

FORM 4

STATE OF SOUTH CAROLINA
 COUNTY OF YORK
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
 CASE NUMBER 2011CP4603106

GM Company Inc	Bruce Bryant Kevin Bracket York Town Of	Marvin Brown Rock Hill City Of
PLAINTIFF(S)	DEFENDANT(S)	

Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant
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DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**
 - Rule 12(b), SCRPC;
 - Rule 41(a), SCRPC (Vol. Nonsuit);
 - Rule 43(k), SCRPC (Settled);
 - Other: _____
- ACTION STRICKEN (CHECK REASON):**
 - Rule 40(j) SCRPC;
 - Bankruptcy;
 - Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 - Other: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 - Affirmed;
 - Reversed;
 - Remanded;
 - Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; (formal order to follow) Statement of Judgment by the Court:

Order Granting Renewed (Second) Motion to Compel and Attorney's Fees and Costs

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk:

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

<i>s/S. Jackson Kimball</i>	3063	March 5, 2013
Circuit Court Judge	Judge Code	Date

For Clerk of Court Office Use Only

This judgment was entered on March 5, 2013, and a copy mailed first class or placed in the appropriate attorney's box on March 5, 2013, to attorneys of record or to parties (when appearing pro se) as follows:

S. Jahue Moore Moore Taylor & Thomas PA PO Box 5709 W Columbia, SC
29171

ATTORNEY(S) FOR THE PLAINTIFF(S)

Terry Millar Terry B Millar LLC PO Box 10590 Rock Hill, SC 29731-0590
William M Brice III Brice & Brice PA PO Drawer 300 York, SC 29745

ATTORNEY(S) FOR THE DEFENDANT(S)

David Hamilton

David Hamilton - Clerk of Court

Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF YORK

FILED-RECEIVED
2013 MAR 25 PM 3:55

COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT

GM Company, Inc.,

DAVID W. HESTER
C.C.D. # 2011-CP-46-03106
YORK COUNTY, SC

Case No. 2011-CP-46-03106

vs

Bruce Bryant, Marvin Brown, City of Rock
Hill, South Carolina, and Town of York,
South Carolina,

Defendants.

**ORDER
GRANTING RENEWED (SECOND)
MOTION TO COMPEL AND
ATTORNEY'S FEES AND COSTS**

This matter came before me on February 21, 2013, upon the Renewed (Second) Motion to Compel Discovery Responses of Defendants Bryant and Brown. Present and representing Defendants Bryant and Brown ("Defendants") was Terry B. Millar. M. Brooks Biediger was present and represented Plaintiff. Based on the record before the court, I make the following findings and conclusions.

Defendants submitted a supporting Memorandum setting forth the history of the case, including the previous Motion to Compel and Order of October 26, 2012, granting the motion. As of the hearing on Defendants' first Motion, no discovery responses of any kind had been received, and Plaintiff was ordered to provide and deliver "full and complete" answers to the Interrogatories and the Requests for Production to Defendants on or before November 7, 2012.

Defendants served their Renewed (Second) Motion to Compel Discovery Responses and for Sanctions on November 21, 2012, which was filed November 26, 2012. Attached to the Motion were the exhibits consisting of Plaintiff's responses to the First Set of Interrogatories and Responses to Requests for Production in response to the first Order.

At the hearing, Defendants' counsel in oral argument, and in his Memorandum, reviewed the untimely and inappropriate objections, and inadequate and evasive answers and production responses by the Plaintiff. An extended hearing was held, and I likewise reviewed with counsel for the parties those responses to Defendants' discovery requests considered to be inadequate or objectionable.

Based on the record presented, I find and conclude that the responses as to which questions were raised and discussed are inadequate, often evasive, and fail to comply with relevant, appropriate discovery requests. They are also in plain disregard of the first Order of this court compelling the Plaintiff to provide "full and complete" answers and responses. I find this failure to be egregious and without just cause or excuse. Although Plaintiff responded to some of the requests with objections as to their relevance or scope, I find and conclude that such objections have been waived. Plaintiff made no responses at all until after it had been compelled to provide answers to Defendants' discovery requests. I find and conclude that Plaintiff's failure to respond

[Handwritten signature]
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at all, or even to make timely objection, constitutes a waiver of the right to object.

The defects in the proffered answers and responses, and the expected content of proper answers and responses were discussed in detail with Plaintiff's counsel at the hearing. He expressed understanding of the meaning of the requirement of "full and complete" responses expected of the Plaintiff and its counsel. In summary, I find and conclude that all requested information and documentation available to the Plaintiff is to be provided.

I further find and conclude that Defendants are entitled to be paid the attorney's fees and costs incurred in connection with this motion, the hearing on the motion, and preparation of a proposed order. In this connection, I have reviewed the Affidavit for Attorney's Fees and Costs submitted by Defendants' counsel and find those fees and costs to be reasonable under the circumstances. The fees and costs total \$1,520.60.

Therefore, based on thorough consideration of the record presented, it is ordered as follows:

1) As ordered from the bench at the hearing, Plaintiff is granted two weeks from February 21, 2013, or until March 7, 2013, to provide **full and complete** answers to the Interrogatories and Requests for Production, in accordance with directions to Plaintiff's Counsel at the hearing.

