personal service, a copy was delivered in the following manner:	
☐ Delivery to family member (not temporary sojourner or guest) age 16 or older at usual place of abode of person to be served after giving information of its purport. List name, age of recipient, and relation of recipient to party	
☐ Posted on front door or such other door as appears to be the main entrance of usual place of abode (other authorized recipient not found).	
☐ (Garnishment Summons Only, § 8.01-511) Copy mailed to judgment debtor after serving the garnishee on date of service below unless a different date of mailing is shown.	
DATE OF MAILING	

DATE

SIGNATURE

State/Commonwealth of , ☐ City ☐ County of

Subscribed and sworn to/affirmed before me this day of , 20

by

PRINT NAME OF SIGNATORY

TITLE

DATE

NOTARY PUBLIC (My commission expires)

Registration No.

COMMONWEALTH OF VIRGINIA



SUMMONS – CIVIL ACTION
RULE 3:5; VA. CODE § 8.01-2

Case No. CL24002960-00

RICHMOND CITY Circuit Court
400 NORTH 9TH STREET, RICHMOND 23219-
ADDRESS

TO:

ATLANTIC WAVE HOLDINGS LLC, RYAN BROWN, PLLC
1739 CLARENDON BLVD
.....
ARLINGTON, VA 22209-
.....

The party upon whom this summons and the attached complaint are served is hereby notified that unless within 21 days after such service, response is made by filing in the clerk's office of this court a pleading in writing, in proper legal form, the allegations and charges may be taken as admitted and the court may enter an order, judgment or decree against such party either by default or after hearing evidence.

Appearance in person is not required by this summons.

Done in the name of the Commonwealth of Virginia.

JULY 11, 2024 JEWETT, EDWARD F Clerk
DATE

by /S/ LIPSCOMB, ILLENE
DEPUTY CLERK

Instructions:

Hearing Official:

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND

CYBERLUX CORPORATION and
MARK D. SCHMIDT, individually
Plaintiffs,

v.

Case No.

ATLANTIC WAVE HOLDINGS, LLC
AND SECURE COMMUNITY, LLC

Defendants.

COMPLAINT FOR DECLARATORY RELIEF

Plaintiffs Cyberlux Corporation and Mark D. Schmidt, (hereinafter, collectively, "Plaintiffs"), by counsel, state as follows for its Complaint against Defendants Atlantic Wave Holdings, LLC and Secure Community, LLC (hereinafter "Defendants").

PARTIES

1. Plaintiff, Cyberlux is a corporation, formed under the laws of the State of Nevada.
2. Plaintiff, Schmidt is an individual residing in the state of North Carolina and is the president of Cyberlux.
3. Defendant Atlantic Wave Holdings ("AWH") is a Virginia limited liability company, with principle place of businesses in Richmond, Virginia.
4. Defendant Secure Community, LLC ("Secure") is a Virginia limited liability company.
5. Cyberlux Corporation is a corporation organized under the laws of Nevada. Defendant Mark D. Schmidt is Cyberlux's CEO.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction, and this Court has personal jurisdiction over Plaintiffs under Va. Code § 8.01-328.1.
7. This Court is a proper venue pursuant to Va. Code § 8.01-262.

FACTUAL ALLEGATIONS

8. Defendants sued Plaintiffs in Virginia State Circuit Court in 2023 for alleged breaches of 2021 agreements entered between the parties.
9. Defendants obtained discovery sanctions against Plaintiffs, including liability sanctions. The Virginia court thereafter ordered a trial limited to damages.
10. In the face of these sanctions, Plaintiffs entered into a Settlement Agreement (hereinafter "Agreement") with Defendants that called for a total amount of \$1,572,500 to be paid in scheduled monthly installments.
11. At the request of Defendants, Plaintiffs agreed to a Stipulated Judgment memorializing the total amount due, which Judgment incorporated the Settlement Agreement containing the payment schedule.
12. This Stipulated Judgment was not on the merits nor did it recite any finding of legal liability by Plaintiffs and resulted in a dismissal of Defendants' Complaint.
13. Soon after executing the confidential Settlement Agreement, the parties renegotiated terms, including payment deadlines.¹
14. Pursuant to the Settlement provisions and the renegotiated terms, Plaintiffs timely made all payments and continue to make payments to date. Both before and after the Settlement Agreement was renegotiated, Plaintiffs continue to timely make payments in accordance with the written and oral agreements made with Defendants who continue to accept such payments.
15. Plaintiffs performed or substantially performed all of the material duties that the Settlement Agreement and the subsequent agreements and amendments reached required except for those things for which Plaintiffs were excused from performing.²

¹ On or about June 30, 2023, the parties reached an agreement that Plaintiffs would pay 25% of the scheduled July monthly payments to Defendants on July 3, 2023 and would pay an additional \$10,737 to Defendants on July 6, 2023. Thereafter, all remaining payments would be back on the payment schedule referenced in the Settlement Agreement, beginning August 1, 2023. This agreement was confirmed in emails between the parties. Representatives of the parties communicated regularly and Defendants orally agreed upon the schedule of the payments described in this footnote upon which Plaintiffs relied and upon which the parties performed. On July 3rd and July 6, 2023, Plaintiffs made the agreed-upon payments bringing all amounts due under the Settlement Agreement current immediately upon making the July payments.

² On or about September 5, 2023, Plaintiffs and William Welter on behalf of Defendants conferred and mutually agreed that, as of September 2023, the total remaining amounts due to Defendants, collectively, was \$386,138.44 and the remaining amount due to Strikepoint Consulting, a Virginia Liability Company, under the Settlement Agreement was \$49,652.70. On or about September 8, 2023, Plaintiffs wired payments to Defendants in excess of the amounts then-due pursuant to the Settlement Agreement. The parties agreed that those amounts paid by Plaintiffs in excess of the amounts then due under the Settlement Agreement would be credited to future monthly payments due under the Settlement Agreement.

16. Despite the parties' agreements on payments and Plaintiffs' performance pursuant to the agreements, Defendants initiated a lawsuit in California, seeking to enforce the Agreement.³
17. Defendants, being fully aware of the above referenced federal case, without notice, and without disclosing the Settlement Agreement, initiated a second state court action in California against Defendants, petitioning that court to enter a stipulated judgment, using the Virginia Amended Order. Again, without disclosing the Settlement Agreement.
18. Finding little success with their improper actions in California, Defendants initiated even more improper actions, attempting to side-step the Agreement and this Court by initiating Administrative actions in Virginia using the garnishment system. Defendants engaged garnishment attorneys and were well aware that Virginia's garnishment system is administrative with little to no judicial involvement.
19. Defendants acted in bad faith and against usual and prudent business practices by ignoring the terms of the written and oral contracts and initiating garnishment proceedings, writs of fieri facias and judgment liens with several banks including Towne Bank and PNC Bank, successfully seeking to sequester Plaintiffs' operational funds in excess of \$500,000, while dishonestly using this Court's judgment order to justify its unfair performance of its obligations under the settlement agreement.
20. Defendants violated the written and oral agreements and through their actions acted in bad faith against usual and prudent business practices, breaching the implied covenant of good faith and fair dealing and have expressed their intention to continue such violations.

