

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF LEXINGTON	)	Civil Action No. 2022-CP-32-03934
	)	
Crescent Roofing & Remodeling LLC,	)	
	)	
Plaintiff,	)	<b>PLAINTIFF’S REPLY TO DEFENDANT’S</b>
	)	<b>REQUEST FOR ADR SANCTIONS</b>
v.	)	
	)	
Eric Ragsdale,	)	
	)	
Defendant.	)	
_____	)	

**TO: DEFENDANT ERIC RAGSDALE, *pro se*.**

PLEASE TAKE NOTICE that Plaintiff Crescent Roofing & Remodeling LLC, by and through his attorney, Robert B. “Sam” Phillips, Esq, is filing this Reply to Defendant Eric Ragsdale Request for ADR Sanctions contained in a letter to this Court dated October 25, 2023. To wit, Defendant Ragsdale claims a delay in the mandatory mediation process has “prejudiced the required mandatory mediation process and grieved my due process and statutory rights.” Setting aside its convoluted reasoning, the Defendant’s argument both misrepresents the record in this matter and constitutes a bad faith attempt to gain an undeserved advantage in the litigation and avoid providing Plaintiff with the information and documents it is entitled to through the discovery process. Accordingly, his Motion is brought pursuant to Rules 33, 34 & 37 of the South Carolina Rules of Civil Procedure; Rule 10 of the South Carolina’s Alternative Dispute Resolution Rules; and is based upon the grounds stated below:

1. On January 11, 2021, Defendant Eric Ragsdale entered into an agreement with Plaintiff Crescent Roofing & Remodeling LLC to replace the roof and perform some interior painting on Mr. Ragsdale’s residence at 121 Shumpert Road in West Columbia for an agreed upon price of

\$21,627.94 plus a contingency to replace rotted wood found underneath the existing roof at an additional cost. See Exhibit 1.

2. Crescent replaced the roof on January 18-19, 2021 and performed the interior painting on April 23, 2021. The total cost of the project was \$21,852.94 (original contract price plus cost of replacing three (3) sheets of plywood at \$75.00 per sheet).

3. At the start of the project on January 11<sup>th</sup>, Mr. Ragsdale made an initial payment of \$1,000 to Crescent Roof. Thereafter, Ragsdale's home insurer made three (3) partial payments toward the work on January 27<sup>th</sup> (\$2,815.30), February 12<sup>th</sup> (\$9,936.75), and April 23<sup>rd</sup> (\$3,198.33).

4. After receiving a total of \$16,950.38 toward the total amount due, Plaintiff attempted to collect the remaining balance of \$4,902.56 from Mr. Ragsdale pursuant to their agreement, but Mr. Ragsdale refused. Thereafter, Crescent Roofing & Remodeling LLC filed suit for breach of contract against Mr. Ragsdale in magistrate's court to collect this remaining balance.

5. Defendant Eric Ragsdale filed a counterclaims in Magistrate's Court for \$21,627.64 plus punitive damages thereby causing the case to be moved from Magistrate's Court to the Lexington County Circuit Court.

6. After learning that it could not represent itself in Circuit Court as it had in Magistrate's Court, Plaintiff Crescent Construction hired the undersigned attorney who filed an appearance in this matter on July 23, 2023.

7. On July 23, 2023, Plaintiff's counsel served Defendant Ragsdale with Interrogatories and Requests to Produce attached hereto as Exhibit 2.

8. On July 25, 2023, Plaintiff's counsel reached out to court appointed mediator Yolanda Courie to propose a continuation of the mediation so that the Defendant would have an opportunity to respond to discovery observing that "mediations without the benefit of discovery responses

rarely succeed.” Exhibit 3. Mediator Courie agreed recognizing “the mediation will be more meaningful with some discovery.” She went onto propose additional dates for a mediation in November of 2023. Id.

9. Defendant Ragsdale was copied on the correspondence between Plaintiff’s counsel and mediator, and was specifically asked if he agreed to the postponement. Defendant did not raise any objection to postponing the mediation at that time.

