



Connie Taylor, Clerk of Superior Court  
Cobb County, Georgia

IN THE SUPERIOR COURT OF COBB COUNTY  
STATE OF GEORGIA

NATHAN WADE,

Plaintiff,

v.

JOYCELYN WADE,

Defendant.

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CIVIL ACTION  
FILE NO. 21108166

**AMENDED MOTION TO COMPEL DISCOVERY**

COMES NOW JOYCELYN WADE, Defendant in the above-styled case, and hereby amends her Motion to Compel Discovery by adding and clarifying the following after Paragraph 4:

1.

Plaintiff realleges and restates Paragraphs 1 through 3 of her Motion to Compel Discovery as if fully set forth herein.

2.

By correspondence dated December 27, 2021, Plaintiff provided responses to Defendant's Discovery Requests that were so evasive and incomplete so as to be considered a failure to respond pursuant to O.C.G.A. §9-11-37(a)(3). The first few pages of Plaintiff's response to Defendant's First Continuing Interrogatories to

Plaintiff were missing completely, and no written responses were provided at all to Defendant's First Request for Production of Documents and Notice to Produce to Plaintiff as is required by O.C.G.A. §9-11-34. Further, only a few documents were actually produced.

3.

### **INTERROGATORY DEFICIENCIES**

Most of Plaintiff's written responses to Defendant's First Continuing Interrogatories to Plaintiff were so woefully inadequate so as to be useless. The deficient responses are as follows:

- a) In response to Interrogatory number 2(c) which asks for the identity of all persons with knowledge of the assets and value of the assets accumulated during the marriage, Plaintiff responded: "Answer: Marital Home and vehicles named in complaint, joint bank accounts, retirement accounts, life insurance accounts[.]" which clearly is not responsive to the question asked.
- b) In response to Interrogatory number 8 which asks for identification of real property owned with date of purchase, location, fair market value, mortgage details, how the property is titled, and details on the

sale of that property (if applicable), Plaintiff responded: "Answer: Marital residence located at 3754 Honey Pot Way[.]"

- c) In response to Interrogatory number 9 which asks Plaintiff to describe the present and past condition of his health with details, Plaintiff responds: "Answer: Great Health[.]" failing to disclose any details/update regarding his prior surgery in 2020 which is later disclosed in his response to Interrogatory number 18.
- d) In response to Interrogatory number 16 which asks for specific information regarding Plaintiff's alcohol usage, including the types and brands of alcohol drinks, and whether he has driven an automobile within one (1) hour of drinking an alcoholic drink, Plaintiff responds: "Answer: Red Wine once a week at home with dinner."
- e) In response to Interrogatory number 17 regarding Plaintiff's drug usage, whether legal, prescription or illegal, Plaintiff responds: "Answer: no illegal drug use ever[.]" failing to address any legal, or prescription drug use at all.
- f) Then in response to Interrogatory 18, requesting details regarding prescription medications, Plaintiff responds: "Answer: Pain meds and antibiotics after surgery April 30, 2020[.]" without identifying which

medications, the duration of the prescription, the dosage, the prescribing authority, nor whether he took the drug as prescribed.

- g) Interrogatory number 20 asks Plaintiff to list all sources of income since January 1, 2016, including the amount and the current year to date. Plaintiff responded with: "Answer: Law Offices of Nathan J Wade[.]"
- h) In response to Interrogatory 22, which asks for details regarding any retirement plan, deferred compensation plan, pension or profit-sharing plan, etc., including the date acquired, total value, whether it is vested or unvested, and the date Plaintiff will become eligible to receive benefits from the plan, Plaintiff lists only the type of account, the holder, and an approximate value.
- i) Interrogatory 24 asks for a list of loans, gifts, cash, free rent, or any other benefit provided to or from Plaintiff, including the amount and date, purpose of the funds, and from whom the funds were provided. Plaintiff only lists a debt consolidation loan with the year, the provider, and when it was paid off with no other detail.

4.

A 6.4(b) Letter, dated January 14, 2022, was sent to Plaintiff requesting more complete answers, however, no further responses were received. Again, and in

anticipation of mediation, another letter, dated April 4, 2022, was sent to Plaintiff outlining all discovery deficiencies. To date, no further responses have ever been provided by Plaintiff . Clearly Plaintiff did not respond fully and completely to each request, does not intend to, and therefore the Court's intervention is necessary.

5.

**REQUEST FOR PRODUCTION OF DOCUMENTS DEFICIENCIES**

In response to Defendant's First Request for Production of Documents and Notice to Produce to Plaintiff which requested extensive documentation including financial statements from January 1, 2016 to present, Plaintiff provided no written response whatsoever, and instead just attached a few documents which did not even remotely comply with Defendant's requests. In response to the thirty-eight (38) items requested, Plaintiff provided the following documents:

- (i) 2021 Business Tax Returns;
- (ii) 2021 Personal Tax Returns;
- (iii) Fifth Third Business Checking Account ending in 5828: Statements from January 1, 2016 through November 30, 2021; and
- (iv) Wells Fargo Traditional IRA Account ending in 0540: Statements from June 30, 2016 (with a starting balance indicating that there are previous statements) through June 30, 2019, December 31, 2020, and June 30, 2021.