**COUNT I – DECLARATORY JUDGMENT
FOR BREACH OF CONTRACT**

21. Plaintiffs adopt and incorporate by reference paragraphs 1-20 of its Declaratory Judgment Action as if set forth fully herein.
22. The parties executed the written Agreement, a valid, binding, and enforceable contract.
23. As set forth above, Plaintiffs and Defendants entered into an oral contract, the terms of which were to modify the timing and amounts of payments required under

³ See Case No. 3:24-cv-00196-RBM-VET, *Atlantic Wave Holdings, LLC, et. al. v. Cyberlux Corporation, et.al*, in the United States District Court Southern District of California.

the Settlement Agreement and to credit Plaintiffs' overpayments toward payments to be scheduled to be made in the following months.

24. The parties' oral agreement is a valid, binding, and enforceable contract.
25. In Virginia, every contract contains an implied covenant of good faith and fair dealing and Defendants breached their implied duty of good faith and fair dealing of both the written and oral agreements.
26. There is an actual controversy of a justiciable nature that exists between the Plaintiffs on the one hand and the Defendants on the other.
27. A judicial declaration on whether the written and oral agreements are enforceable and have been breached is appropriate. Such a declaration is not premature, would serve a useful purpose of clarifying and settling the legal relations at issue, and will afford relief from the uncertainty, insecurity and controversy giving rise to this proceeding.
28. Plaintiffs are entitled to declaratory relief that:
 - a. The parties entered into an oral contract modifying the payment schedule set forth in the written settlement agreement.
 - b. Both the written and oral agreements are enforceable, valid and binding contracts.
 - c. The parties agreed that the September 8, 2023 wired payments paid by Plaintiffs in excess of the amounts then due under the Settlement Agreement would be credited to future monthly payments due under the Settlement Agreement.
 - d. After the September 8, 2023 wired payments, Plaintiffs made timely payments pursuant to the terms of the Settlement Agreement which were unconditionally accepted by Defendants.
 - e. Defendants improperly initiated garnishments, writ of fieri facias, and notices of judgment lien processes, improperly relying on this Court's Amended Final Order and in breach of the written and oral agreements.
 - f. Defendants' actions breached both the written and oral settlement agreements.
 - g. Defendants breached their implied duty of good faith and fair dealing by acting in bad faith and against usual and prudent business practices by ignoring the terms of the written and oral contracts and breaching the implied covenant by acting dishonestly in its contractual rights and acting arbitrarily and unfairly in the performance of its obligations under the settlement agreement.

Wherefore for the reasons stated above, Plaintiffs pray that this Court enter an Order declaring (i) the parties entered into an oral contract modifying the payment schedule set forth in the written settlement agreement; (ii) both the written and oral agreements are enforceable, binding contracts; (iii) the parties agreed that the September 8, 2023 wired payments paid by Plaintiffs in excess of the amounts then due under the

Settlement Agreement would be credited to future monthly payments due under the Settlement Agreement; (iv) after the September 8, 2023 wired payments, Plaintiffs made timely payments pursuant to the terms of the Settlement Agreement which were unconditionally accepted by Defendants; (v) Defendants acts of issuing garnishments, judgment liens and writs of fieri facias were improper and breached both the written and oral settlement agreements; (vi) Defendants breached their implied duty of good faith and fair dealing by acting in bad faith and against usual and prudent business practices by ignoring the terms of the written and oral contracts and breaching the implied covenant by acting dishonestly in its contractual rights. (vii) Defendants must release all sequestered funds from Plaintiffs' bank accounts and reimburse Plaintiffs for its attorneys' fees and costs associated with the unauthorized litigation initiated against Plaintiffs including all attorneys' fees necessitated by the bringing of this Complaint, court costs, and any other and further relief as the Court deems appropriate.

Dated July 8, 2024

Respectfully Submitted,

**CYBERLUX CORPORATION LLC AND
MARK D. SCHMIDT**

By /s/ Jimmy F. Robinson, Jr.

Jimmy F. Robinson, Jr., Esquire

Virginia States Bar Number 43622

jimmy.robinson@ogletreedeakins.com

Counsel for Plaintiffs

OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

901 East Byrd Street, Suite 1300

Riverfront Plaza, West Tower

Richmond, VA 23219

Tel.: (804) 663-2336

Fax: (855) 843-1809

Exhibit G



J. Chapman Petersen+*
Sharon Kim Petersen
+also admitted in DC
*also admitted in MD
^admitted in NY

J. Chapman Petersen
jcp@petersenfirm.com
Direct: 571-459-2510

Won Yung Uh
Federico J. Zablah
Christopher T. Robertson+
Dylan M. Phillips
Patrick R. Corish+
Janice M. Jang^+

August 6, 2024

VIA ELECTRONIC MAIL

Jimmy F. Robinson, Jr., Esq.
901 East Byrd Street
Suite 1300
Richmond, VA 23219
Jimmy.robinson@ogletreedeakins.com

Re: Cyberlux Corporation v. Atlantic Wave Holding, LLC, Case No. 240002919-0,
In the Circuit Court of the City of Richmond

Dear Mr. Robinson:

Attached please find a proposed corporate designee notice for taking your client's deposition in the above matter. You will note that we name both Mr. Schmidt and Cyberlux as deponents. If you designate Mr. Schmidt as the corporate representative, then that would likely cover both requests.

I've tentatively set this for Friday, August 23. If that date is unavailable, please let me know a date we can do this, preferably before the end of August. I've also set this tentatively for my office in Northern Virginia, assuming that may be more convenient for Mr. Schmidt. If not, then I will find a place in Richmond to do it, pursuant to Rule 4:5 of the Rules of the Supreme Court.

I look forward to working with you and thanks,

Very sincerely yours,

J. Chapman Petersen, Esq

JCP
Enclosure

Copy: Client

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND

**CYBERLUX CORPORATION and
MARK D. SCHMIDT, individually**

Plaintiffs,

v.

**ATLANTIC WAVE HOLDINGS, LLC
AND SECURE COMMUNITY, LLC**

Defendants.