10. Plaintiff served Defendant Ragsdale with discovery on July 23, 2023. Exhibit 4.

11. Mr. Ragsdale did not respond in the required 30 days, so Plaintiff’s counsel granted him a thirty (30) day extension on August 28, 2023. See Exhibit 5.

12. In addition to asking for an extension of time in which to answer Plaintiff’s discovery, Defendant Ragsdale indicated he was “reaching out to offer settlement options in the matter.” Exhibit 5.

13. Plaintiff’s counsel responded to the Defendant’s request for “settlement options” by explaining that “[once] I have an opportunity to review your discovery responses and confer with my client, I will reach back out to you to discuss a settlement. As it stands now, I know nothing more about your claims than what you put in your Answer.” Exhibit 5. Defendant did not raise any objection to postponing the mediation at that time either.

14. Defendant Ragsdale failed to produce any response to Plaintiff’s discovery after the 30-day extension, so Plaintiff’s attorney reached out to him again on October 4, 2023 to inquire about the status of his discovery responses. Exhibit 6.

15. On October 8, 2023, Defendant produced a few responses to Plaintiff’s discovery, but lodged various objections to 95% of the Plaintiff’s Interrogatories and Requests to Produce. See Exhibit 7.

16. Defendant's October 8<sup>th</sup> discovery objections were simple recitals of standard discovery objections that had little relevance to Plaintiff's Interrogatories and Requests to Produce. For example, Defendant objected to the efficacy of every Standard Interrogatory (from Rule 33(b), SCRCF) asked by the Plaintiff.

17. The objections Defendant raised to Plaintiff's first five (5) Interrogatories are representative of the objections raised to each of the remaining Interrogatories:

- a. In response to Plaintiff's Interrogatory #1, drawn directly from Standard Interrogatory #1, Rule 33(b)(1) SCRCF that seeks the identities of witnesses known to a party, the Defendant objected claiming the Interrogatory "deviate[d] or purport[ed] to impose requirements other than or in addition to those required by the South Carolina Rules of Civil Procedure."
- b. In response to Plaintiff's Interrogatory #2, drawn directly from Standard Interrogatory #2, Rule 33(b)(2) SCRCF that seeks photos and documents related to the a party's counterclaims, the Defendant objected claiming the Interrogatory "seek[s] information or documents outside the scope of discovery permissible by the South Carolina Rules of Civil Procedure."
- c. In response to Plaintiff's Interrogatory #3, drawn directly from Standard Interrogatory #6, Rule 33(b)(6) SCRCF that seeks the name(s) of any expert(s) a party intends to rely upon, the Defendant objected claiming the Interrogatory "seek[s] information or documents protected by future Attorney-Client Privilege, the litigant or Attorney Work Product Doctrine, or any other applicable privilege or immunity."
- d. In response to Plaintiff's Interrogatory #4, drawn directly from Standard Interrogatory #4, Rule 33(b)(4) SCRCF that inquires about a party's insurance coverage, the Defendant objected claiming the Interrogatory "seek[s] information or documents that are beyond his custody, possession, or control and/or seeks information that is equally available to Plaintiffs."
- e. In response to Plaintiff's Interrogatory #5, drawn directly from Standard Interrogatory #5, Rule 33(b)(5) SCRCF which asks for a party's itemized statement of damages claim, the Defendant objected claiming the Interrogatory "seek[s] information or documents for any period of time beyond any applicable statute of limitations."

18. Plaintiff's counsel wrote the Defendant on October 23, 2023 responding to each of his objections and again asked the Defendant to provide the discovery responses to which the Plaintiff is entitled. See Exhibit 8.

19. In response to Plaintiffs Counsel's October 23<sup>rd</sup> letter seeking discovery responses, Defendant Ragsdale reneged on his agreement with Counsel to answer discovery then discuss settlement. He now seeks to penalize Plaintiff for the parties joint decision to postpone mediation pursuant to his October 25, 2023 Letter to this Court seeking ADR sanctions.

20. Defendant Ragsdale was fully apprised by Plaintiff's Counsel that Plaintiff disputes all of his claims of faulty workmanship, misrepresentations and damage caused by Plaintiff's workers.

