

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
THE FIFTH JUDICIAL CIRCUIT

Jamie Melton,

Civil Action No.: 2018-CP-40-04025

Plaintiff,

v.

Brenda White and Kimberly Gail White,

Defendants.

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ORDER
OCT 22 2019
SC Court of Appeals

This matter came before the Court on July 30, 2019 on Plaintiff's motion to strike the Answer of Defendants Brenda White and Kimberly Gail White or, alternatively, for an Order deeming the Plaintiff's First Set of Requests to Admit to Defendant Brenda White and Plaintiff's Supplemental Requests to Admit to Defendant Brenda White admitted. J. Eric Cavanaugh appeared at the hearing on behalf of the Plaintiff, and Kelley S. Cannon appeared on behalf of Defendants. Based on the memoranda and documents submitted by both parties, arguments of counsel, and the record in this matter, this Court hereby finds and orders as follows:

Rule 37(d), SCRPC provides that the court may, in its discretion, impose sanctions against a party who fails to attend their deposition after being served with proper notice. The sanctions available to the Court include those enumerated under Rule 37(b)(2), including "an order striking out pleadings or parts thereof..." Rule 37(b)(2)(C), SCRPC.

"The imposition of sanctions is generally entrusted to the sound discretion of the Circuit Court." *Downey v. Dixon*, 294 S.C. 42 at 45, 362 S.E.2d 317 at 318. "Nevertheless, whatever sanction is imposed should serve to protect the rights of discovery provided by the Rules." *Id.* "In determining the appropriateness of a sanction for discovery abuse, the court should consider such

factors as the precise nature of the discovery and the discovery posture of the case, willfulness, and degree of prejudice.” *Griffin Grading and Clearing, Inc. v. Tire Service Equipment Mfg. Co., Inc.*, 334 S.C. 193, 199, 511 S.E.2d 716, 719 (Ct.App.1999).

The individual Defendants’ failure to cooperate in discovery in this action has severely prejudiced the Plaintiff. In particular:

1. The Defendants filed an Answer on October 22, 2018, in which Defendants denied factual allegations made by the Plaintiff in her Complaint.
2. On November 19, 2018, Defendant Brenda White responded to Plaintiff’s First Set of Requests for Admission. In the response, Defendant denied several requests which sought information pertaining to the accident which gave rise to this litigation.
3. On November 28, 2018, in response to a deficiency letter from the Plaintiff, Defendant Brenda White amended her responses to Plaintiff’s First Set of Requests for Admission but again denied requests which sought information pertaining to the accident which gave rise to this litigation.
4. On December 20, 2018, both Defendants failed to appear for their depositions, which were properly noticed by Plaintiff.
5. Plaintiff re-noticed the depositions of both Defendants for January 9, 2019, but again, the Defendants failed to appear.
6. On January 12, 2019, Plaintiff served Supplemental Requests for Admission on Defendant Brenda White, who again responded with denials pertaining to the circumstances of the accident which gave rise to this litigation.
7. As a result of the Defendants’ repeated failure to attend their own depositions, the Plaintiff has been unable to conduct discovery into the Defendants’ denials of factual

allegations and requests for admission. Plaintiff's ability to discover relevant information and to investigate the circumstances giving rise to this litigation has been severely prejudiced by Defendants' conduct failure to participate in discovery.

8. In addition to the Defendants' failure to cooperate with discovery, Defendants have not participated in any efforts to resolve the matter with the Plaintiff.

For the foregoing reasons, it is ordered that Defendants' Answer to Plaintiff's Complaint be stricken and that the Defendants be held in default. A hearing will be scheduled to determine Plaintiff's damages.

IT IS SO ORDERED.

JUDGE'S ELECTRONIC SIGNATURE TO FOLLOW



Richland Common Pleas

Case Caption: Jamie Melton vs Brenda White , defendant, et al

Case Number: 2018CP4004025

Type: Order/Other

So Ordered

s/ R.E. Hood #2164