

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)
)
Love and Charity Baptist Church,)
)
)
Plaintiff,)
)
vs.)
)
Ronald Gaines and)
James Spardley,)
)
)
Defendants.)
)
_____)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT
C.A. File No. 2019-CP-12-00321

ORDER GRANTING MOTION
TO COMPEL AND STRIKING
ANSWER OF DEFENDANT

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SC Court of Appeals

This matter came before me on April 19, 2021, by way of Plaintiff's Motion to Compel Answers to Discovery or in the alternative to strike the Answer of Defendant Gaines thereby holding him in Default pursuant to Rule 37 (b) (2) (C) of the South Carolina Rules of Civil Procedure. The Plaintiff also asks for attorney's fees and costs pursuant to Rule 37 (a) (4).

The Plaintiff is represented by D. Bradley Jordan of Jordan Law Firm, PC, Rock Hill, South Carolina and Mr. Jordan was present at the time of the call of the case.

The Defendants are not represented by counsel and did not appear at the hearing, either virtually, by phone, or in person at the Chester County Courthouse. The Defendants were properly served with notice of this hearing.

FINDINGS OF FACT

1. This is an action filed by Plaintiff, Love & Charity Baptist Church against Defendants Gaines and Spardley for conversion, negligent misrepresentation, fraudulent misrepresentation, breach of contract, unfair trade practices and civil conspiracy.
2. This Court has jurisdiction over the parties and the subject matter of this action.

3. Venue is proper in Chester County.
4. The Plaintiff served Interrogatories and Request for Production on both Defendant Gaines and Defendant Spardley on or about January 23, 2020.
5. The Plaintiff sent a letter to both Defendants on or about April 20, 2020, seeking to have the Defendants respond to the discovery which had been previously served upon them.
6. On or about July 10, 2020, the Plaintiff filed two separate Motions to Compel, one for each Defendant. At the hearing on October 28, 2020, the Court granted Plaintiff's Motion to Compel and ordered the Defendants to respond to discovery by November 10, 2020.
7. The Defendants were served with a copy of the Order as evidenced by the Certificate of Service on file with this Court.
8. The Plaintiff filed this Motion to Compel on or about March 19, 2021 seeking to have the Answer of Defendant Gaines stricken, holding him in default and seeking attorney's fees and costs. The Defendants were served with a copy of the Motion on or about March 19, 2021.
9. The Defendants were served with notice of this hearing on April 12, 2021 by letter mailed to the last known address of each Defendant.
10. The Defendant, Spardley is currently in default. An Order of Entry of Default was filed on or about July 22, 2020.
11. The Defendant Gaines filed an Answer to the Summons and Complaint, but has failed to cooperate since that time and has failed to abide by this Court's Order requiring him to answer discovery. Likewise, Defendant Spardley has failed to abide by this Court's Order requiring him to answer discovery.

12. Plaintiff's Motion to Compel as to both Defendants should be granted and Defendant Gaines' Answer should be stricken for his disobedience of this Court's Order.

13. The prior Order granting Plaintiff's Motion to Compel reserved the right to award attorneys' fees and costs should the Defendants fail to obey the Order of the Court.

14. Plaintiff has submitted an Affidavit of Attorney's Fees at the request of this Court.

Plaintiff has a total of 9.3 hours at the rate of \$250.00 per hour and costs of \$116.67. I find that Plaintiff's Request for Attorney's Fees and Costs should be granted.

CONCLUSIONS OF LAW

1. This Court has jurisdiction over the parties and the subject matter of this action.
2. Venue is proper in Chester County, South Carolina.
3. Defendant Spardley is currently in default. An Order of Entry of Default was filed with this Court on or about July 22, 2020.

THEREFORE, IT IS HEREBY ORDERED THAT:

- a. Plaintiff's Motion to Compel is hereby granted.
- b. The Answer previously filed in this matter by Defendant Gaines is hereby stricken pursuant to S.C. Rules of Civil Procedure 37(b)(2)(C) and the Defendant Gaines is therefore in default. The allegations of Plaintiff's Complaint are therefore admitted as to both Defendants and liability is conceded. *Roche v. Young Bros.*, 332 S.C. 75, 81, 504 S.E. 2d 311, 314 (1998)
- c. Plaintiff's Motion for Attorneys' Fees and Costs is hereby granted. The Defendants shall be responsible for Plaintiff's attorney's fees and costs in the amount of \$2,441.67 related to both Motions to Compel. Defendant Gaines and Defendant Spardley shall each pay one half (1/2) of the attorney's fees and costs in the amount of \$1,220.83 to the Plaintiff's attorney at his address, Jordan Law Firm, PC, 546 East Main Street, P.O. Box 11785, Rock Hill, South Carolina 29731 within 10 days of their receipt of this Order.



Chester Common Pleas

Case Caption: Love And Charity Baptist Church VS Ronald Gaines , defendant, et al
Case Number: 2019CP1200321
Type: Order/Compel

So Ordered

s/Brian M. Gibbons #2168 Circuit Judge

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ELECTRONICALLY FILED - 2021 May 03 1:11 PM - CHESTER - COMMON PLEAS - CASE#2019CP1200321