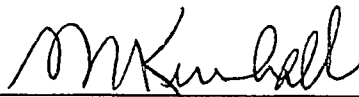
2) Any and all objections to these Defendants' Interrogatories and Requests for Production not made prior to the first Motion to Compel are waived by Plaintiff as to all discovery requests.

3) Plaintiff is ordered to pay reasonable attorney's fees and costs to Defendants associated with the Renewed (Second) Motion to Compel in the amount of \$1,510.60.

4) I specifically reserve further consideration of, and ruling upon, the issue of any additional sanctions to be imposed upon the Plaintiff and/or its counsel until compliance with this Order has been made and examined.

AND IT IS SO ORDERED.

March 1, 2013


S. Jackson Kimball
Special Circuit Court Judge
York County

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STATE OF SOUTH CAROLINA)	COURT OF COMMON PLEAS
)	
COUNTY OF YORK)	SIXTEENTH JUDICIAL CIRCUIT
)	
GM Company, Inc.,)	Case No. 2011-CP-46-03106
Plaintiff,)	
vs)	
)	
Bruce Bryant, Marvin Brown,)	AFFIDAVIT FOR
City of Rock Hill, South)	ATTORNEY'S FEES AND COSTS
Carolina, and Town of York,)	
South Carolina,)	
)	
Defendants.)	
_____)	

I, Terry B. Millar, after being duly sworn, make the following Affidavit.

1. I am the attorney of record for the Defendants Bruce Bryant and Marvin Brown (hereinafter "these Defendants") in the above captioned case.

2. The following is a summary of the work performed in relation to the Plaintiff's responses to these Defendants' Interrogatories and Requests to Produce received by the undersigned on or about November 7, 2012.

November 12, 2012 - Begin review of discovery responses received from Plaintiff;	.3
November 15, 2012 - Review of discovery requests/responses, previous Order, and begin draft of Renewed Motion to Compel;	1.0
November 21, 2012 - Final revision and filing of Renewed Motion to Compel	.4
January 3 - 4, 2013 - Detail review of prior Motion, Plaintiff's responses; dictation of detailed Memorandum concerning evasive and incomplete answers to discovery	3.0

February 20, 2013 - Review, revise and forward Memorandum in Support of Renewed Motion to Judge Kimball, copy to Attorney Biediger 2.0


February 21, 2012 - Review Memorandum and Exhibits in preparation for hearing; Trip to York - appearance and representation at hearing - motion granted - TBM to draw Order and Affidavit; preparation of Memo re: Court's ruling 3.0

February 27, 2013 - Dictation and revision of proposed Order and Affidavit for fees and costs; transmittal letter to Judge Kimball and Attorney Biediger .7

<u>COSTS:</u>		\$25.00
Filing Fee		\$17.60
32 Miles-RT York @ \$.55		\$12.00
48 Photocopies @ \$.25		
Total Attorney's Fees @ \$140/hr	10.4	\$1,456.00
Total Costs		\$ 54.60
TOTAL FEES AND COSTS		<hr/>
		\$1,510.60


TERRY B. MILLAR

SWORN TO BEFORE me this
27th day of February, 2013.



Notary Public for South Carolina
My Commission Expires: 3-27-2022

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 COUNTY OF YORK
 IN THE COURT OF COMMON PLEAS

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 - Other: _____

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IT IS ORDERED AND ADJUDGED: See attached order; (formal order to follow) Statement of Judgment by the Court:

This matter came before me on April 30, 2013 upon Plaintiff's motion pursuant to Rule 59(e), SCRPC, asking the Court to alter or amend the Court's Order filed March 5, 2013. Representing the parties were: M. Brooks Biediger for Plaintiff; and, Terry B. Millar for Defendants Bruce Bryant and Marvin Brown.

Upon reviewing the record presented, and considering the memoranda and arguments of counsel, I find no matter presented that was not addressed expressly or by clear implication in the prior order. I further find no basis for reconsideration or amendment of the court's ruling in the prior order.

Therefore, it is ordered that Plaintiff's Motion pursuant to Rule 59(e), SCRPC, be denied.

AND IT IS SO ORDERED.

ABR
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ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk:

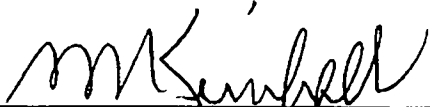
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Special Circuit Court Judge

3063

Judge Code

4/30/2013

Date

For Clerk of Court Office Use Only

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on , to attorneys of record or to parties (when appearing pro se) as follows:

S. Jahue Moore / M. Brooks Biediger PO Box 5709 West
Columbia, SC 29171

ATTORNEY(S) FOR THE PLAINTIFF(S)

Terry B. Millar PO Box 10590 Rock Hill, SC 297310590
William M. Brice III PO Drawer 300 York, SC 29745

ATTORNEY(S) FOR THE DEFENDANT(S)

David Hamilton - Clerk of Court

Court Reporter: N/A

