

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF NEWBERRY

) EIGHTH JUDICIAL CIRCUIT

) CASE NO.: 2020-CP-36-00382

Jefferson Davis, Jr.,

)

)

**ORDER COMPELLING
DISCOVERY**

Plaintiff,

)

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vs.

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RECEIVED

Chad Connelly; Dave Wilson; Stephen
Kirkland; Tom Persons; Neil Mellen; E3
Software, LLC; Endurance International Group
Holdings, Inc; John Doe #1; John Doe #2; &
John Does 3-40,

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Oct 13 2023

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SC Court of Appeals

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Defendants.

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This matter came before me for a hearing on October 7, 2021, on the following two motions to compel: (1) Defendant Stephen Kirkland’s Motion to Compel (filed July 20, 2021); and (2) Defendants’ Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen Motion to Compel (filed September 27, 2021). Upon reviewing the motions, memoranda in support, and argument of the parties, this Court finds the following:

Defendant Kirkland served Plaintiff with Interrogatories, Requests for Production, and Requests for Admission on May 12, 2021. Plaintiff did not respond to the discovery requests within the time allotted by the South Carolina Rules of Civil Procedure. Defendant Kirkland made a *bona fide* attempt to resolve the overdue responses with Plaintiff, but no response was received. As of the date of the hearing, Plaintiff had not responded to Defendant Kirkland’s discovery requests, contacted counsel for Defendant Kirkland to advise of any difficulties responding to the requests, or requested an extension.

Defendants Connelly, Wilson, Persons, and Mellen each served Plaintiff with Interrogatories, Requests for Production, and Requests for Admission on July 27, 2021. Plaintiff did not respond to the discovery requests within the time allotted by the South Carolina Rules of

Civil Procedure. Counsel for Defendants Connelly, Wilson, Persons, and Mellen made a *bona fide* attempt to resolve the overdue response with Plaintiff, but no response was received. As of the date of the hearing, Plaintiff had not responded to Defendants Connelly, Wilson, Persons, and Mellen's discovery requests, contacted counsel for these defendants to advise of any difficulties responding to the requests, or requested an extension.

Defendants' Kirkland, Connelly, Wilson, Persons, and Mellen requested an order of this Court compelling Plaintiff's responses to each of Defendant's Interrogatories and Requests for Production served upon Plaintiff. Additionally, Defendants' Kirkland, Connelly, Wilson, Persons, and Mellen requested an order of this Court deeming admitted the matters in each of Defendant's Requests for Admission served upon Plaintiff.

Based on the above, this Court finds Plaintiff has failed to respond to these Defendants' Interrogatories and Requests for Production within the time allotted under Rules 33, 34, and 37 of the South Carolina Rules of Civil Procedure. This Court will withhold a decision on whether to relieve Plaintiff from having the matters in each of Defendant's Requests for Admission deemed admitted pursuant to Rule 36, SCRCF, until after Plaintiff provides this Court with documentation allowing it to determine whether Plaintiff's failure to respond to the Requests for Admission is justified.

IT IS THEREFORE ORDERED that Plaintiff shall provide full and complete responses by 5:00 p.m. on October 15, 2021, to the following discovery requests:

- Defendant Kirkland's First Set of Interrogatories and Requests for Production;
- Defendant Connelly's First Set of Interrogatories and Requests for Production;
- Defendant Wilson's First Set of Interrogatories and Requests for Production;
- Defendant Persons' First Set of Interrogatories and Requests for Production; and
- Defendant Mellens' First Set of Interrogatories and Requests for Production;

IT IS FURTHER ORDERED that Plaintiff will provide this Court, within 10 days of the date of this Order, documentation permitting it to determine whether Plaintiff's failure to respond to all Requests for Admission is excusable.

SO ORDERED.

October 7, 2021
Newberry, South Carolina

The Honorable Donald B. Hocker
Circuit Court Judge



Newberry Common Pleas

Case Caption: Jefferson Davis Jr VS Chad Connelly , defendant, et al

Case Number: 2020CP3600382

Type: Order/Compel

Circuit Court Judge

s/Donald B. Hocker, Judge Code 2167