

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON

JAMES RONALD GILLETTE, AS
PERSONAL REPRESENTATIVE OF THE
ESTATE OF KYLIE ERIN GILLETTE,
deceased,

Plaintiff,

v.

FOOD LION, LLC; COLE ALEXANDER
GAITHER; ANITA GAITHER; and JAMES
BRYSON MUNN,

Defendants.

Case No. 2015-CP-10-0942

FILED
2015 DEC -1 PM 2:03
JULIE J. ARMSTRONG
CLERK OF COURT

**ORDER GRANTING PLAINTIFF'S
MOTION TO COMPEL**

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This case came before the Court upon the Plaintiff's Motion to Compel filed May 26, 2015. That motion was initially argued before this Court on August 13, 2015. I then issued an Order signed September 2, 2015, and filed September 9, 2015, requiring the Defendants Cole Alexander Gaither and Anita Gaither to respond to Plaintiff's written discovery (Standard Interrogatories, Supplemental Interrogatories, and Requests to Produce) within 25 days. I further instructed the Plaintiff's lawyers to reschedule the Motion to Compel if the discovery responses were not served or were inadequate.

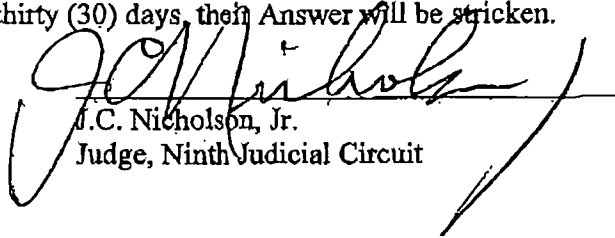
Thereafter, the Gaither Defendants served Answers to Interrogatories and Answers to Supplemental Interrogatories. One of the Plaintiff's lawyers John Tiller wrote Mr. and Mrs. Gaither by U.S. Mail and email on September 3, 2015, advising that the responses to interrogatories were woefully deficient and that no response had been made to the request for production of documents and, therefore, he would be asking the Court to reschedule a hearing on the Motion to Compel. The Court scheduled the second hearing for November 10, 2015. Mr. Tiller sent a letter dated November 3, 2015, via email and U.S. Mail to Mr. and Mrs. Gaither

advising that the hearing was scheduled for Tuesday, November 10, 2015, beginning at 9:30 a.m. Cole Gaither emailed Mr. Tiller on November 10, 2015, advising that he was in Grants, New Mexico and would not be able to attend the hearing and that his wife Anita Gaither would also be unavailable. Mr. Tiller responded that the Plaintiff's lawyers planned to attend the hearing as scheduled and suggested that the Gaithers contact the Court about their situation. The Gaithers did not contact the Court prior to the hearing. At the hearing, Stephen E. Darling of Haynsworth Sinkler Boyd, P.A., appeared for the Plaintiff and Kristen N. Nichols of Turner Padgett Graham & Laney, P.A., for the Defendant Food Lion, LLC. Neither the Gaithers nor the other co-Defendant James Bryson Munn's attorney appeared.

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I have reviewed the record and the Gaithers' Answers to Interrogatories and Answers to Supplemental Interrogatories. The answers were insufficient and not adequate in that they provide no information to the attorneys for the Plaintiff. As examples, the Gaithers list no witnesses in response to Interrogatory No. 1; they do not identify who hosted the function at their home on August 15 and 16, 2014; and they say only that friends and family were in attendance at that function without naming the persons and their addresses in response to the question. The Plaintiff's attorneys are entitled to complete, substantive, informative and relevant information in response to their written discovery in this dram shop wrongful death action. Accordingly, I find that the Gaither Defendants have not properly, adequately, and sufficiently answered the Plaintiff's written discovery. Based upon the foregoing, it is therefore

ORDERED, ADJUDGED AND DECREED that Plaintiff's Motion to Compel be, and it hereby is, granted and the Defendants Cole Alexander Gaither and Anita Gaither be, and hereby are, required to answer adequately and completely the Plaintiff's Interrogatories and Supplemental Interrogatories and respond adequately and completely to the Plaintiff's Request

for Production within thirty (30) days of service of this order upon them and, further, if the Defendants Cole Alexander Gaither and Anita Gaither do not adequately and completely respond to Plaintiff's written discovery within thirty (30) days, their Answer will be stricken.



J.C. Nicholson, Jr.
Judge, Ninth Judicial Circuit

November 30, 2015
Charleston, South Carolina
DM: 4279696 v.1

Haynsworth
Sinkler Boyd, P.A.

ATTORNEYS AND COUNSELORS AT LAW

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November 10, 2015

The Honorable J. C. Nicholson, Jr.
Judge, Ninth Judicial Circuit
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Charleston, SC 29401

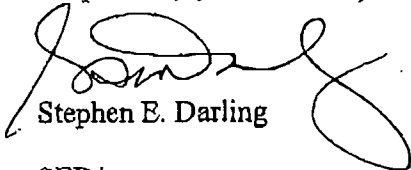
Re: James Ronald Gillette as Personal Representative of the Estate of Kylie Gillette v. Food Lion, *et al.*
Case No.: 2015-CP-10-942
HSB File No: 38093.0001

Dear Judge Nicholson:

Per your instructions, enclosed please find an original and five copies of a proposed Order Granting Plaintiff's Motion to Compel comporting with your oral ruling on November 10, 2015, in the above case. If the Order meets with your approval, I would appreciate your signing same and forwarding the original and copies to the Clerk of Court's Office for filing with instructions that the Clerk's Office send all parties a file stamped copy thereafter.

Thank you for your consideration.

Respectfully yours,



Stephen E. Darling

SED/mpm

Enclosure

cc: Ashley S. Heslop, Esq. (w/enc.)
Michael J. Ferri, Esq. (w/enc.)
Mr. and Mrs. Cole A. Gaither (via email and 1st Class Mail; w/enc.)

DM: 4279694 v.1