Case No: CL24002919-00

**NOTICE OF DEPOSITION CORPORATE DESIGNEE OF
PLAINTIFF'S CYBERLUX CORPORATION**

To: CYBERLUX CORPORATION and MARK D. SCHMIDT
c/o Jimmy F. Robinson, Jr., Esq.
901 East Byrd Street
Suite 1300
Richmond, VA 23219
Jimmy.robinson@ogletreedeakins.com
Counsel for Plaintiffs

PLEASE TAKE NOTICE on **Friday, August 23, 2024 at 10:00 AM (Eastern Time)**, pursuant to Virginia Supreme Court Rule 4:5(b)(6), Defendants Atlantic Wave Holdings, LLC ("Atlantic Wave") and Secure Community, LLC ("Secure Community") (collectively "Defendants"), by Counsel, will proceed to take the deposition of a designated representative for Plaintiffs, Cyberlux Corporation ("Cyberlux" or "the Company") and Mark D. Schmidt ("Schmidt") (collectively, the "Plaintiffs"), at the law office of Chap Petersen and Associates, PLC, 3970 Chain Bridge Road, Fairfax, Virginia, 22030, for all purposes allowed under the Rules

of the Supreme Court of Virginia. Plaintiffs shall designate a representative(s) who can address the following matters:

1. Day-to-Day operation of the company January 1, 2023, to present.
2. Past and current ownership of Cyberlux.
3. Any actions taken by Cyberlux, including board actions, to market and sell the Company over the past two years.
4. Any appraisals or valuations requested by the Board of Cyberlux over the past two years.
5. Any current financial accounts being held by the Company and amounts available.
6. Any other tangible assets belonging to Cyberlux, including Crypto holdings.
7. Any amendments of Cyberlux Governing Documents from January 1, 2023, to present.
8. Any meetings of the Cyberlux Board of Directors from January 1, 2023, to present.
9. All communications with Prospective Buyers of Cyberlux from January 1, 2023, to present.
10. All communications between Cyberlux and Atlantic Wave from January 1, 2023 to present.
11. Any and all payments made by Cyberlux to Atlantic Wave (or any affiliates) from January 1, 2023 to the present.
12. Any sales of drones by Cyberlux to any third party from January 1, 2023, to present.
13. The Settlement Agreement dated June 15, 2023 and all actions taken thereafter by Cyberlux, including payments, to be in compliance.
14. The Amended Final Order and Judgment dated June 28, 2023.

15. Any and all Conflict-of-Interest Disclosure made by a Board Member of Cyberlux from January 1, 2023, to present.
16. Any and all Elections of Cyberlux Board Members from January 1, 2023 to present.
17. The current status of the following lines of business:
 - a) CMTC Drone Solutions (Acquisition date: 8/31/2021).
 - b) FBD Group SHPK (Acquisition date: 10/21/2021).
 - c) Havas Group, S.A.S (Acquisition date: 10/29/2021).
 - d) Kreatx SHPK (Acquisition date: 12/27/2021).
 - e) Digital Automation Solution, LLC (Acquisition date: 2/3/2022).
 - f) Catalyst Machineworks, LLC (Acquisition date: 3/30/2022).
 - g) Datron World Communications (Acquisition: August 2023).
18. Your “pink current” and “Caveat Emptor” status with OTC Markets.
19. Any loans received from Mark Schmidt or “Mark Schmidt and Family.”
20. Any financing received from January 1, 2023 to the present.

IT IS FURTHER NOTICED that such testimony will be taken stenographically before a Notary Public and may be videotaped. If for any reason the taking of the deposition is not commenced on that day, or if commenced and is not concluded on that day, the taking of the deposition will be continued from day-to-day until the same shall be completed.

Respectfully Submitted,

ATLANTIC WAVE HOLDINGS, LLC
AND SECURE COMMUNITY, LLC
By Counsel

J. Chapman Petersen, Esq. (VSB #37225)
Chap Petersen & Associates, PLC
3970 Chain Bridge Road
Fairfax, Virginia 22030
(571) 459-2512 (telephone)
(571) 459-2307 (facsimile)
jcp@petersenfirm.com
Counsel for Defendants

CERTIFICATE OF SERVICE

I certify that on _____, a true and accurate copy of the foregoing was served *via* first-class and electronic mail to:

Jimmy F. Robinson, Jr., Esq.
901 East Byrd Street
Suite 1300
Richmond, VA 23219
Jimmy.robinson@ogletreedeakins.com
Counsel for Plaintiff

J. Chapman Petersen

Exhibit H



J. Chapman Petersen+*
Sharon Kim Petersen
+also admitted in DC
*also admitted in MD
^admitted in NY

J. Chapman Petersen
jcp@petersenfirm.com
Direct: 571-459-2510

Won Yung Uh
Federico J. Zablah
Christopher T. Robertson+
Dylan M. Phillips
Patrick R. Corish+
Janice M. Jang^+

August 9, 2024

Via first-class and electronic mail

Jimmy F. Robinson, Jr., Esq.
OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.
901 East Byrd Street, Suite 1300
Riverfront Plaza, West Tower
Richmond, VA 23219
jimmy.robinson@ogletreedeakins.com

Re: *Cyberlux Corporation, et al. v. Atlantic Wave Holding, LLC, et al.*,
Case No. CL240002919-00, in the Circuit Court of the City of Richmond

Dear Mr. Robinson:

I sent you a letter on August 6th, attaching a draft notice for a corporate designee deposition in the above case. I also called and left you a message. To date, I've had no response. As your complaint seeks injunctive relief, it is imperative that this deposition occur as soon as possible. Therefore, I am noticing Cyberlux Corporation's corporate designee's deposition for **Tuesday, August 27, 2024, commencing at 10:00 a.m.** Pursuant to Rule 4:5, I am setting it for a location in the City of Richmond, i.e. the offices of Spotts Fain P.S., 411 E. Franklin Street, Suite 600, Richmond, VA 23219.

If you would like to set an alternative date, time, or location, please contact me and I'll be happy to work with you on that.

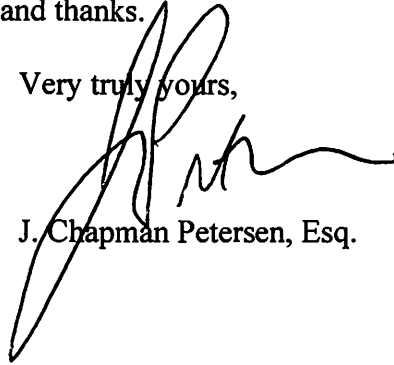
On a separate note, my firm has entered an appearance on behalf of the judgment creditor in Case No. CL22003882-00 ("the Judgment Case"), also pending in the Circuit Court of the City of Richmond. We will be replacing the current counsel, The Executive Law Group. Attached is a Motion for Substitution of Counsel and Agreed Order. I would appreciate if you could sign the Order and return it to me.

Finally, I will be present before Judge McKenney for the hearing on August 21st in the Judgment Case. It is my intention to withdraw the "Motion to Reverse" that was filed by my predecessor, while proceeding forward with Orders of Payment on the pending garnishment, as well as entry of Orders to reflect the Court's attorney fee awards. I will file Praecipes with the Court to reflect these anticipated actions.

Letter to Jimmy F. Robinson, Jr., Esq.
August 9, 2024
Page 2 of 2

I look forward to working with you and thanks.

Very truly yours,

A handwritten signature in black ink, appearing to read 'J. Chapman Petersen', with a large, stylized initial 'J' and a long, sweeping horizontal stroke at the end.

