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SC Court of Appeals

Attachment 3

Order on Plaintiff's Motion for Rule to Show Cause, filed October 21, 2025

cause of action for Lyft's own negligence in hiring, training, supervising, and retaining Defendant Islam. (Compl. ¶¶ 72-75).

Plaintiff served her first set of Request for Production on March 13, 2024. In Request for Production No. 18, Plaintiff sought a list of all Lyft riders that Defendant Md Soriful Islam transported during his tenure as a Lyft driver. On October 18, 2024, Lyft objected to the production of the list of riders sought in Plaintiff's Request for Production No. 18 based on, *inter alia*, relevance grounds.

Through the course of discovery, Plaintiff obtained further information that necessitated a request on February 10, 2025, that Lyft supplement its response to Request for Production No. 18 by March 3, 2025. Lyft never responded to Plaintiff's correspondence and did not supplement its response to Request for Production No. 18. Additionally, based on other information obtained throughout the course of discovery, on February 10, 2025, Plaintiff served her Second Set of Requests for Production seeking highly specific analytic data related to the Lyft riders that Mr. Islam accepted and rejected. Defendant's response to Plaintiff's Second Set of Requests for Production was due on or before March 12, 2025. Lyft failed to respond or communicate in any way regarding Plaintiff's Second Set of Requests for Production despite Plaintiff offering additional time for Lyft to respond in a letter dated March 12, 2025.

On March 27, 2025, Plaintiff filed two motions to compel. The first motion to compel related to the customer list sought in Request for Production No. 18. The second motion to compel related to Plaintiff's Second Set of Requests for Production and the analytical data. The motions to compel came before the Court for a hearing on June 23, 2025. On June 25, 2025, the Court granted Plaintiff's motions to compel with specific conditions and ordered the following:

1. Lyft must turn over the requested information (customer list and analytic data) as to the riders who left no rating for Islam, as well as

the rider who left the comment referencing Islam attempting to get into her home;

2. This information is to be turned over to a neutral third party, who shall be chosen and paid for by the Plaintiff;
3. That neutral third party shall be the entity who will conduct the interviews of the riders;
4. The interviews of the riders must be strictly limited to his or her experience with rides that were particular only to Islam;
5. If the third party discovers any evidence of wrong-doing as to his riders, by Islam, the third party shall turn that information over to the Plaintiff's counsel immediately;
6. Information about the riders must not be viewed, turned over, or used by anyone outside of the litigation team for the Plaintiff or Defendant;
7. Any information that is turned over by Lyft, as well as any information gained as a result of any interviews done by the third party will remain in the strictest of confidence.

(June 25, 2025 Order).

Defendant Lyft did not file a Rule 59(e) motion for reconsideration of the June 25, 2025 Order. After the time to file a motion for reconsideration had elapsed, Plaintiff began to attempt to communicate with Lyft regarding its compliance with the Court's June 25, 2025 Order. Since July 14, 2025, Plaintiff has attempted to communicate with Lyft on at least four separate occasions through email. Lyft has failed to respond, communicate, or acknowledge any of Plaintiff's communications. Despite Plaintiff's identification of a neutral third party and other efforts, Lyft has failed to make any attempt to comply in any way with the Court's June 25, 2025 Order.

On August 11, 2025, Plaintiff filed her Motion. The filing of the Motion elicited no response or communication from Lyft. On September 10, 2025, the Motion was noticed for an October 15, 2025 hearing. The notice of hearing provoked no response from Lyft. On October 8,

2025, Plaintiff filed a Supplemental Memorandum in Support of Plaintiff's Motion for Rule to Show Cause informing the Court of Lyft's continued non-responsiveness and non-compliance with the June 25, 2025 Order. Plaintiff further attached the affidavits of George W. Bryan III, Esq., Scott C. Evans, Esq., and a time sheet in support of her request for attorneys' fees. The filing of Plaintiff's supplemental memorandum and exhibits likewise instigated no response from Lyft. Lyft never filed a response in opposition to the Motion on the Court's docket, and failed to appear at the October 15, 2025 hearing on the Motion.

ANALYSIS

Rule 26 of the South Carolina Rules of Civil Procedure provides:

[p]arties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party[.]

Rule 26(b)(1), SCRPC.

The heart of the discovery rules relies on the premise of "full and fair disclosure, 'to prevent a trial from becoming a guessing game or one of surprise for either party.'" Samples v. Mitchell, 329 S.C. 105, 113, 495 S.E.2d 213, 217 (Ct. App. 1997) (quoting State Highway Dep't, 260 S.C. at 252, 195 S.E.2d at 619). If a party fails or refuses to produce relevant documents under Rule 34, SCRPC, the party seeking the discovery "may move for an order compelling an answer, or a designation, or an order compelling inspection in accordance with the request." Rule 37(a)(2), SCRPC. Pursuant to Rule 37(a)(4), a "court shall require payment of reasonable expenses incurred in obtaining order compelling discovery, including attorney fees." Ball v. Canadian American Exp. Co., Inc. 314 S.C. 272, 277, 442 S.E.2d 620, 623 (S.C.App. 1994) (see also Rule 37(a)(4), SCRPC).

