

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTERFIELD)
)
 Sheanna Simmons,)
)
 Plaintiff,)
)
 vs.)
)
 Cagle Brothers Logging, Inc. and Ronnie)
 Dewayne James, Jr.,)
)
 Defendants.)
)
 _____)

IN THE COURT OF COMMON PLEAS
 FOR FOURTH JUDICIAL CIRCUIT
 C.A. No.: 2021-CP-13-00465

**PROPOSED ORDER GRANTING
 DEFENDANTS' MOTION FOR ENTRY
 OF A CONFIDENTIALITY ORDER AND
 MOTION FOR EXTENSION OF TIME**

RECEIVED
May 19 2022
 SC Court of Appeals

These matters are before the Court on motions of the defendants for entry of a confidentiality order and for enlargement of the time to complete production of documents ordered to be produced by December 13, 2021. For the reasons set forth below, the Court grants the motions.

BACKGROUND

This lawsuit arises from an accident in Chesterfield County, South Carolina on November 30, 2020. The plaintiff filed the summons and complaint on July 13, 2021. The summons and complaint, along with extensive interrogatories and requests for production of documents were served on defendants Cagle Brothers Logging, Inc. and Ronnie Dwayne James, Jr. on July 15, 2021. The defendant responded to the plaintiff's discovery requests on November 4, 2021. In their discovery responses the defendants objected to many of the discovery requests. The plaintiff filed motions to compel full and complete discovery responses.

On November 8, 2021 a hearing was held on the plaintiff's motions to compel. The hearing judge requested that both parties prepare proposed orders granting and/or denying the motions. Thereafter, the defendants supplemented their discovery responses on November 12 and November 23, 2021. On November 29, 2021 the Court entered the Order granting the plaintiff's

motion, and provided the defendants until December 13, 2021 to fully respond to the plaintiff's discovery requests.

On December 7, 2021 counsel for the defendant at that time, Drew Bradshaw, prepared and sent a proposed confidentiality order to the plaintiff's attorney, Lane Jeffries, requesting that the plaintiff consent to confidentiality of a small number of documents ordered to be produced due to the confidential and personal nature of some information contained within those documents. The plaintiff's attorney did not respond to that request, and Mr. Bradshaw followed up with him on December 8, December 9 and December 10, 2021 to obtain consent. The plaintiff's attorney did not respond to any of those requests. Therefore, on December 13, 2021, the defendant filed a motion for extension of time to respond to the order compelling production and a motion for entry of a confidentiality order related to the documents in question. On that same date, which was the deadline set forth in the court order compelling production of the remaining documents, the defendant produced all remaining documents except those at issue here. The plaintiff's attorney raised no objection to the motions at that time and did not reach out to Mr. Bradshaw regarding motions.

Mr. Bradshaw left Gallivan, White & Boyd in January 2022 and Mr. Rheney took over the defense of the case. An in-person hearing of the motions was set for April 13, 2022 in Chesterfield. On April 11, 2022, Mr. Rheney reached out to plaintiff's counsel by phone and email to ask his position on the motions, and to let him know that he had a previously scheduled deposition in Charleston set for the same date as the hearing which needed to be postponed if the hearing was going forward. Plaintiff's counsel did not respond to either of those attempts to reach him. Therefore, on the morning of April 12, 2022, Mr. Rheney again reached out to plaintiff's counsel by email to find out if he intended to oppose the motions and to let him know of the need to cancel the deposition in Charleston if so. Plaintiff's counsel did not respond to that email either. However,

at 4:30 p.m. that afternoon Mr. Jeffries filed a memorandum in opposition to the motions on the basis that the motions were "simply a Motion to Alter or Amend the Order entered on November 29, 2021". In his memorandum, Mr. Jeffries stated that he had never received the discovery responses that were due on December 13, 2021. He also filed a motion for sanctions against the defendant on that same basis.

The hearing of the defendant's motions was held in Chesterfield on April 13, 2022. Mr. Rheney attended the hearing but Mr. Jeffries did not. During the hearing, Mr. Rheney provided the procedural history noted above, none of which was disputed by plaintiff's counsel in attendance, Dale Cabler. In addition, Mr. Rheney noted that the only documents for which the defendant sought confidentiality were 1) the cell phone records of Mr. James, 2) the cell phone records of his family members, 3) a copy of any automobile insurance policies, including the declarations page, in effect on any of the defendant's other vehicles or the vehicle of any other person residing in the defendant's household, 4) a copy of the defendant's Facebook archive, and 5) copies of the defendant's complete state and federal tax returns for the five tax years immediately preceding the year the incident occurred. All other records ordered to be produced had been produced by the original deadline of December 13, 2021. In response, Mr. Cabler argued that the plaintiff opposed the motion on the basis that it was in effect an attempt to alter or amend the previously entered Order compelling production, which should have been filed within 10 days of issuance of the Order on November 29, 2021. In reply, the defendants argued that they did not object to production of the documents and that therefore Rule 59(e) did not apply, and also noted that Mr. Bradshaw had attempted to contact plaintiff's counsel a minimum of four times within 10 days of issuance of the Order to request confidentiality, and that plaintiff's counsel had failed to respond to any of those requests in any way, which then necessitated the filing of the motions at issue here.

ORDER

The Court finds that the motions are reasonable under the circumstances as there would be no need for publication of the information sought to be protected beyond the confines of this litigation. The Court further finds that the motions are not an effort to alter or amend the previously entered Order compelling production, and are therefore not subject to the filing requirements of Rule 59(e). The motions were timely made by the deadline of the Order compelling production, and were limited to a small subset of documents deserving of confidentiality. All other documents were timely produced consistent with the Order.

NOW, THEREFORE, the Court grants the defendant motions for entry of a confidentiality order consistent with the previously submitted proposed protective order of confidentiality, and the defendant's motion for enlargement of time of seven (7) days after the entry of this Order to complete their responses to the requests for production of documents.

AND IT IS SO ORDERED.

Judge Michael S. Holt
Circuit Judge, Chesterfield County
Court of Common Pleas

Date: _____
_____, South Carolina



Chesterfield Common Pleas

Case Caption: Sheanna Simmons VS Ronnie Dewayne James Jr. , defendant, et al

Case Number: 2021CP1300465

Type: Order/Other

So Ordered

s/ Michael S. Holt, 2772