

IN THE STATE OF SOUTH CAROLINA)
COUNTY OF DARLINGTON)

IN THE COURT OF COMMON PLEAS
FOR THE 4TH JUDICIAL CIRCUIT
CASE NO: 2020-CP-16-00299

Samantha Joanne Carwile, individually and
as the Personal Representative of the Estate
of Marlayna Joan Carwile,

Plaintiff(s),

v.

Chris Anderson and Danielle Anderson,

Defendant(s).

ORDER

RECEIVED

Jun 22 2023

SC Court of Appeals

THIS MATTER IS BEFORE the Court on Plaintiff Samantha Joanne Carwile’s Motion (“Plaintiff”) Motion for Sanctions against Defendants Chris Anderson and Danielle Anderson (“Defendants”). Defendants initially defaulted in this action but later filed an Answer after an order removing the entry of default was entered. On March 9, 2022, Plaintiff then served the Defendants with Interrogatories, Requests for Production, and Requests for Admission. Defendants failed to respond to the Interrogatories and Requests for Production, and failed to respond to Plaintiff’s request for an update regarding the same. Accordingly, Plaintiff filed a Motion to Compel. On July 19, 2022, Plaintiff’s Motion to Compel was heard before the Honorable Paul M. Burch in which Plaintiff’s counsel was the only party in attendance. Judge Burch, by Order filed July 21, 2022, compelled Defendants to produce discovery within fifteen (15) days and also entered a judgment against Defendants in Plaintiff’s favor for \$731.74 for fees and costs associated with Plaintiff having to bring such motion.¹

¹ The Order also held that Plaintiff’s Requests for Admission were deemed admitted as Plaintiff’s counsel originally thought Defendants had not responded to the same. At the hearing on October 31, 2022, Plaintiff’s counsel notified the court that after the July 21, 2022 Order was entered, Plaintiff’s counsel realized that his office had received responses to Plaintiff’s Requests for Admission at some point; however, no responses to Interrogatories or Requests for Production were ever received.

Defendants failed to comply with Judge Burch's Order. On August 8, 2022, in a good faith attempt to resolve this issue without intervention of the Court, Plaintiff attempted to contact Defendants' counsel about the outstanding discovery and requested responses within ten (10) days. Defendants did not respond. Accordingly, Plaintiff filed a Motion for Sanctions pursuant to Rule 37 of the South Carolina Rules of Civil Procedure, requesting that Defendants' Answer be stricken from the record and that Defendants be ordered to pay costs and fees associated with Plaintiff having to bring this motion. On October 31, 2022, a hearing was held for this matter. Plaintiff's counsel was the only party present. Defendants, by and through counsel, did not appear but counsel was notified of the hearing by the Clerk of Court. After arguments from Plaintiff's counsel, this Court finds and orders as follows:

THE COURT HEREBY FINDS that Defendants failed to adhere to the Order filed July 21, 2022, which compelled Defendants to respond to Plaintiff's discovery and awarded fees and costs to Plaintiff.

THE COURT HEREBY FINDS that Defendants were properly served with notice of the hearing regarding Plaintiff's Motion for Sanctions.

IT IS ORDERED that Defendants' Answer be stricken from the record pursuant to South Carolina Rules of Civil Procedure 37(b)(2)(C) and 37(d).

IT IS FURTHER ORDERED that, upon application by the Plaintiff, default be entered into against Defendants for Defendants' failure to defend, answer, or otherwise plead.

IT IS FURTHER ORDERED that Plaintiff is entitled to reasonable attorney's fees in the amount of seven hundred dollars and 00/100 (\$700.00) for the time counsel spent inquiring about the outstanding discovery, filing the current motion, and attending the court proceedings for the same. Plaintiff is also entitled to be reimbursed for the costs of thirty one dollars and 74/100

(\$31.74) for the filing fees associated with said Motion. The Clerk of Court is to enter judgment against Defendants for the same.

IT IS SO ORDERED!

Darlington, South Carolina
_____, 2022

The Honorable Paul M. Burch
Fourth Judicial Circuit



Darlington Common Pleas

Case Caption: Samantha Joanne Carwile , plaintiff, et al VS Chris Anderson ,
defendant, et al
Case Number: 2020CP1600299
Type: Order/Sanctions

So Ordered

s/Paul M. Burch, Judge #2048