

**CAUSE NO. 2024-48085**

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

**Plaintiffs/Judgment-Creditors §**

**V. §**

**CYBERLUX CORPORATION and §  
MARK SCHMIDT, Individually, §**

**Defendants/Judgment-Debtors. §**

**IN THE DISTRICT COURT OF**

**129th JUDICIAL DISTRICT**

**HARRIS COUNTY, TEXAS**

**ATLANTIC WAVE HOLDINGS, LLC'S AND SECURE COMMUNITY, LLC'S  
PLEA IN INTERVENTION AND MOTION TO DEPOSIT FUNDS INTO COURT  
REGISTRY**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Plaintiffs and Intervenors Atlantic Wave Holdings, LLC and Secure Community, LLC (collectively "Intervenors") herein, and file this Plea in Intervention and Motion To Deposit Funds Into Court Registry, and would show unto the Court the following:

**FACTUAL BACKGROUND**

1. Plaintiffs have a valid Virginia judgment against Defendants Cyberlux Corporation and Mark Schmidt (collectively, "Defendants") that was domesticated in Texas (the "First Judgment").
2. On May 22, 2025, the Court signed the Order Appointing Receiver, which appointed Robert W. Berleth as receiver ("Receivership").
3. Subsequently, the First Judgment was satisfied via collection of payment to Plaintiffs Atlantic Wave Holdings, LLC and Secure Community, LLC.
4. The Receiver has obtained, and is holding funds, which are to be distributed in some fashion, to close the Receivership, and end this matter. The Receiver proposes to disburse these

captured non-exempt funds of Defendant Cyberlux Corporation, and distribute them to his firm to pay the Receivership fee and expense, and return the remainder to Legalist. Plaintiffs and Intervenor take no position on the amount of fees and expenses to be awarded but based on the Receivers' motion expect there to be a surplus.

5. On May 28, 2026, Intervenor domesticated another Virginia judgment against Defendants/Judgment Debtors Cyberlux Corporation and Mark Schmidt, in Cause No. 2026-35985, in the principal amount of \$6 million, plus attorney's fees and interest ("Second Judgment").<sup>1</sup> The domestication of the Second Judgment is also before this Court.

6. Plaintiffs and Intervenor also have a UCC lien which attaches to the funds held by the Receivership, as they are non-exempt funds of Cyberlux Corporation ("UCC Lien").<sup>2</sup> As such, Plaintiffs and Intervenor assert a claim to these funds, based on the Second Judgment and the UCC Lien.

## **ARGUMENT AND AUTHORITIES**

### **A. Intervenor can intervene in this action to protect its rights and interests.**

7. The Texas Rules of Civil Procedure provide that "[a]ny party may intervene by filing a pleading," Tex. R. Civ. P. 60. Third parties are generally allowed to intervene in post-judgment proceedings when their property interests are at stake. *See M&E Endeavors LLC v. Air Voice Wireless LLC*, No. 01-18-00852-CV, 2020 Tex. App. LEXIS 6906, 2020 WL 5047902, at \*8 (Tex. App.—Houston [1<sup>st</sup> Dist.] Aug. 27, 2020, no pet.) (mem. Op.). Intervention is a recognized option for any party seeking to protect its interest in property that is the subject of a turnover motion or order. *See Mitchell v. Turbine Res. Unlimited, Inc.*, 523 S.W.3d 189, 200 (Tex.

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<sup>1</sup> See Petition to Enforce Foreign Judgment, with copy of Virginia Judgment, attached as **Exhibit A**.

<sup>2</sup> See UCC-1, attached hereto as **Exhibit B**.

App.—Houston [14<sup>th</sup> Dist.] 2017, pet. denied).

8. Here, Plaintiffs and Intervenor seek to have the funds captured by the Receiver which are not ordered to be disbursed to the Receiver, or the surplus, be deposited into the Court Registry. Plaintiffs make this request as parties and Judgment Creditors to this lawsuit. In addition, since Plaintiffs claims or the First Judgment has been satisfied, Plaintiffs also assert this Plea in Intervention, based on its status as Judgment Creditor of the Second Judgment, in the separate domestication action.

9. Intervenor has a justiciable interest related to the litigation, as they have an interest in property held by the Receivership which belongs to Defendant Cyberlux and is subject to execution or recovery of the Second Judgment. If the funds are released to Legalist, as proposed by the Receiver, then Intervenor will be harmed, as they have an interest to this property. As such, Intervenor request that the Court order that the surplus funds be deposited in the Court Registry, until the rightful owners of the funds can be determined.

**B. In addition, or alternatively, Plaintiffs request that the surplus funds in the Receivership be deposited in the Court Registry**

10. Plaintiffs possess a UCC Lien, which secures a debt owed to Plaintiffs in the approximate amount of \$6,025,000, which is superior to the ownership rights of Legalist, to the funds held by the Receivership. Plaintiffs request that the Court order the Receiver to deposit the surplus into the Court Registry, until the rightful owner of the funds can be determined.<sup>3</sup>

**PRAYER**

Plaintiffs respectfully request the Court set this motion for a hearing; grant this motion; and order the Receiver to deposit any surplus funds into the Court Registry, and for such further

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<sup>3</sup> Plaintiffs note that efforts are being taken to collect in a Virginia Interpleader Action, and that any amounts recovered from this action would offset or reduce Plaintiffs claim to the surplus funds, and vice versa.

relief to which Plaintiffs are entitled.

Respectfully submitted,

**LAW FIRM OF SHAWN M. GRADY, PLLC**

By: /s/ Shawn M. Grady

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**ATTORNEY FOR PLAINTIFFS AND  
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**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing document has been forwarded to all counsel of record pursuant to the Texas Rules of Civil Procedure, on the 3rd day of June 2026.

/s/ Shawn M. Grady

Shawn M. Grady

Unofficial Copy Office of Marilyn Burge, District Clerk

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Filing Code Description: Counter Claim/Cross  
Action/Interpleader/Intervention/Third Party

Filing Description: PLEA IN INTERVENTION AND MOTION TO DEPOSIT  
FUNDS INTO COURT REGISTRY

Status as of 6/4/2026 10:15 AM CST

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