

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)
)
 Timothy Jones as the Personal)
 Representative for Dewitt Jones,)
)
 Plaintiff,)
)
 vs.)
)
 Innovative Scientific Solutions, LLC, J. Ryan)
 Flanagan, Jay A, Flanagan, Jr., and Marion L.)
 Snyder,)
)
 Defendants.)

IN THE COURT OF COMMON PLEAS
 THIRTEENTH JUDICIAL CIRCUIT

C. A. No. 2023-CP-23-00011

ORDER

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SC Court of Appeals

This matter is before the Court regarding Innovative Scientific Solution’s (“ISS”) Motion for Protective Order. As set forth more fully below, upon consideration of the filings submitted by the parties and arguments of counsel, the Court grants ISS’s motion.

This case concerns the valuation of the Estate of Dewitt Jones’s (the “Estate”) membership interest in defendant, ISS. Both the plaintiff and defendants agree that the relevant date for valuation of the Estate’s interest is the date of death of Dewitt Jones (“Dewitt”). *See* Dep. Tr. Timothy Jones at 49:11-12, attached as Exhibit A to Defendants’ Response in Opposition to Plaintiff’s motion to compel.

On June 13, 2024, the plaintiff filed a motion to compel production of certain information and documents related to the operations and financial performance of ISS after Dewitt’s death. ISS objected to this production on the basis of relevancy because information regarding ISS’s operations and performance after the date of Dewitt’s death is irrelevant to the valuation of Dewitt’s shares as of the date of his death.

On October 7, 2024, Judge Kinlaw heard the plaintiff’s motion to compel. After hearing

and considering the plaintiff's motion and arguments, Judge Kinlaw denied the motion finding that relevant financial information includes only that "information known at the time of Dewitt's death." Judge Kinlaw further held that the "Estate failed to articulate a sufficient reason why financial records and tax records after June 2021 are relevant to the valuation of Dewitt Jones's membership units in ISS." On October 24, 2024, the plaintiff filed a motion to alter or amend Judge Kinlaw's order. Judge Kinlaw denied that motion on November 6, 2024.

On January 27, 2025, the plaintiff noticed the 30(b)(6) deposition of ISS and sought information deemed irrelevant by Judge Kinlaw's order of October 14, 2024. On January 28, 2025, the defendants sent correspondence to counsel for plaintiff objecting to these topics based on Judge Kinlaw's order. On February 11, 2025 plaintiff's counsel again sought information deemed irrelevant by Judge Kinlaw's order by asking ISS's 30(b)(6) deponent questions regarding ISS's financial information not known at the time of Dewitt's death. Consistent with Rule 30(j)(3), counsel for ISS properly instructed the witness not to answer these questions.

Rule 26(c) of the *South Carolina Rules of Civil Procedure* provides that the Court, "may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden by expense," including "(1) that the discovery not be had; (2) that discovery may be had only on specified terms and conditions, including a designation of time or place; . . . [and] (4) that certain matters not be inquired into or that the scope of discovery be limited to certain matters." Rule 26(c) SCRPC. This Court ruled decidedly on October 14, 2024, that the only relevant financial information is information known at the time of Dewitt Jones's death. Further, the Estate and the Defendants agree that the date of Dewitt Jones's death is controlling regarding the point in time at which Dewitt Jones's shares are to be valued. Discovery in this matter is limited to the financial information known at the time of Dewitt's death. The plaintiff has

continued to seek financial information after the date of Dewitt Jones's death in contravention to this Court's prior order.

Further, this Court may not overrule or ignore Judge Kinlaw's prior order regarding the relevancy of financial information after Dewitt Jones's death. "A motion once heard and decided fully will only be reviewed upon a new state of facts arising after the decision. The new state of facts must be such as to make a new case, as misconduct in the judge granting the order, newly-discovered evidence, or that the ground of the order has been removed" *Steele v. Charlotte, C & A.R. Co.*, 14 S.C. 324, 330 (1880). There has been no new set of facts, circumstances, or newly-discovered evidence that would deem Judge Kinlaw's order reviewable by this Court.

Therefore, Defendant Innovative Scientific Solution's Motion for Protective Order is granted. Further, Plaintiff Timothy Jones as the Personal Representative for Dewitt Jones is ordered to pay Innovative Scientific Solution's reasonable attorney's fees and costs incurred for bringing this Motion, pursuant to Rule 37(b), SCRCP and in accordance with Defendant's affidavit of attorney's fees within ten (10) days of the date of this order.

IT IS SO ORDERED.



Greenville Common Pleas

Case Caption: Dewitt Jones , plaintiff, et al vs. Innovative Scientific Solutions LLC ,
defendant, et al
Case Number: 2023CP2300011
Type: Order/Protective Order

So Ordered

William C. McMaster, III