

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:15CV223

TONY L. MUCKLE, )

Plaintiff, )

Vs. )

SUMMIT HOSPITALITY )  
GROUP, LTD., )

Defendant. )  
\_\_\_\_\_)

ORDER

This matter is before the Court upon Defendant's Motion to Dismiss for Fraud Upon the Court (Doc. No. 65) and Motion for Summary Judgment (Doc. No. 66). These motions have now been fully briefed and are ripe for disposition.

The Court finds that there is a genuine issue of material fact as to whether the Defendant had notice so as to render summary judgment inappropriate. Moreover, with regard to the Defendant's Motion to Dismiss, the Court restates its previous finding in its Order of December 2, 2016. Any factual discrepancies in Mr. Muckle's testimony can be more appropriately explored during cross-examination.

IT IS THEREFORE ORDERED that Defendant's Motion to Dismiss for Fraud Upon the Court (Doc. No. 65) and Motion for Summary Judgment (Doc. No. 66) are hereby DENIED.

Signed: February 13, 2017



Graham C. Mullen  
United States District Judge

