



STATE OF SOUTH CAROLINA

COUNTY OF YORK

Vicki Lynn Vergeldt, Individually, and as
Successor Trustee of the John Vergeldt, Jr.
Revocable Living Trust dated September
27, 1978

Petitioner,

vs.

John Edward Vergeldt,

Respondent.

IN THE COURT OF COMMON PLEAS

CASE NO. 2016-CP46-00820

ORDER

RECEIVED

Aug 02 2021

SC Court of Appeals

This matter comes before me regarding Defendant's objection to certain affidavits and an expert's report submitted at trial by the Plaintiff on January 31, 2020. Plaintiff is represented by attorney Taylor A. Peace. Defendant John Edward Vergeldt is pro se. This matter was taken under advisement and is being ruled upon without a hearing.

At trial, Plaintiff offered the following exhibits into evidence: (1) Plaintiff's exhibit 9, affidavit of Timothy Kelley; (2) Plaintiff's exhibit 10, affidavit of Thomas Hernick; (3) Plaintiff's exhibit 11, affidavit of Brian Carson; (4) Plaintiff's exhibit 12, affidavit of Tony Lee Jordan; and (5) Plaintiff's exhibits 13 and 14, Financial Statement and Pro forma Financial Statements as prepared by testifying expert witness Charles E. Bosler. Defendant objected stating he had not received a copy of these materials prior to trial. No other objection was made. Defendant requested additional time to file responding affidavits or for the court to deny the exhibits. This matter was deferred as the court needed further information regarding discovery requests and service of the exhibits.

After review of the additional filings, it appears Plaintiff mailed the exhibits to Defendant on January 16, two weeks prior to trial. Plaintiff confirmed in his memorandum filed on February 28, 2020 that he provided the exhibits as supplemental Answers to Interrogatories and Responses to Production. There was no scheduling order issued in this case and it appears Plaintiff's counsel promptly forwarded the exhibits upon receipt. However, I find Defendant did not receive these exhibits in time to prepare for trial. The rules of discovery are meant to give the parties the means

to be prepared for trial. *CEL Products, LLC v. Rozelle*, 357 S.C. 125, 591 S.E.2d 643 (Ct. App. 2004) (citation omitted).

THEREFORE, IT IS ORDERED that Defendant is granted thirty (30) days from the date of this order to file responding affidavits to the exhibits stated above. No other matters will be considered.

JUDGE'S SIGNATURE PAGE TO FOLLOW



York Common Pleas

Case Caption: Vicki Lynn Vergeldt VS John Edward Vergeldt

Case Number: 2016CP4600820

Type: Master/Order/Other

So Ordered

s/ Teasa K. Weaver 3084