J. Chapman Petersen, Esq.

JCP
Enclosures

cc: client
Robert Keith Caudle, III, Esq.
Milton Johns, Esq.

Exhibit I



J. Chapman Petersen+*
Sharon Kim Petersen
+also admitted in DC
*also admitted in MD
^admitted in NY

J. Chapman Petersen
jcp@petersenfirm.com
Direct: 571-459-2510

Won Yung Uh
Federico J. Zablah
Christopher T. Robertson+
Dylan M. Phillips
Patrick R. Corish+
Janice M. Jang^+

August 23, 2024

Via first-class and electronic mail

Jimmy F. Robinson, Jr., Esq.
OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.
901 East Byrd Street, Suite 1300
Riverfront Plaza, West Tower
Richmond, VA 23219
jimmy.robinson@ogletreedeakins.com

Re: *Cyberlux Corporation, et al. v. Atlantic Wave Holding, LLC, et al.*,
Case No. CL240002919-00, in the Circuit Court of the City of Richmond

Dear Mr. Robinson:

I sent you a letter on August 6th, attaching a draft notice for a corporate designee deposition in the above case and asking for dates. See attached copy of August 6th letter. I also called and left you a voice mail message on August 7th to that effect.

I never received a response.

In the absence of receiving a response, I served a notice on you for Cyberlux Corporation's corporate designee deposition for **Tuesday, August 27, 2024, commencing at 10:00 a.m.** at the offices of Spotts Fain P.S., 411 E. Franklin Street, Suite 600, Richmond, VA 23219. As I said in previous letters, it is imperative that we obtain this discovery based upon your clients' allegations and your request for emergency injunctive relief.

In the August 9th cover letter which accompanied the corporate notice, I offered an alternative date, time, or location, if you or your client would prefer for the deposition. See attached copy of August 9th letter and designee notice.

Again, I received no response.

It is now Friday, August 23rd. We have reserved a court reporter and will be present at the offices of Spotts Fain on Tuesday, August 27th in order to take the noticed deposition.

Letter to Jimmy F. Robinson, Jr., Esq.
August 23, 2024
Page 2 of 2

I look forward to seeing you and your client there.

Very truly yours,

J. Chapman Petersen, Esq.

JCP
Enclosures

cc: client



J. Chapman Petersen+*
Sharon Kim Petersen
+also admitted in DC
*also admitted in MD
^admitted in NY

J. Chapman Petersen
jcp@petersenfirm.com
Direct: 571-459-2510

Won Yung Uh
Federico J. Zablah
Christopher T. Robertson+
Dylan M. Phillips
Patrick R. Corish+
Janice M. Jang^+

August 6, 2024

VIA ELECTRONIC MAIL

Jimmy F. Robinson, Jr., Esq.
901 East Byrd Street
Suite 1300
Richmond, VA 23219
Jimmy.robinson@ogletreedeakins.com

Re: Cyberlux Corporation v. Atlantic Wave Holding, LLC, Case No. 240002919-0,
In the Circuit Court of the City of Richmond

Dear Mr. Robinson:

Attached please find a proposed corporate designee notice for taking your client's deposition in the above matter. You will note that we name both Mr. Schmidt and Cyberlux as deponents. If you designate Mr. Schmidt as the corporate representative, then that would likely cover both requests.

I've tentatively set this for Friday, August 23. If that date is unavailable, please let me know a date we can do this, preferably before the end of August. I've also set this tentatively for my office in Northern Virginia, assuming that may be more convenient for Mr. Schmidt. If not, then I will find a place in Richmond to do it, pursuant to Rule 4:5 of the Rules of the Supreme Court.

I look forward to working with you and thanks,

Very sincerely yours,

J. Chapman Petersen, Esq

JCP
Enclosure

Copy: Client

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND

**CYBERLUX CORPORATION and
MARK D. SCHMIDT, individually**

Plaintiffs,

v.

**ATLANTIC WAVE HOLDINGS, LLC
AND SECURE COMMUNITY, LLC**

Defendants.

Case No: CL24002919-00

**NOTICE OF DEPOSITION CORPORATE DESIGNEE OF
PLAINTIFF'S CYBERLUX CORPORATION**

**To: CYBERLUX CORPORATION and MARK D. SCHMIDT
c/o Jimmy F. Robinson, Jr., Esq.
901 East Byrd Street
Suite 1300
Richmond, VA 23219
Jimmy.robinson@ogletreedeakins.com
*Counsel for Plaintiffs***

PLEASE TAKE NOTICE on Friday, August 23, 2024 at 10:00 AM (Eastern Time), pursuant to Virginia Supreme Court Rule 4:5(b)(6), Defendants Atlantic Wave Holdings, LLC ("Atlantic Wave") and Secure Community, LLC ("Secure Community") (collectively "Defendants"), by Counsel, will proceed to take the deposition of a designated representative for Plaintiffs, Cyberlux Corporation ("Cyberlux" or "the Company") and Mark D. Schmidt ("Schmidt") (collectively, the "Plaintiffs"), at the law office of Chap Petersen and Associates, PLC, 3970 Chain Bridge Road, Fairfax, Virginia, 22030, for all purposes allowed under the Rules

of the Supreme Court of Virginia. Plaintiffs shall designate a representative(s) who can address the following matters:

1. Day-to-Day operation of the company January 1, 2023, to present.
2. Past and current ownership of Cyberlux.
3. Any actions taken by Cyberlux, including board actions, to market and sell the Company over the past two years.
4. Any appraisals or valuations requested by the Board of Cyberlux over the past two years.
5. Any current financial accounts being held by the Company and amounts available.
6. Any other tangible assets belonging to Cyberlux, including Crypto holdings.
7. Any amendments of Cyberlux Governing Documents from January 1, 2023, to present.
8. Any meetings of the Cyberlux Board of Directors from January 1, 2023, to present.
9. All communications with Prospective Buyers of Cyberlux from January 1, 2023, to present.
10. All communications between Cyberlux and Atlantic Wave from January 1, 2023 to present.
11. Any and all payments made by Cyberlux to Atlantic Wave (or any affiliates) from January 1, 2023 to the present.
12. Any sales of drones by Cyberlux to any third party from January 1, 2023, to present.
13. The Settlement Agreement dated June 15, 2023 and all actions taken thereafter by Cyberlux, including payments, to be in compliance.
14. The Amended Final Order and Judgment dated June 28, 2023.

