MISSOURI COURT OF APPEALS
WESTERN DISTRICT

SHUTTLEWAGON, INC.

APPELLANT,

v.

SCOTT HIGGINS, ET AL.

RESPONDENTS.

DOCKET NUMBER WD83882

DATE: June 22, 2021

Appeal From:

Jackson County Circuit Court
The Honorable Kevin D. Harrell, Judge

Appellate Judges:

Division Four: Cynthia L. Martin, Chief Judge, Presiding, Lisa White Hardwick, Judge and Thomas N. Chapman, Judge

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Attorneys:

Sean W. Colligan and Bradley J. Yeretsky, Kansas City, MO, for appellant.
Curtis Tideman and Christopher B. Nelson, Overland Park, KS, for Respondents John Ying and Innovative Quality Solutions, LLC.
Douglas M. Weems, Kansas City, MO and Barry L. Pickens, Overland Park, KS, for respondents Scott Higgins, Emily Coon and Donald Crist.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

SHUTTLEWAGON, INC., APPELLANT,
v.
SCOTT HIGGINS, ET AL., RESPONDENTS.

WD83882 Jackson County

Before Division Four Judges: Cynthia L. Martin, Chief Judge, Presiding, Lisa White Hardwick, Judge, and Thomas N. Chapman, Judge

Shuttlewagon, Inc. appeals from a judgment entered in favor of Innovative Quality Solutions, LLC; IQS's owner, John Ying; and three of IQS's employees who previously worked at Shuttlewagon, Donald Crist, Emily Coon, Scott Higgins, on Shuttlewagon's claims of unfair competition, computer tampering, and conspiracy to commit computer tampering. Shuttlewagon alleges that the trial court committed legal error in denying its motion for sanctions against IQS and its counsel, in admitting evidence and argument concerning Shuttlewagon's lay witnesses' inability to "trace" confidential information into IQS's railcar mover design because it was not legally relevant, in admitting improper character evidence of one of Shuttlewagon's expert witnesses, and in instructing the jury on the affirmative defense of mitigation of damages.

AFFIRMED.

Division Four holds:

1) The trial court did not err in denying Shuttlewagon's motion for sanctions against IQS and its counsel due to their alleged abusive use of confidential discovery designations. Shuttlewagon has not challenged the trial court's finding that there was no sanctionable conduct. In addition, the alleged strategic advantage purportedly enjoyed by defendants' discovery designations did not result from the trial court's denial of the motion for sanctions, the only trial court action about which Shuttlewagon complains.

2) Evidence concerning Shuttlewagon's lay witnesses' inability to "trace" confidential information into IQS's railcar mover was not legally irrelevant because Shuttlewagon was not prohibited from explaining why its lay witnesses were unable to "trace" the information.

3) The admission of purportedly improper character evidence was cumulative of other evidence presented at trial without objection. Even if the complained of evidence was erroneously admitted, prejudicial error cannot be established.

4) Shuttlewagon cannot establish that it was prejudiced by the submission of jury instructions on the affirmative defense of mitigation of damages in connection with its unfair competition and computer tampering claims because the jury did not find liability in Shuttlewagon's favor on either claim, and the mitigation instructions were expressly conditioned on the jury first finding liability.

Opinion by: Cynthia L. Martin, Judge June 22, 2021

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