21. In joint email communication with both the Defendant and Mediator Courie, Plaintiff's counsel made it clear why a short delay in meditation was necessary in order to conduct discovery so the Plaintiff could evaluate the validity of the Defendant's many claims. See Exhibit 3.

22. Defendant Ragsdale not only agreed to a delay in meditation in order to complete discovery, he later inquired about direct settlement negotiations with the Plaintiff when he asked for more time to respond to the Plaintiff's discovery. See Exhibit 5.

23. Defendant Ragsdale's "agreement" to a mediation delay only changed after Plaintiff's counsel rejected his attempt to avoid providing the Plaintiff with information and documents he is entitled to through discovery.

24. Although Defendant Ragsdale's seeks more than \$20,000.00 from Plaintiff through his counterclaims, the Defendant only produced a single invoice for \$2,460.64 as evidence of his damages. The invoice from Carolina Heating Service, Inc. of Greenville, South Carolina documents a repair to Defendant's Generac Generator on January 18, 2021. See Exhibit 9. This damages claim is doubtful on its face because the Plaintiff's crew began its work on the

Defendant's roof on January 18<sup>th</sup> and did not witness either the alleged damage or the repair claimed by the Defendant with this invoice.

25. Mediation is a voluntary process that is; nevertheless, required by Rule 3(a) of the Alternative Dispute Resolution Rules (hereinafter "SCADRR") for all civil actions.

26. While mediation is mandatory, the SCADRR allow and encourage litigants in civil matters to conference about the conduct of the mediation; however, such a conference is not a basis for delaying other requirements such as discovery. Rule 5(b), SCADRR.

27. While the SCADRR rules imposes a Three Hundred day (300) limit for conducting a mediation, Rule 5(e), SCADRR allows parties to file a good faith motion for a deferral. Plaintiff filed such a motion prior to Defendant's request for ADR sanctions.

28. It is clear that ADR sanctions are only appropriate "[i]f any person or entity subject to the ADR Rules violates any provision of the ADR Rules **without good cause.**" Rule 10(a), SCADRR (emphasis added).

29. This matter was begun by Plaintiff in Magistrate's Court wherein the Plaintiff business was able to represent itself.

30. Plaintiff was slow to recognize that as a business, it would not be able to maintain its representation without a lawyer after the Defendant's counterclaims caused the case to be moved to Circuit Court. This delay in obtaining an attorney caused no prejudice to the Defendant. Plaintiff's counsel moved expeditiously in addressing mandatory mediation within two (2) days of his appearance in this matter.

31. In *Ross v. Waccamaw Community Hospital*, 744 S.E.2d 547 (S.C. 2013), our Supreme Court addressed the consequences of failing to comply with a statutory mediation requirement in a medical malpractice case. The court characterized the failure as a "non-jurisdiction procedural

defect” and refused to impose a harsh sanction noting that the trial court “retains the discretion to permit the mediation process to continue” past a mediation deadline. 744 S.E.2d at 551.

32. Relying on the *Ross* decision, the South Carolina Court of Appeals declined to sanction the failure to meet a mediation deadline upon a showing that the non-compliant party made an attempt to work with the opposing party to obtain necessary discovery in order to facilitate discovery and a mediation. *Rickerson v. Karl*, 770 S.E.2d 767 (S.C. Ct. App. 2015).

33. Plaintiff asks this Court for an order in this matter deferring mandatory mediation until the end of the year (2023) in order to provide the Plaintiff with an opportunity to pursue information and documents through a Motion to Compel discovery responses from the Defendant.

WHEREFORE, Plaintiff Crescent Roofing & Remodeling LLC respectfully requests that this Court order that mandatory mediation be deferred in this matter until the end of 2023 in order to provide Plaintiff with time to have his Motion to Compel discovery responses from Defendant Eric Ragsdale heard and decided upon.

**THE PHILLIPS FIRM, LLC**  
**Attorney & Counselor at Law**

*s/Robert B. Phillips*

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**Attorney for the Plaintiff.**

1 November 2023