15. Any and all Conflict-of-Interest Disclosure made by a Board Member of Cyberlux from January 1, 2023, to present.
16. Any and all Elections of Cyberlux Board Members from January 1, 2023 to present.
17. The current status of the following lines of business:
 - a) CMTC Drone Solutions (Acquisition date: 8/31/2021).
 - b) FBD Group SHPK (Acquisition date: 10/21/2021).
 - c) Havas Group, S.A.S (Acquisition date: 10/29/2021).
 - d) Kreatx SHPK (Acquisition date: 12/27/2021).
 - e) Digital Automation Solution, LLC (Acquisition date: 2/3/2022).
 - f) Catalyst Machineworks, LLC (Acquisition date: 3/30/2022).
 - g) Datron World Communications (Acquisition: August 2023).
18. Your “pink current” and “Caveat Emptor” status with OTC Markets.
19. Any loans received from Mark Schmidt or “Mark Schmidt and Family.”
20. Any financing received from January 1, 2023 to the present.

IT IS FURTHER NOTICED that such testimony will be taken stenographically before a Notary Public and may be videotaped. If for any reason the taking of the deposition is not commenced on that day, or if commenced and is not concluded on that day, the taking of the deposition will be continued from day-to-day until the same shall be completed.

Respectfully Submitted,

ATLANTIC WAVE HOLDINGS, LLC
AND SECURE COMMUNITY, LLC
By Counsel

J. Chapman Petersen, Esq. (VSB #37225)
Chap Petersen & Associates, PLC
3970 Chain Bridge Road
Fairfax, Virginia 22030
(571) 459-2512 (telephone)
(571) 459-2307 (facsimile)
jcp@petersenfirm.com
Counsel for Defendants

CERTIFICATE OF SERVICE

I certify that on _____, a true and accurate copy of the foregoing was
served via first-class and electronic mail to:

Jimmy F. Robinson, Jr., Esq.
901 East Byrd Street
Suite 1300
Richmond, VA 23219
Jimmy.robinson@ogletreedeakins.com
Counsel for Plaintiff

J. Chapman Petersen

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND

**CYBERLUX CORPORATION and
MARK D. SCHMIDT, individually**)
)

Plaintiffs,)

v.)

Case No: CL24002919-00

**ATLANTIC WAVE HOLDINGS, LLC)
AND SECURE COMMUNITY, LLC)**

Defendants.)

**NOTICE OF DEPOSITION CORPORATE DESIGNEE OF
PLAINTIFF'S CYBERLUX CORPORATION**

To: **CYBERLUX CORPORATION and MARK D. SCHMIDT**
c/o Jimmy F. Robinson, Jr., Esq.
901 East Byrd Street
Suite 1300
Richmond, VA 23219
Jimmy.robinson@ogletreedeakins.com
Counsel for Plaintiffs

PLEASE TAKE NOTICE on **Tuesday, August 27 2024 at 10:00 AM (Eastern Time)**, pursuant to Virginia Supreme Court Rule 4:5(b)(6), Defendants Atlantic Wave Holdings, LLC ("Atlantic Wave") and Secure Community, LLC ("Secure Community") (collectively "Defendants"), by Counsel, will proceed to take the deposition of a designated representative for Plaintiffs, Cyberlux Corporation ("Cyberlux" or "the Company") and/or Mark D. Schmidt ("Schmidt") (collectively, the "Plaintiffs"), at the law office of Spotts Fain, P.C., 411 E Franklin St # 600, Richmond, VA 23219, for all purposes allowed under the Rules of the Supreme Court of Virginia. Plaintiffs shall designate a representative(s) who can address the following matters:

1. Day-to-Day operation of the Ccompany since January 1, 2023.
2. Past and current ownership of Cyberlux.
3. Any actions taken by Cyberlux, including any board actions, to market and sell the Company over the past two years.
4. Any appraisals or valuations requested by Cyberlux since January 1, 2023.
5. Any current financial accounts being held by the Company and amounts available.
6. Any other tangible assets belonging to Cyberlux, including Crypto holdings.
7. Any amendments of the Cyberlux Governing Documents since January 1, 2023.
8. Any meetings of the Cyberlux Board of Directors from January 1, 2023, to present.
9. All meetings or communications with prospective buyers of Cyberlux (or its corporate assets) from January 1, 2023, to present.
10. All communications with Atlantic Wave from January 1, 2023 to present.
11. Any and all payments made by Cyberlux to Atlantic Wave (or any affiliates) from January 1, 2023 to the present.
12. Any sales of drones by Cyberlux to any third party from January 1, 2023, to present.
13. The Settlement Agreement dated June 15, 2023 and all actions taken thereafter by Cyberlux, including payments, to be in compliance.
14. The Amended Final Order and Judgment dated June 28, 2023.
15. Any and all Conflict-of-Interest Disclosure made by a Board Member of Cyberlux from January 1, 2023, to present.
16. Any and all Elections of Cyberlux Board Members from January 1, 2023 to present.
17. The current status of the following lines of business:
 - a) CMTC Drone Solutions (Acquisition date: 8/31/2021).

- b) FBD Group SHPK (Acquisition date: 10/21/2021).
 - c) Havas Group, S.A.S (Acquisition date: 10/29/2021).
 - d) Kreatx SHPK (Acquisition date: 12/27/2021).
 - e) Digital Automation Solution, LLC (Acquisition date: 2/3/2022).
 - f) Catalyst Machineworks, LLC (Acquisition date: 3/30/2022).
 - g) Datron World Communications (Acquisition: August 2023).
- 18. Your “pink current” and “Caveat Emptor” status with OTC Markets.
 - 19. Any loans received from Mark Schmidt or “Mark Schmidt and Family.”
 - 20. Any financing received from January 1, 2023 to the present.

IT IS FURTHER NOTICED that such testimony will be taken stenographically before a Notary Public and may be videotaped. If for any reason the taking of the deposition is not commenced on that day, or if commenced and is not concluded on that day, the taking of the deposition will be continued from day-to-day until the same shall be completed.

Respectfully Submitted,

ATLANTIC WAVE HOLDINGS, LLC
AND SECURE COMMUNITY, LLC
By Counsel



J. Chapman Petersen, Esq. (VSB #37225)
Chap Petersen & Associates, PLC
3970 Chain Bridge Road
Fairfax, Virginia 22030
(571) 459-2512 (telephone)
(571) 459-2307 (facsimile)
jcp@petersenfirm.com
Counsel for Defendants

CERTIFICATE OF SERVICE

I certify that on 24 day of August, 2024, a true and accurate copy of the foregoing was served *via* first-class and electronic mail to:

Jimmy F. Robinson, Jr., Esq.
901 East Byrd Street
Suite 1300
Richmond, VA 23219
Jimmy.robinson@ogletreedeakins.com
Counsel for Plaintiff



J. Chapman Petersen



J. Chapman Petersen+*
Sharon Kim Petersen
+also admitted in DC
*also admitted in MD
^admitted in NY

J. Chapman Petersen
jcp@petersenfirm.com
Direct: 571-459-2510

Won Yung Uh
Federico J. Zablah
Christopher T. Robertson+
Dylan M. Phillips
Patrick R. Corish+
Janice M. Jang^+

August 9, 2024

Via first-class and electronic mail

Jimmy F. Robinson, Jr., Esq.
OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.
901 East Byrd Street, Suite 1300
Riverfront Plaza, West Tower
Richmond, VA 23219
jimmy.robinson@ogletreedeakins.com

Re: *Cyberlux Corporation, et al. v. Atlantic Wave Holding, LLC, et al.*,
Case No. CL240002919-00, in the Circuit Court of the City of Richmond

Dear Mr. Robinson:

I sent you a letter on August 6th, attaching a draft notice for a corporate designee deposition in the above case. I also called and left you a message. To date, I've had no response. As your complaint seeks injunctive relief, it is imperative that this deposition occur as soon as possible. Therefore, I am noticing Cyberlux Corporation's corporate designee's deposition for **Tuesday, August 27, 2024, commencing at 10:00 a.m.** Pursuant to Rule 4:5, I am setting it for a location in the City of Richmond, i.e. the offices of Spotts Fain P.S., 411 E. Franklin Street, Suite 600, Richmond, VA 23219.