Additionally, Rule 37 provides that if a party “fails to obey an order to provide or permit discovery,” the Court may order several enumerated sanctions which include an order “striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party.” Rule 37(b)(2)(c), SCRCP. “Rule 37 expressly grants the trial court power to order judgment by default for either the violation of a court order, or, upon motion, for a party’s failure to respond to certain discovery requests.” Karppi v. Greenville Terrazzo Co., 327 S.C. 538, 542, 489 S.E.2d 679, 682 (Ct. App. 1997). As an alternative, or in addition to the enumerated sanctions in Rule 37(b)(2), “the court shall require the party failing to obey the order or the attorney advising him or both to pay the reasonable expenses, including attorney’s fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.” Rule 37(b)(2), SCRCP. “The selection of a sanction for discovery violations is within the trial court’s discretion.” Kershaw County Bd. of Educ. v. United States Gypsum Co., 302 S.C. 390, 395, 396 S.E.2d 369, 372 (1990).

I. Defendant Lyft’s Failure To Comply With The Court’s June 25, 2025 Order

In this case, Plaintiff sought relevant and discoverable material, including a customer list and certain analytic data from Lyft. Lyft refused to provide said material and refused Plaintiff’s invitation to communicate and resolve the dispute. In turn, Plaintiff had to file two motions to compel seeking the Court’s assistance in obtaining the material. The Court reviewed the motions to compel, the memorandums in support of and in opposition to the motions, and held a hearing on the motions on June 23, 2025. The Court then took the matter under advisement and considered the arguments and applicable law. Ultimately, the Court issued an Order on June 25, 2025 granting the motions to compel with specific instructions to the parties on how to proceed.

The record reflects Lyft's blatant non-compliance with the June 25, 2025 Order. Not only has Lyft not complied with the June 25, 2025 Order, it appears that Lyft has engaged in perpetual refusal to communicate in any way with Plaintiff in relation to Lyft's obligations to produce the materials as delineated by the June 25, 2025 Order. Lyft has not responded to four separate emails from Plaintiff spanning from July 14, 2025 to September 17, 2025 inquiring into Lyft's compliance with the June 25, 2025 Order. Not even the filing of the Motion on August 11, 2025, the notice of hearing sent on September 10, 2025, or the filing of Plaintiff's Supplemental Memorandum on October 8, 2025 was enough to provoke Lyft to communicate with the Plaintiff.

Further, Lyft did not file a response to the Motion or appear at the hearing on October 15, 2025 to offer any explanation for its conduct of non-compliance and non-responsiveness. It is clear from the record that Lyft has abused the Plaintiff's discovery rights, frustrated the purpose of the Rules of Civil Procedure, and defied this Court's June 25, 2025 Order. Therefore, the Court concludes that the Plaintiff's Motion should be granted. Lyft shall be required to comply with the Court's June 25, 2025 Order by producing all of the subject materials and data to Plaintiff's chosen neutral third party within thirty (30) days of entry of this Order. If Lyft fails to produce all materials to the neutral third-party, Lyft's Answer to Plaintiff's Complaint shall be stricken, and Lyft shall be held in default.

II. Attorneys' Fees

Plaintiff also seeks an award of attorneys' fees pursuant to Rule 37, SCRCF associated with Plaintiff's efforts in securing the production of the subject discovery and Lyft's compliance with the June 25, 2025 Order. Rule 37(b)(2), SCRCF specifically authorizes the Court to award reasonable attorneys' fees in the event that a party fails to obey a discovery order unless the Court determines that there was some justification for the failure. Rule 37(b)(2), SCRCF. The record

reflects that Lyft has failed to obey the June 25, 2025 Order and that Plaintiff has expended considerable time and energy to obtain the subject discovery. On the other hand, the record is devoid of any justification for Lyft's failure to obey the June 25, 2025 Order. An award of reasonable attorneys' fees is warranted in this case.

There are six factors the trial court should consider when determining the reasonableness of an award for attorney's fees are: (1) the nature, extent, and difficulty of the case; (2) the time necessarily devoted to the case; (3) the professional standing of counsel; (4) the contingency of compensation; (5) the beneficial results obtained; and (6) the customary legal fees for similar services. Jackson v. Speed, 326 S.C. 289, 486 S.E.2d 750 (1997). The Court has carefully considered the factors recited above, the circumstances and posture of the issues at bar, the affidavits and the time sheet submitted by counsel in connection with these factors. The Court finds that Plaintiff has satisfied each factor and has demonstrated that that the requested attorneys' fees are reasonable. As such, the Court awards the Plaintiff attorneys' fees in the amount of \$8,942.50 (reflecting the fees for the time incurred prior to and not including the date of the hearing) which is to be forwarded to Plaintiff's Counsel within fourteen (14) days from the entry of this Order.

THEREFORE, IT IS ORDERED that Plaintiff's Motion for Rule to Show Cause is **GRANTED**.

IT IS FURTHER ORDERED that Lyft must comply with the Court's June 25, 2025 Order by producing all materials that were compelled in the June 25, 2025 Order to Plaintiff's chosen neutral third party within thirty (30) days of entry of this Order.

If Lyft fails to produce all materials to the neutral third party within thirty (30) days, Lyft's Answer to Plaintiff's Complaint shall be stricken upon notification to the Court of Lyft's failure to produce the materials, and Lyft will be held in default.

IT IS FURTHER ORDERED that Defendant Lyft shall pay Plaintiff an award of attorneys' fees in the amount of \$8,942.50, which must be forwarded to counsel for Plaintiff within fourteen (14) days of entry of this Order.

IT SO ORDERED, this the ____ day of _____, 2025.

The Honorable Benjamin H. Culbertson
South Carolina Circuit Court Judge



Horry Common Pleas

Case Caption: Jane Doe VS Md Soriful Islam , defendant, et al

Case Number: 2024CP2601555

Type: Order/Rule To Show Cause

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148