

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

NATHAN WADE,

Plaintiff,

v:

JOYCELYN WADE,

Defendant.

CIVIL ACTION
FILE NO. 21108166


Connie Taylor, Clerk of Superior Court
Cobb County, Georgia

**DEFENDANT'S MOTION FOR TEMPORARY HEARING AND MOTION FOR INTERIM
ATTORNEY'S FEES AND EXPENSES OF LITIGATION**

COMES NOW, JOYCELYN WADE, Defendant herein, and files this her *Motion for Temporary Hearing and Motion for Interim Attorney's Fees and Expenses of Litigation* and respectfully shows this Court as follows:

1.

INTRODUCTION

Plaintiff filed this divorce case on November 2, 2021. Since the divorce has been filed, Plaintiff has left Defendant without any means of financial support, and without the means to pay her attorney's fees and expenses in order to properly and adequately defend her interests in this divorce.

While Defendant is currently unemployed after being a stay-at-home mom for the past twenty-six (26) years, Plaintiff is Partner at his own law firm and has also been employed by Fulton County District Attorney's Office since November 1, 2021 as the Anti-Corruption Special Prosecutor in the matter of *The State of Georgia v. Donald John Trump et. al.*, CAFN 23SC188947, earning almost seven

Nathan Wade v. Joycelyn Wade

Superior Court of Cobb County; CAFN: 21108166

"Defendant's Motion for Temporary Hearing and Motion for Interim Attorney's Fees and Expenses of Litigation"

hundred thousand dollars (\$700,000.00) since May of 2022 alone. While earning such substantial sums, Plaintiff has provided nearly nothing to Defendant for her support and survival and has often caused Defendant's bank account to be in overdraft.

In order for Defendant to adequately provide for herself during the pendency of this case, and to have any hope of asserting her claims and defenses in this case, Defendant implores this Court to establish a financial status quo for the parties to follow during the pendency of this case. As Defendant is in dire need of financial support, Defendant respectfully requests that this Court grant her temporary spousal support, to include interim attorney's fees, until further order of this court.

2.

Statement of Facts and Procedural History

The parties were married on June 21, 1997, and separated on or about August 15, 2021.

3.

There are currently no minor children of the marriage.

4.

Plaintiff filed his Complaint for Divorce on November 2, 2021. Defendant was personally served with same via process server on November 3, 2021, and the Affidavit of Service was filed on December 10, 2021.

5.

Defendant filed her Answer to Complaint for Divorce and Counterclaim for Divorce on November 30, 2021, and served Plaintiff with Defendant's First Continuing Interrogatories to Plaintiff and Defendant's First Request for Production of Documents and Notice to Produce to Plaintiff (hereinafter Defendant's "Discovery Requests").

6.

Due to Plaintiff's refusal to provide any substantive responses to Defendant's discovery requests, Defendant was forced to file a Motion to Compel Discovery on February 15, 2022, which was granted by this Court on May 10, 2023. Defendant was then forced to file a Motion for Contempt on August 2, 2023 for Plaintiff's noncompliance with this Court's Order, which was granted on August 17, 2023.

7.

Defendant later discovered that Plaintiff had been employed by, and/or being compensated for services rendered to, Fulton County District Attorney's Office since 2021. However, Plaintiff failed to disclose this information or produce a single document evidencing this income to Defendant. As such, Defendant filed a Motion to Reopen Discovery on September 26, 2023, which was granted on November 3, 2023.

8.

MOTION FOR TEMPORARY HEARING AND SPOUSAL SUPPORT

Defendant shows that she has been substantially dependent upon Plaintiff for her support and maintenance for the duration of this twenty-six (26) year marriage. Defendant has been a stay-at-home mom for the past twenty (20) years while Plaintiff was the primary breadwinner for the family. At the time of filing of the underlying divorce action, Defendant was unemployed, and Plaintiff was a Partner at his own law firm. As previously mentioned hereinabove, it was later discovered that Plaintiff had also been employed by Fulton County District Attorney's Office, most recently as the Anti-Corruption Special Prosecutor in the matter of The State of Georgia v. Donald Trump et. Al., and has earned nearly seven hundred thousand dollars (\$700,000.00) since May of 2022 alone.

9.

Plaintiff has historically provided Defendant with bi-weekly payments of seven hundred dollars (\$700.00) directly to her bank account for her personal and household expenses. However, since the divorce has been filed, Plaintiff, despite the clear inequity in financial circumstances between the parties, continuously draws from this account for his own personal and household expenses leaving it routinely overdrawn. Defendant has no access to marital funds for her support or for attorney's fees and expenses.

Nathan Wade v. Joycelvn Wade

Superior Court of Cobb County; CAFN: 21108166

"Defendant's Motion for Temporary Hearing and Motion for Interim Attorney's Fees and Expenses of
Litigation"

Page 4 of 9

10.