If you would like to set an alternative date, time, or location, please contact me and I'll be happy to work with you on that.

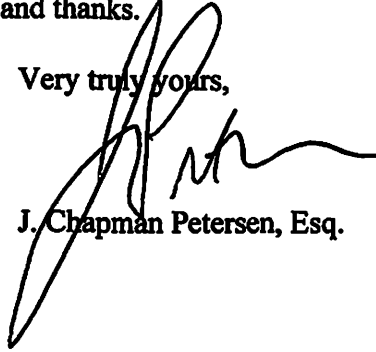
On a separate note, my firm has entered an appearance on behalf of the judgment creditor in Case No. CL22003882-00 ("the Judgment Case"), also pending in the Circuit Court of the City of Richmond. We will be replacing the current counsel, The Executive Law Group. Attached is a Motion for Substitution of Counsel and Agreed Order. I would appreciate if you could sign the Order and return it to me.

Finally, I will be present before Judge McKenney for the hearing on August 21st in the Judgment Case. It is my intention to withdraw the "Motion to Reverse" that was filed by my predecessor, while proceeding forward with Orders of Payment on the pending garnishment, as well as entry of Orders to reflect the Court's attorney fee awards. I will file Praecipes with the Court to reflect these anticipated actions.

Letter to Jimmy F. Robinson, Jr., Esq.
August 9, 2024
Page 2 of 2

I look forward to working with you and thanks.

Very truly yours,

A handwritten signature in black ink, appearing to read 'JCP', written over the typed name.

J. Chapman Petersen, Esq.

JCP
Enclosures

cc: client
Robert Keith Caudle, III, Esq.
Milton Johns, Esq.

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND

CYBERLUX CORPORATION and)
MARK D. SCHMIDT, individually)
)
Plaintiffs,)
)
v.)
)
ATLANTIC WAVE HOLDINGS, LLC)
AND SECURE COMMUNITY, LLC)
)
Defendants.)

Case No: CL24002919-00

NOTICE OF DEPOSITION CORPORATE DESIGNEE OF
PLAINTIFF'S CYBERLUX CORPORATION

To: **CYBERLUX CORPORATION and MARK D. SCHMIDT**
c/o Jimmy F. Robinson, Jr., Esq.
901 East Byrd Street
Suite 1300
Richmond, VA 23219
Jimmy.robinson@ogletreedeakins.com
Counsel for Plaintiffs

PLEASE TAKE NOTICE on **Tuesday, August 27 2024 at 10:00 AM (Eastern Time)**, pursuant to Virginia Supreme Court Rule 4:5(b)(6), Defendants Atlantic Wave Holdings, LLC ("Atlantic Wave") and Secure Community, LLC ("Secure Community") (collectively "Defendants"), by Counsel, will proceed to take the deposition of a designated representative for Plaintiffs, Cyberlux Corporation ("Cyberlux" or "the Company") and/or Mark D. Schmidt ("Schmidt") (collectively, the "Plaintiffs"), at the law office of Spotts Fain, P.C., 411 E Franklin St # 600, Richmond, VA 23219, for all purposes allowed under the Rules of the Supreme Court of Virginia. Plaintiffs shall designate a representative(s) who can address the following matters:

1. Day-to-Day operation of the Ccompany since January 1, 2023.
2. Past and current ownership of Cyberlux.
3. Any actions taken by Cyberlux, including any board actions, to market and sell the Company over the past two years.
4. Any appraisals or valuations requested by Cyberlux since January 1, 2023.
5. Any current financial accounts being held by the Company and amounts available.
6. Any other tangible assets belonging to Cyberlux, including Crypto holdings.
7. Any amendments of the Cyberlux Governing Documents since January 1, 2023.
8. Any meetings of the Cyberlux Board of Directors from January 1, 2023, to present.
9. All meetings or communications with prospective buyers of Cyberlux (or its corporate assets) from January 1, 2023, to present.
10. All communications with Atlantic Wave from January 1, 2023 to present.
11. Any and all payments made by Cyberlux to Atlantic Wave (or any affiliates) from January 1, 2023 to the present.
12. Any sales of drones by Cyberlux to any third party from January 1, 2023, to present.
13. The Settlement Agreement dated June 15, 2023 and all actions taken thereafter by Cyberlux, including payments, to be in compliance.
14. The Amended Final Order and Judgment dated June 28, 2023.
15. Any and all Conflict-of-Interest Disclosure made by a Board Member of Cyberlux from January 1, 2023, to present.
16. Any and all Elections of Cyberlux Board Members from January 1, 2023 to present.
17. The current status of the following lines of business:
 - a) CMTC Drone Solutions (Acquisition date: 8/31/2021).

- b) FBD Group SHPK (Acquisition date: 10/21/2021).
 - c) Havas Group, S.A.S (Acquisition date: 10/29/2021).
 - d) Kreatx SHPK (Acquisition date: 12/27/2021).
 - e) Digital Automation Solution, LLC (Acquisition date: 2/3/2022).
 - f) Catalyst Machineworks, LLC (Acquisition date: 3/30/2022).
 - g) Datron World Communications (Acquisition: August 2023).
- 18. Your “pink current” and “Caveat Emptor” status with OTC Markets.
 - 19. Any loans received from Mark Schmidt or “Mark Schmidt and Family.”
 - 20. Any financing received from January 1, 2023 to the present.

IT IS FURTHER NOTICED that such testimony will be taken stenographically before a Notary Public and may be videotaped. If for any reason the taking of the deposition is not commenced on that day, or if commenced and is not concluded on that day, the taking of the deposition will be continued from day-to-day until the same shall be completed.

