

## Attachment 2

*(Order Granting Plaintiff's Motion for a Rule to Show Cause  
Against Airbnb, filed August 24, 2023)*

STATE OF SOUTH CAROLINA  
COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS  
2<sup>ND</sup> JUDICIAL CIRCUIT

JULIANNE FOSTER,  
Plaintiff,

v.

RHETT RIVIERE, KATHERINE A.  
THOMAS, CHASE ENTERPRISES,  
LLC OF SOUTH CAROLINA,  
AND AIRBNB, INC,

Defendants.

**RECEIVED**  
C/A No. 2021-CP-02-00889  
**Sep 15 2023**  
SC Court of Appeals

**ORDER GRANTING PLAINTIFF'S MOTION  
FOR RULE TO SHOW CAUSE  
AGAINST AIRBNB, INC.**

This matter came before the Court pursuant to Plaintiff's Motion for a Rule to Show Cause, filed June 8, 2023. A hearing was held on the matter on June 13, 2023. Having fully considered the matter, including the motion, exhibits, and the parties' arguments, it is hereby **ORDERED** that Plaintiff's Motion for a Rule to Show Cause is **GRANTED**.

On June 7, 2022, Plaintiff served Airbnb, Inc. ("Airbnb") with her Requests for Production Nos. 16-44.<sup>i</sup> In its responses, Airbnb objected on numerous grounds. (Ex. B, Feb. 10, 2023 Motion to Compel). On February 10, 2023, Plaintiff filed a Motion to Compel regarding her Requests for Production Nos. 16-44.

On November 1, 2022, Plaintiff served Airbnb with her Requests for Production Nos. 45-48. In its responses, Airbnb objected on numerous grounds. (Ex. B, Jan. 18, 2023 Motion to Compel). On January 18, 2023, Plaintiff filed her Motion to Compel regarding Requests for Production Nos. 45-48.

Each of Plaintiff's above-identified motions to compel were heard on April 5, 2023. The Court granted the motions during the hearing – giving Airbnb 60 days within which to comply and

produce the documents requested. Subsequently on May 25, 2023, the Court entered a Form 4 Order memorializing its decision.

On June 5, 2023, Airbnb produced some documents to Plaintiff, but informed her that it was unilaterally withholding production of other responsive documents, stating as follows:

Contemporaneous with this production, Airbnb is filing a motion for reconsideration<sup>ii</sup> and to stay enforcement with respect to Plaintiff's Request for Production Nos. 45, 46, 47 (Non-Party Guest Contact Information) and 48 (Non-Party Host Criminal Convictions). Consequently, Airbnb is withholding production of documents responsive to these requests at this time.

(Ex. 6, Plaintiff's June 8, 2023 Motion for Rule to Show Cause ("RTSC Motion")).

"Direct contempt involves contemptuous conduct in the presence of the court." State v. Jolly, 405 S.C. 622, 629, 749 S.E.2d 114, 118 (Ct. App. 2013) (citing State v. Kennerly, 337 S.C. 617, 620, 524 S.E.2d 837, 838 (1999)). South Carolina courts "have held the 'presence of the court' extends beyond the mere physical presence of the judge or the courtroom to encompass all elements of the system." Id.; see also S.C. Code Ann. § 14-5-320 (providing, "The circuit court may punish by fine or imprisonment, at the discretion of the court, all contempts of authority in any cause or hearing before the same.").

I find that the record before this Court shows an ongoing discovery dispute. Rule 11, SCRCPP, requires counsel to ensure the factual accuracy of all allegations in their filings. Airbnb did not dispute the accuracy of the dates upon which it was served with the Plaintiff's Requests for Production Nos. 16-44 or 45-48 (Exs. 1 and 3, RTSC Motion), and also did not dispute the dates for which it served its objections thereto. (Exs. 2 and 4, RTSC Motion). Certainly, Airbnb does not dispute the facts it presented in its June 5, 2023 letter to counsel to Plaintiff. (Ex. 6, RTSC Motion).

The record before this Court on the matters put at issue is not disputed. As shown by Airbnb's own statements in the record, it is acting in direct defiance of this Court's order dated May 25, 2023. Accordingly, I find Airbnb's actions show continuing "contemptuous conduct" towards the authority of this Court, and its orders.

Plaintiff has additionally argued and noted Airbnb has failed to produce other responsive documents, including, for example, none of its internal email communications, and no privilege log. (Ex. 7, RTSC Motion, at p. 5 of 5). Prior to the filing of her motion for a Rule to Show Cause, Plaintiff sought to communicate with Airbnb about how it intended to perform its searches for responsive ESI, but Airbnb did not respond. Instead, Plaintiff contends and the record reflects Airbnb simply decided which documents it would produce and withheld the remainder. This is undeniable in view of the block quote above taken from Airbnb's June 5, 2023 letter to Plaintiff's counsel (Ex. 6, RTSC Motion).

This Court finds Airbnb's stated plans to not comply with this Court's May 25, 2023 Order on the Motions to Compel and violate this Court's order. Airbnb must comply with this Court's May 25, 2023 Order on the Motions to Compel and produce all responsive documents to Plaintiff within forty-five (45) days of the date of this order.

**IT IS SO ORDERED.**

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The Honorable J. Cordell Maddox, Jr.  
Presiding Judge, 2<sup>nd</sup> Judicial Circuit

July \_\_, 2023  
Anderson, South Carolina

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<sup>i</sup> Plaintiff notes her Request for Production Nos. 16-44 are substantially identical in scope and substance to the 24 topics in her 30(b)(6) deposition notice, which has already been the subject of two Airbnb motions. (*see e.g.*, Orders on 30(b)(6) motions, filed Aug. 3, 2022 (at pp. 4-7, approving 24 topics) and Oct. 11, 2022 (denying reconsideration motion filed August 4, 2022)). This is the same notice for which Airbnb initially sought a protective order via motion filed June 14, 2022, and later its first motion to

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reconsider on Aug. 4, 2022. Both of those motions were denied. As of the hearing on April 5, 2023, Airbnb had yet to provide any documents in response to these requests. (*See* April 5, 2023 Hearing Transcript, at pp. 105 to 110 (Airbnb continuing argument in support of its “compromise position” rejected)).

ii Airbnb has already filed two motions to reconsider this Court’s discovery orders, as follows: (i) Motion to Reconsider Denial of Airbnb’s Motion for Protective Order [as relates to Plaintiff’s 30(b)(6) deposition notice], filed August 4, 2022; and (ii) Airbnb, Inc.’s Motion to Reconsider and to Stay Enforcement, filed June 5, 2023. By the time Airbnb’s Aug. 4, 2022 first motion to reconsider was fully briefed, Airbnb had filed and presented 51 pages (6 + 30 + 15 = 51) of argument in support of its motion, which was denied in all substantive respects by order dated October 11, 2022.



Aiken Common Pleas

**Case Caption:** Julianne Foster , plaintiff, et al VS Rhett Riviere , defendant, et al

**Case Number:** 2021CP0200889

**Type:** Order/Rule To Show Cause

So Ordered

s/ J. Cordell Maddox Jr.