

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

NOAH VEON, on behalf of himself and all  
others similarly situated,

Plaintiff,

vs.

RICHARD JAMES SCHUELER  
A/K/A RICHARD HEART,

Defendant.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 2022-CP-21-1980

**RECEIVED**

**Jul 26 2024**

ORDER

**SC Court of Appeals**

This matter is before the Court on the Rule 59 and Rule 60 motions of non-party witness Lorraine Schueler. Both motions refer to the Court's previous ruling of October 18, 2023 denying Ms. Schueler's motion for a protective order. Ms. Schueler filed her motion to reconsider that ruling on October 30, 2023 and a supplement to that motion on December 19, 2023. On April 24, 2024, Ms. Schueler then filed a Rule 60 motion for relief from the order based upon newly discovered evidence. Having considered all filings and oral argument, the Court rules as follows.

**Rule 59(e) Motion**

As to the witness's Rule 59(e), SCRCP motion, the Court finds that it has appropriately considered all arguments made pertaining to the witness's motion for protective order and declines to alter or amend its previous rulings. Therefore, the motion to reconsider is denied.

**Rule 60 Motion**

As to the witness's Rule 60, SCRCP motion, the witness points to proof-of-service filings in parallel litigation between her son (the Defendant) and the Securities and Exchange Commission that is pending in the Eastern District of New York. These December 11, 2023 filings indicate that the SEC served the Defendant with its summons and complaint on October 31, 2023 in Helsinki, Finland. According to Ms. Schueler, this indicates that the Plaintiff may have done the same had he employed "reasonable efforts" in locating the Defendant. This argument fails for three reasons.

First, the Plaintiff already has demonstrated “reasonable efforts” in locating the Defendant. In petitioning this court for an order approving service “by other means,” the Plaintiff set forth the efforts he made to locate the Defendant. (Oct 5, 2022 Memorandum pp. 1-7) Recognizing these efforts, Judge Hood made the following findings of fact.

The Plaintiff has produced substantial evidence pertaining to the place of residence of Richard James Schueler in the form of numerous public statements of Defendant Schueler and the results of an investigation performed by a private investigator. This evidence establishes that Defendant Schueler, while a United States citizen, does not reside within the United States. Furthermore, Defendant Schueler actively conceals the nation in which he resides.

(Oct 12, 2022 Order at 2) Judge Hood’s findings contradict Ms. Schuler’s assertion that the Plaintiff “simply moved for ‘alternative service’ under Rule 4.1(a)(3) without providing evidence that Plaintiff had attempted to search for or to locate Defendant in Europe.” (April 24, 2024 Memorandum at 3) Ms. Schueler’s “newly discovered evidence” does not alter those findings of fact. Thus her motion must be denied.

Second, the “newly discovered evidence” cited by Ms. Schueler did not exist at the time the Plaintiff filed his complaint, moved for “service by other means”, and eventually served the Defendant. As the time-stamped filings indicate, the proof-of-service did not exist until October 31, 2023 and did not become publicly available until December 11, 2023—over a year after the Clerk of Court entered default against the Defendant in this case. Thus this “newly discovered evidence” was of no use to the Plaintiff at the time he sought service via “other means.”

Third, to the extent the “newly discovered evidence” suggests methods that may have been employed to locate the Defendant, it only does so as to the time frame it references: October 31, 2023. The documents say nothing of the Defendant’s whereabouts a year prior.

Fourth, while Ms. Schueler insists that the SEC’s location of the Defendant is evidence of

the fruits of “reasonable efforts” of search, she does not suggest how the Plaintiff would have determined to conduct such a search in Finland considering, as Judge Hood found, “Defendant Schueler actively conceals the nation in which he resides.” (Oct 12, 2022 Order at 2)

Finally, the Court also notes that the hearing of these motions occurred on June 25, 2024, when they were scheduled to be heard alongside a previously scheduled motion for class certification that the Court has continued. The Plaintiff has produced evidence that he provided notice of that hearing to the Defendant’s attorneys representing him in the parallel litigation. Neither the Defendant nor his attorneys appeared at this hearing. While the Defendant may argue he received no notice of this action in the Fall of 2022, he certainly has notice now. And yet the Defendant continues to decline to participate in this litigation despite his mother’s active involvement.

For the reasons stated above, Lorraine Schueler’s Rule 59 and Rule 60 motions are denied.  
IT IS SO ORDERED.

/s/  
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Michael G. Nettles  
Presiding Judge



Florence Common Pleas

**Case Caption:** John Doe VS Richard James Schueler , defendant, et al

**Case Number:** 2022CP2101980

**Type:** Order/Other

So Ordered

s/ The Honorable Michael G. Nettles #2140

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