Respectfully Submitted,

ATLANTIC WAVE HOLDINGS, LLC
AND SECURE COMMUNITY, LLC
By Counsel

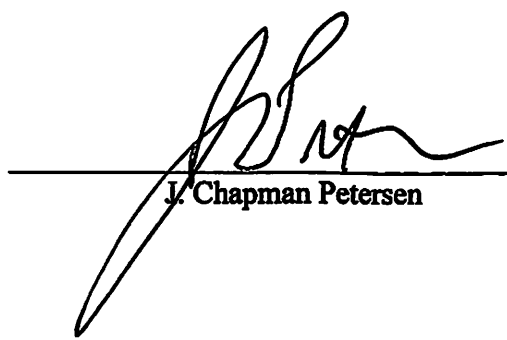


J. Chapman Petersen, Esq. (VSB #37225)
Chap Petersen & Associates, PLC
3970 Chain Bridge Road
Fairfax, Virginia 22030
(571) 459-2512 (telephone)
(571) 459-2307 (facsimile)
jcp@petersenfirm.com
Counsel for Defendants

CERTIFICATE OF SERVICE

I certify that on 24 day of August, 2024, a true and accurate copy of the foregoing was served *via* first-class and electronic mail to:

Jimmy F. Robinson, Jr., Esq.
901 East Byrd Street
Suite 1300
Richmond, VA 23219
Jimmy.robinson@ogletreedeakins.com
Counsel for Plaintiff



J. Chapman Petersen

Exhibit J



Planet Depos®
We Make It Happen™

Transcript of Corporate Designee of Plaintiff's Cyberlux Corporation - SOTR

Date: August 27, 2024

Case: Cyberlux Corporation, et al. -v- Atlantic Wave Holdings, LLC, et al.

Planet Depos

Phone: 888.433.3767 | **Email:** transcripts@planetdepos.com

www.planetdepos.com

Michigan #8598 | Nevada #089F | New Mexico #566

1 VIRGINIA:
2 IN THE CIRCUIT COURT OF THE CITY OF RICHMOND
3
4 CYBERLUX CORPORATION)
5 and MARK D. SCHMIDT,)
6 Individually,) Case No. CL24002019-00
7 Plaintiffs,)
8 V)
9 ATLANTIC WAVE HOLDINGS, LLC,)
10 and SECURE COMMUNITY, LCC,)
11 Defendants.)

12
13 STATEMENT OF NONAPPEARANCE
14 Richmond, Virginia
15 August 27, 2024
16 10:00 a.m.

17
18
19
20 Job No. 549531
21 Pages 1-8
22 Reported by: Carol M. Tayloe, RMR, CMRS, CRR

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

A P P E A R A N C E S
ON BEHALF OF THE DEFENDANTS, ATLANTIC WAVE
HOLDINGS, LLC, AND SECURE COMMUNITY, LLC:

J. CHAPMAN PETERSEN, ESQUIRE
CHAP PETERSEN & ASSOCIATES, PLC
3970 Chain Bridge Road
Fairfax, VA 22030
571-459-2512
jcp@petersenfirm.com

Also present: William Welter

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

C O N T E N T S

I N D E X

DEPOSITION EXHIBIT	PAGE
Exhibit 1 - Letter dated August 6, 2024	4
Exhibit 2 - Letter dated August 9, 2024	5
Exhibit 3 - Letter dated August 23, 2024	5

1 MR. PETERSEN: Good morning, everybody.
2 This is Chap Petersen. I represent the defendant
3 in the case which is pending in the Circuit Court
4 of the City of Richmond, which is Cyberlux
5 Corporation and Mark Schmidt v Atlantic Wave
6 Holdings, LLC, and Secured Community, LLC. The
7 Case Number is CL24002919. And we're here today
8 on a notice of deposition of Cyberlux Corporation
9 and Mark Schmidt. It is a corporate designee
10 deposition which was served on August 9.

11 I have three letters that I want to put
12 into evidence, and I'm going to address them as
13 Exhibit 1, which is a letter dated August 6, and
14 I'm handing that to the court reporter so she can
15 mark it.

16 (Deposition Exhibit 1 was marked for
17 identification and retained by the court
18 reporter.)

19 MR. PETERSEN: And the letter speaks for
20 itself but it will represent that we were seeking
21 a corporate designee deposition and we're
22 proposing dates and the letter was sent by

1 first-class and electronic mail to Jimmy Robinson,
2 who is the attorney for the plaintiff.

3 I'm next going to hand the court reporter
4 Exhibit 2. The court reporter can identify that.

5 (Deposition Exhibit 2 was marked for
6 identification and retained by the court
7 reporter.)

8 MR. PETERSEN: And Exhibit 2, again, the
9 cover letter addresses our request for a corporate
10 designee deposition and it actually attaches the
11 corporate designee notice which has been sent --
12 served on opposing counsel and why we're here
13 today. That was served by electronic mail and
14 first-class mail on August 9th.

15 And then finally I have Exhibit 3. And
16 Exhibit 3, I'm attaching a letter which was sent
17 out by first-class mail and electronic mail, and
18 this was sent out on August 23rd. So if the court
19 reporter could mark Exhibit 3.

20 (Deposition Exhibit 3 was marked for
21 identification and retained by the court
22 reporter.)

1 MR. PETERSEN: So it is now 10:09 on
2 Tuesday afternoon, the date that we noticed the
3 deposition. We are at the offices of Spotts Fain,
4 LLC, on Franklin Street in Downtown Richmond. I
5 am here with my client. I have three books of
6 exhibits so I can go through those exhibits with
7 the witness, and there's no witness.

8 And I will proffer to the Court that I got
9 an e-mail at 5:48 p.m. last night. I actually
10 didn't receive it. I was already in Richmond.
11 But it was forwarded to me by my legal team just
12 saying that the witness was not going to appear
13 and did not agree to appear.

14 Prior to that time I had received no
15 response to my letters or phone call and basically
16 had received no objection, no motion to quash. I
17 had no notice whatsoever that this deposition
18 would not be going forward.

19 I have come down from Fairfax, I have a
20 court reporter that has traveled from Virginia
21 Beach, I have a client that's here. My team spent
22 several hours pulling together exhibits which I

1 have to examine the witness. I've also spent
2 several hours, completed an outline of questions,
3 and there's no one here to question.

4 So what we will do is we will adjourn the
5 deposition to another time and I will file a
6 motion to compel the attendance of the witness and
7 for any other remedies that we're entitled to
8 under Virginia law.

9 It now being 10:11 a.m., I think that
10 completes what I need to put on the record. And I
11 thank everyone for their time and being here and I
12 apologize for any wasted time. Thank you.

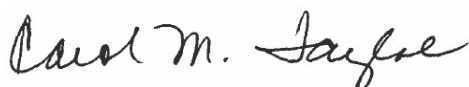
13 (Off the record at 10:11 a.m.)
14
15
16
17
18
19
20
21
22

COURT REPORTER'S CERTIFICATE

I, Carol M. Tayloe, RMR, CMRS, CCR,
certify that I recorded verbatim by stenotype the
proceedings in the captioned cause, Richmond,
Virginia, on August 27, 2024.

I further certify that to the best of my
knowledge and belief, the foregoing transcript
constitutes a true and correct transcript of the
said proceedings.

Given under my hand this 27th day of
August, 2024, at Norfolk, Virginia.



