

STATE OF SOUTH CAROLINA  
COUNTY OF HORRY

) IN THE COURT OF COMMON PLEAS  
) FIFTEENTH JUDICIAL CIRCUIT  
) CASE NO.: 2022-CP-26-01323

HSS BAREFOOT, LLC, d/b/a CENTURY 21 )  
BAREFOOT; R&G CORP, d/b/a CENTURY 21 )  
THE HARRELSON GROUP, KEVIN MILLS, )  
individually, MILLS, LLC, and GREG )  
HARRELSON, individually, )

Plaintiffs, )

v. )

JOEL D. BARBER, individually and as licensed )  
realtor, BARBER REAL ESTATE, INC., )  
NICHOLAS FITZPATRICK, as licensed realtor, )  
DARCY VARNEY, individually and as broker-in- )  
charge, eXp REALTY, LLC, JAMES RAY )  
LUNSFORD, individually and as broker-in-charge, )  
and NORTHGROUP REAL ESTATE, INC., )

Defendants. )

**ORDER GRANTING PLAINTIFFS’  
MOTION FOR CONTEMPT AGAINST  
DEFENDANT JOEL D. BARBER**

**RECEIVED**

**Feb 07 2023**

**SC Court of Appeals**

This matter was presented to the Court by Plaintiffs HSS Barefoot, LLC, d/b/a Century 21 Barefoot, R&G Corp., d/b/a Century 21 The Harrelson Group (collectively, “Century 21”), Kevin Mills, Mills, LLC, and Greg Harrelson’s (collectively, “Plaintiffs”) Motion for Contempt Against Defendant Joel D. Barber, filed July 25, 2022. A virtual hearing was held regarding Plaintiffs’ Motion on November 16, 2022. Present at the hearing were Plaintiffs Greg Harrelson and Kevin Mills, as well as Amanda A. Bailey, Esquire, and Taylor K. Voegel, Esquire, as counsel for Plaintiffs. Defendant Barber was also present, as was his counsel, Christian H. Staples, Esquire and Jason A. Daigle, Esquire. Lawrence M. Hershon, Esquire, counsel for Defendants Darcy Varney and eXp Realty, LLC, and Russell M. Racine, Esquire, counsel for Defendants Nicholas Fitzpatrick, James Ray Lunsford, and NorthGroup Real Estate, Inc., were also present. After

consideration of the submittals by Plaintiffs and Defendant Barber, the arguments of counsel, and the applicable law, the Motion is granted.

This civil action is premised upon the allegations that Defendant Barber, a former agent of Century 21, improperly accessed, retained, and otherwise used confidential information belonging to Century 21 for his benefit and the benefit of other brokerage companies. Approximately one month after the start of this civil action, the Court issued a Temporary Injunction (“the Injunction”). The Court held hearings on the matter and issued an oral ruling on March 31, 2022, granting Plaintiffs’ Motion for a Temporary Injunction, and a formal written order was filed on April 8, 2022. The Injunction, which continues to be in effect until the resolution of this case, sets forth in pertinent part that Defendant Barber is enjoined from:

c. [] using any information to which [he] gained access to by being an independent contractor and working with any of the Plaintiffs between March 14, 2017 and February 7, 2022 including, but not limited to, leads, clients, prospects, customers, marketing materials, business plans, scripts, flyers, websites, website providers, email templates, email scripts, listing strategies, reduction letters, system subscriptions, CRMs [Customer Relationship Management technology], software or cloud ware, and files;

d. [] initiating contact or communication with leads, clients, prospects, and customers he gained access to by being an independent contractor and working with any of the Plaintiffs between March 14, 2017 and February 7, 2022; [and]

e. [] selling or disclosing any information to which [he] gained access to by being an independent contractor and working with any of the Plaintiffs between March 14, 2017 and February 7, 2022 including, but not limited to, leads, clients, prospects, customers, marketing materials, business plans, scripts, flyers, websites, website providers, email templates, email scripts, listing strategies, reduction letters, system subscriptions, CRMs [Customer Relationship Management technology], software or cloud ware, and files.

Inj., ¶ 23(c)-(e). Based upon this Court’s review of Rob Safa, Susan Brown, Defendant Barber, and Plaintiff Harrelson’s affidavits, Defendant Barber’s deposition testimony from November 15, 2022 represented by Plaintiffs’ counsel, and all arguments of counsel, this Court finds clear and

convincing evidence that Defendant Barber willfully, voluntarily, and intentionally violated the Injunction by using information, disclosing information, and initiating communication with leads, clients, prospects, and customers he gained access to or otherwise obtained during his time as an agent and independent contractor with Plaintiffs.

Accordingly, it is ORDERED that Defendant Barber is hereby held in contempt of court for failing to comply with the Injunction and otherwise acting with disregard for the judicial process. Therefore, this Court orders the following:

1. Defendant Barber must turn over all real estate business-related data devices and databases to Plaintiffs for the Plaintiffs' expert, Clark Walton, to image, preserve, and conduct a searching and reporting investigation on all file sources, using generally accepted forensic tools and methodologies, within fifteen days of this Order;
2. Any and all real estate-related commissions Defendant Barber has received or will receive subsequent to February 7, 2022 are to be held in trust by Defendant Barber until final resolution of this action;
3. Defendant Barber is enjoined from using the databases subject to Paragraph 1 of this Order during the pendency of this action;
4. Plaintiffs' request for attorneys' fees is denied at this time; and
5. The Injunction issued March 31, 2022 remains in full force and effect pending the trial of this case unless otherwise modified or terminated by Court order.

IT IS SO ORDERED.

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The Honorable William H. Seals, Jr.  
Presiding Judge of the 15th Judicial Circuit

Conway, South Carolina  
Dated: November \_\_\_\_\_, 2022



## Horry Common Pleas

**Case Caption:** HSS Barefoot LLC , plaintiff, et al VS Joel D Barber , defendant, et al

**Case Number:** 2022CP2601323

**Type:** Order/Sanctions

IT IS SO ORDERED

s/ The Honorable William H. Seals Jr. #2157