

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS  
FOR THE FIFTH JUDICIAL CIRCUIT

O. Stanley Smith, III, Acre Plus, LLC and  
Constan Gervais Street Car Wash, Inc.,

C/A No.: 2023-CP-40-05555

Plaintiffs,

**ORDER GRANTING PLAINTIFFS'  
MOTION IN LIMINE TO EXCLUDE  
JUNE 14, 2025 APPRAISAL AND  
RELATED TESTIMONY OF  
ELIZABETH KEYS**

v.

City of Columbia,

Defendant.

THIS ORDER came before the Court on June 16, 2025 on motion by Plaintiffs O. Stanley Smith, III, Acre Plus, LLC, and Constan Gervais Street Car Wash, Inc. (collectively "Plaintiffs") for an order excluding at trial the June 14, 2025 appraisal and related testimony of the City of Columbia's real estate appraiser Elizabeth Keys because its late production violated the Court's April 21, 2025 scheduling order and because it was furnished merely a week before trial and would prejudice Plaintiffs if allowed to be introduced. More particularly, Plaintiffs asserted as follows:

1. This case has been pending since March 22, 2021. It was stayed for a time pursuant to Rule 40(j) and restored on October 18, 2023. Both before and after that time, the parties conducted written discovery. A dozen depositions have been taken during the course of this case.

2. This case was originally set to go to trial on April 7, 2025. On February 3, 2025, the Honorable Daniel Coble issued a scheduling order for this case directing that "[a]ll written discovery and depositions in this case shall be completed no later than March 26, 2025." That deadline passed in advance of the trial, and discovery in this case ended at that time.

3. Due to logistical issues, the trial date had to be rescheduled to June 23, 2025. On April 21, 2025, Judge Coble issued a new scheduling order—the parties now had until June 11, 2025 in which to complete all written discovery and depositions. *See* April 21, 2025 Order ("All

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written discovery and depositions in this case *shall* be completed *no later than* June 11, 2025.” (emphases added)). Prior to the submission of the proposed order to the Court, the parties agreed on the language and dates contained in the order.

4. On February 25, 2025, the City identified as experts in this case appraisers Elizabeth Keys and Michael Dodds. The City’s disclosure of these witnesses stated that they “are expected to testify consistent with the Appraisal of Real Property prepared by Integra Realty Resources, dated January 17, 2023.”

5. On March 24, 2025, Plaintiffs took the depositions of Ms. Keys and Mr. Dodds. Mr. Dodds testified that he did not author and merely reviewed Ms. Keys’ appraisal. Ms. Keys, who did draft the appraisal, testified that it was not an eminent domain appraisal; she rather developed this appraisal for a potential sale of the Constan property to the City of Columbia in January 2023. Ms. Keys further testified that, at the time of her deposition, she did not know what the alleged taking in this case was, nor did she know that she had been identified as an expert in this case. At the end of the deposition, counsel asked Ms. Keys if she had any opinions about this case that are different from her January 2023 appraisal and she said no. Counsel requested that he be updated if her opinions changed, and she agreed to do so.

6. The City did not make any additional disclosures about Ms. Keys until the morning of June 16, 2025, when it served supplemental discovery responses and an additional appraisal from Ms. Keys. In her new appraisal, which is 144 pages long, Ms. Keys attempted to value the Constan property as of March 2021, which is the date of the alleged taking in this case.

7. Plaintiffs sought to exclude Ms. Keys’ supplemental opinions because discovery in this case ended on June 11, 2025 according to the April 21 scheduling order. Additionally, the scheduling order required that “[a]ll witnesses must be identified no later than May 23, 2025,” and

the City never updated its witness disclosures to expand the scope of Ms. Keys' proposed testimony.

The Court held a virtual hearing on this matter on June 16, 2025. Present at the hearing were Richard Harpootlian and Andrew Hand for the Plaintiffs and Pete Balthazor for the City. The Court heard arguments from each party on this matter. Following that hearing, and for the reasons stated in Plaintiffs' motion, the Court agrees with Plaintiffs. The parties were unequivocally ordered to complete "all written discovery and depositions . . . no later than" June 11, 2025, and to identify their witnesses no later than May 23, 2025. The entire purpose of that deadline was to give the parties sufficient time prior to trial to evaluate each other's proposed evidence and witnesses. The City's failure to timely produce Ms. Keys' supplemental report and update its witness disclosures plainly violated the April 21 scheduling order. I further find that allowing its introduction at trial would prejudice Plaintiffs given the short amount of time between when it was produced on June 16, 2025 and the start of trial in this matter on June 23, 2025.

This Court has the inherent power to control the timing and sequence of discovery, as well as the general order of business before it. *See State v. Langford*, 400 S.C. 421, 435, 735 S.E.2d 471, 478 (2012) ("[A] court's power to hear and decide cases 'carries with it the inherent power to control the order of its business.'" (quoting *Williams v. Bordon's, Inc.*, 274 S.C. 275, 279, 262 S.E.2d 881, 883 (1980))). Rules 16 and 26, SCRCP likewise give this Court the authority to control the scope, timing and sequence of discovery in cases before it.

For the reasons stated herein, I find that the City's belated production of Elizabeth Keys' supplemental expert report and its failure to timely identify the scope of her testimony in its witness disclosures violated the Court's April 21, 2025 scheduling order, and that to allow this testimony at trial would prejudice the Plaintiffs. Therefore, Plaintiffs' motion is GRANTED and the Court

orders that Ms. Keys' supplemental report and related testimony and opinions are excluded from the trial of this matter.

**SO ORDERED.**

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The Honorable Robert E. Hood

Dated: June \_\_, 2025



Richland Common Pleas

**Case Caption:** O Stanley Smith III , plaintiff, et al vs City Of Columbia , defendant,  
et al  
**Case Number:** 2023CP4005555  
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So Ordered

s/ R.E. Hood #2164