Carol M. Tayloe

Transcript of Corporate Designee of Plaintiff's Cyberlux Corporation - SOTR

Conducted on August 27, 2024

9

A actually 5:10, 6:9 address 4:12 addresses 5:9 adjourn 7:4 afternoon 6:2 again 5:8 agree 6:13 already 6:10 also 2:12, 7:1 another 7:5 any 7:7, 7:12 apologize 7:12 appear 6:12, 6:13 associates 2:5 atlantic 1:9, 2:2, 4:5 attaches 5:10 attaching 5:16 attendance 7:6 attorney 5:2 august 1:15, 3:4, 3:5, 3:6, 4:10, 4:13, 5:14, 5:18, 8:6, 8:12 B basically 6:15	beach 6:21 been 5:11 behalf 2:2 being 7:9, 7:11 belief 8:8 best 8:7 books 6:5 bridge 2:6 C call 6:15 captioned 8:5 carol 1:22, 8:3, 8:16 case 1:6, 4:3, 4:7 cause 8:5 ccr 8:3 certificate 8:1 certify 8:4, 8:7 chain 2:6 chap 2:5, 4:2 chapman 2:4 circuit 1:2, 4:3 city 1:2, 4:4 cl 1:6, 4:7 client 6:5, 6:21	cmrs 1:22, 8:3 com 2:9 come 6:19 community 1:10, 2:3, 4:6 compel 7:6 completed 7:2 completes 7:10 constitutes 8:9 corporate 4:9, 4:21, 5:9, 5:11 corporation 1:4, 4:5, 4:8 correct 8:9 could 5:19 counsel 5:12 court 1:2, 4:3, 4:14, 4:17, 5:3, 5:4, 5:6, 5:18, 5:21, 6:8, 6:20, 8:1 cover 5:9 crr 1:22 cyberlux 1:4, 4:4, 4:8 D date 6:2 dated 3:4, 3:5, 3:6, 4:13 dates 4:22 day 8:11	defendant 4:2 defendants 1:11, 2:2 deposition 3:3, 4:8, 4:10, 4:16, 4:21, 5:5, 5:10, 5:20, 6:3, 6:17, 7:5 designee 4:9, 4:21, 5:10, 5:11 down 6:19 downtown 6:4 E e-mail 6:9 electronic 5:1, 5:13, 5:17 entitled 7:7 esquire 2:4 everybody 4:1 everyone 7:11 evidence 4:12 examine 7:1 exhibit 3:3, 3:4, 3:5, 3:6, 4:13, 4:16, 5:4, 5:5, 5:8, 5:15, 5:16, 5:19, 5:20 exhibits 6:6, 6:22 F fain 6:3 fairfax 2:7, 6:19
---	--	---	--

file 7:5	itself 4:20	next 5:3	plc 2:5
finally 5:15	J	night 6:9	present 2:12
first-class 5:1, 5:14, 5:17	jcp@petersenfirm 2:9	nonappearance 1:13	prior 6:14
foregoing 8:8	jimmy 5:1	norfolk 8:12	proceedings 8:5, 8:10
forward 6:18	job 1:20	notice 4:8, 5:11, 6:17	proffer 6:8
forwarded 6:11	K	noticed 6:2	proposing 4:22
franklin 6:4	knowledge 8:8	number 4:7	pulling 6:22
further 8:7	L	O	put 4:11, 7:10
G	last 6:9	objection 6:16	Q
given 8:11	law 7:8	offices 6:3	quash 6:16
go 6:6	lcc 1:10	one 7:3	question 7:3
going 4:12, 5:3, 6:12, 6:18	legal 6:11	opposing 5:12	questions 7:2
good 4:1	letter 3:4, 3:5, 3:6, 4:13, 4:19, 4:22, 5:9, 5:16	other 7:7	R
H	letters 4:11, 6:15	out 5:17, 5:18	rd 5:18
hand 5:3, 8:11	llc 1:9, 2:3, 4:6, 6:4	outline 7:2	receive 6:10
handing 4:14	M	P	received 6:14, 6:16
here 4:7, 5:12, 6:5, 6:21, 7:3, 7:11	mail 5:1, 5:13, 5:14, 5:17	page 3:3	record 7:10, 7:13
holdings 1:9, 2:3, 4:6	mark 1:5, 4:5, 4:9, 4:15, 5:19	pages 1:21	recorded 8:4
hours 6:22, 7:2	marked 4:16, 5:5, 5:20	pending 4:3	remedies 7:7
I	morning 4:1	petersen 2:4, 2:5, 4:1, 4:2, 4:19, 5:8, 6:1	reported 1:22
identification 4:17, 5:6, 5:21	motion 6:16, 7:6	phone 6:15	reporter 4:14, 4:18, 5:3, 5:4, 5:7, 5:19, 5:22, 6:20
identify 5:4	N	plaintiff 5:2	reporter's 8:1
individually 1:6	need 7:10	plaintiffs 1:7	represent 4:2, 4:20

request 5:9	street 6:4	wasted 7:12	3
response 6:15	T	wave 1:9, 2:2, 4:5	3970 2:6
retained 4:17, 5:6, 5:21	tayloe 1:22, 8:3, 8:16	we're 4:7, 4:21, 5:12, 7:7	4
richmond 1:2, 1:14, 4:4, 6:4, 6:10, 8:5	team 6:11, 6:21	welter 2:12	459 2:8
rmr 1:22, 8:3	th 8:11	whatsoever 6:17	48 6:9
road 2:6	thank 7:11, 7:12	william 2:12	5
robinson 5:1	think 7:9	witness 6:7, 6:12, 7:1, 7:6	5 6:9
S	three 4:11, 6:5	0	549531 1:20
said 8:10	through 6:6	00 1:6, 1:16	571 2:8
saying 6:12	time 6:14, 7:5, 7:11, 7:12	09 6:1	9
schmidt 1:5, 4:5, 4:9	today 4:7, 5:13	1	9th 5:14
secure 1:10, 2:3	together 6:22	1-8 1:21	
secured 4:6	transcript 8:8, 8:9	10 1:16, 6:1, 7:9, 7:13	
seeking 4:20	traveled 6:20	11 7:9, 7:13	
sent 4:22, 5:11, 5:16, 5:18	true 8:9	2	
served 4:10, 5:12, 5:13	tuesday 6:2	2024 1:15, 3:4, 3:5, 3:6, 8:6, 8:12	
several 6:22, 7:2	U	22030 2:7	
signature-kcnbo 8:13	under 7:8, 8:11	23 3:6, 5:18	
speaks 4:19	V	24002019 1:6	
spent 6:21, 7:1	va 2:7	24002919 4:7	
spotts 6:3	verbatim 8:4	2512 2:8	
statement 1:13	virginia 1:1, 1:14, 6:20, 7:8, 8:6, 8:12	27 1:15, 8:6, 8:11	
stenotype 8:4	W		
	want 4:11		