During the pendency of this case, Defendant has relied heavily on her father for financial support, however, her Father has since passed away.

11.

Based upon these circumstances, Defendant is still reliant on Plaintiff's economic resources and now requires his financial assistance for her maintenance and support, as well as her prosecution of this case.

12.

MOTION FOR INTERIM ATTORNEY'S FEES AND EXPENSES OF LITIGATION

Argument and Citation of Authority

O.C.G.A. Section 19-6-2(a)(1) provides as follows:

"(a) The grant of attorney's fees as a part of the expenses of litigation, made at any time during the pendency of the litigation, whether the action is for alimony, divorce and alimony, or contempt of court arising out of either an alimony case or a divorce and alimony case, including but not limited to contempt of court orders involving property division, child custody, and child visitation rights, shall be:

(1) Within the sound discretion of the court, except that the court shall consider the financial circumstances of both parties as a part of its determination of the amount of attorney's fees, if any, to be allowed against either party ..."

Nathan Wade v. Joycelyn Wade

Superior Court of Cobb County; CAFN: 21108166

"Defendant's Motion for Temporary Hearing and Motion for Interim Attorney's Fees and Expenses of Litigation"

Page 5 of 9

13.

In the instant action, the financial circumstances of the parties are far from equal. Plaintiff has a clear and distinct economic advantage based on his significantly greater earning capacity. However, due to Plaintiff's actions throughout this litigation, Defendant has incurred additional and unnecessary expenses. Defendant has no access to marital funds and resources.

14.

Due to Plaintiff's actions, Defendant remains at a severe economic disadvantage in this case. As such, Defendant is in immediate need of an award of interim attorney's fees in order to ensure effective representation so that all issues can be fully and effectively resolved.

15.

Defendant requests interim attorney fees, payable directly to Defendant's attorneys, Hastings Shadmehry, in order to allow her to properly prosecute this matter pursuant to O.C.G.A. § 19-6-2.

16.

Interim attorney's fees are needed as Defendant has shown that she has already incurred considerable legal fees for the reasons described above. Defendant is facing a difficult challenge and is in need of the Court's assistance in preparing and prosecuting her case effectively in the face of this adversity.

17.

Based on the foregoing, Defendant requests that this Court grant her attorney's fees and costs of litigation so that she may properly and adequately represent herself in this case, diligently conduct and pursue discovery, retain the services of a financial analyst, engage in good faith settlement negotiations, and have a final trial if one becomes necessary.

18.

Defendant requests that a temporary hearing be scheduled promptly to protect Defendant from a dire financial situation by establishing temporary spousal support, awarding her interim attorneys' fees and expenses of litigation, and a procedure for maintaining the financial status quo during the pendency of this action.

19.

Defendant has incurred reasonable attorney's fees and costs of litigation to bring forth this Motion due to the actions of Plaintiff, and as such is seeking an award of the same pursuant to O.C.G.A. §§ 19-6-2 and/or 19-6-3 or any other applicable law.

WHEREFORE, Defendant respectfully prays, as follows:

- (a) That this Court grant Defendant's Motion and issue a Rule Nisi scheduling the instant action for a temporary hearing on the soonest available date;
- (b) That this Court establish temporary spousal support to be paid by Plaintiff until further order of this Court;

Nathan Wade v. Joycelyn Wade

Superior Court of Cobb County; CAFN: 21108166

"Defendant's Motion for Temporary Hearing and Motion for Interim Attorney's Fees and Expenses of Litigation"

Page 7 of 9

- (c) That this Court establish a financial status quo for the parties to follow until further order of this Court;
- (d) That this Court award Defendant interim attorneys' fees and expenses of litigation to ensure that she is able to maintain adequate counsel throughout the pendency of this action pursuant to O.C.G.A. §§ 19-6-2 and/or 19-6-3 or any other applicable law;
- (e) That Defendant be awarded reasonable attorney's fees and expenses of litigation for the filing and prosecution of this Motion; and
- (f) That Defendant have such other and further equitable aid and relief as this Court deems just and proper.

This 7th day of December 2023.

Respectfully Submitted,

HASTINGS SHADMEHRY LLC



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Georgia Bar No. 929208

MALI SHADMEHRY, ESQ.

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Nathan Wade v. Joycelyn Wade

Superior Court of Cobb County; CAFN: 21108166

"Defendant's Motion for Temporary Hearing and Motion for Interim Attorney's Fees and Expenses of Litigation"

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DEFENDANT'S CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of *Defendant's Motion for Temporary Hearing and Motion for Interim Attorney's Fees and Expenses of Litigation* upon Counsel for Plaintiff via Statutory Electronic Service, as follows:

M. Scott Kimbrough
skimbrough@dupree-lawfirm.com

This 7th day of December 2023.

Respectfully Submitted,

HASTINGS SHADMEHRY LLC

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