6.

Then in response to Defendant's 6.4(b) Letter dated January 14, 2022, Plaintiff provided the following documents:

- (i) Notarized Domestic Relations Financial Affidavit; and
- (ii) Loan satisfaction and payment history for an unidentified account.

7.

As it was clear that Plaintiff had no intentions of cooperating or complying with discovery, Defendant filed her initial Motion to Compel Discovery on February 15, 2022. To date, and almost one year later, Plaintiff has yet to provide any additional documents whatsoever. Plaintiff has yet to even file a response to Defendant's Motion to Compel.

8.

Due to Plaintiff's wholly deficient and incomplete responses, Defendant, was forced to subpoena the following financial institutions: American Express, Fifth Third Bank, Ameris Bank, Citi Simplicity, and Capital One. The following items were provided in response to the forementioned non-party discovery requests:

a) American Express:

- (i) American Express Account ending in 1001: Statements for November 18, 1999 through April 19, 2006;
- (ii) American Express Account ending in 2009: Statements for May 18, 2006 through October 19, 2018;

- (iii) American Express Account ending in 3007: Statements for November 19, 2018 through October 20, 2021; and
- (iv) American Express Account ending in 4005: Statements for December 20, 2021 through May 14, 2022.

b) Fifth Third Bank:

- (i) Fifth Third Bank Business Account ending in 5828: Statements for January 1, 2016 through November 30, 2021; and
- (ii) Fifth Third Bank Business Account ending in 5810: Statements for January 1, 2016 through November 30, 2021.

c) Ameris Bank:

- (i) Ameris Bank Business Account ending in 2604: Statements for January 1, 2019 through March 31, 2022.

d) Citi:

- (ii) Citi Simplicity Card ending in 2476: Statements for January 1, 2016 through April 4, 2017; May 4, 2017 through February 4, 2019; March 5, 2019 through December 2, 2021.

e) Capital One:

- (iii) Capital One Business Card ending in 7056: Statements for January 16, 2018 through November 16, 2021.

9.

An extensive review of the above documents revealed that there were several more accounts and corresponding statements not provided, or even disclosed, by Plaintiff in discovery. Defendant discovered that there were additional accounts with Wells Fargo and Bank of America that have yet to be provided and which this Court should compel Petitioner to provide to Defendant.

10.

Defendant also served a Non-Party Document Request dated February 15, 2022 upon Plaintiff's law firm, Wade, Bradley & Campbell Firm LLC, in an attempt to obtain his earnings and income statements, as well as financial statements and details for the business, which is also a marital asset and therefore subject to equitable distribution.

11.

Defendant then served a 6.4(b) Letter dated March 18, 2022 upon Wade, Bradley & Campbell Firm LLC, but, as expected, what was received was again so evasive and incomplete so as to be considered a failure to respond pursuant to O.C.G.A. §9-11-37(a)(3). Plaintiff produced an IRS Notice, some incorporation documents, and a letter from Synovus Bank indicating that the firm is still open. Plaintiff then dissolved said practice and is now Partner at Wade & Campbell Firm LLC, however, no responses were received from either firm.

12.

As set forth herein, Defendant has complied with O.C.G.A. §9-11-37 and Uniform Superior Court Rule 6.4(b) and only filed her Motion to Compel after exhaustive efforts were made to resolve the discovery dispute and obtain the

requested documents. It is clear that Plaintiff does not intend to cooperate in the discovery process and the Court's intervention is necessary.

13.

Plaintiff is entitled to the requested discovery pursuant to O.C.G.A. §9-11-26(b), §9-11-33 and §9-11-34 in that the discovery requests seek information necessary and relevant to the pending action and are reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant has been financially dependent on Plaintiff for the duration of the marriage; therefore Plaintiff has greater knowledge of the nature and extent of the marital estate. Unless Plaintiff complies with discovery, Defendant will be limited in her ability to litigate all pending issues before this Court and will therefore likely suffer grave financial hardship as a result of not being awarded her fair and equitable portion of the marital estate. Plaintiff has willfully failed to timely and fully respond to discovery and has shown his total disregard for the discovery process. It is clear that Plaintiff is unwilling to cooperate and will not comply unless compelled to do so by order of this Court.

14.

To resolve this dispute, Plaintiff must produce, at a minimum, the currently outstanding documents that are set forth below:

- (i) Lending Club Debt Consolidation Loan ending in 2018: Statements from January 1, 2016 through present;
- (ii) ABA Care account ending in 6664: Statements from January 1, 2016 through present;
- (iii) AES account referenced in DRFA: Statements from January 1, 2016 through present;
- (iv) Home Depot account referenced in DRFA: Statements from January 1, 2016 through present;
- (v) Any and all accounts held with Bank of America: Statements from January 1, 2016 through present.
- (vi) Any and all account held with Wells Fargo: Statements from January 1, 2016 through present.
- (vii) Any and all personal bank accounts: Statements from January 1, 2016 through present;
- (viii) Any and all joint bank accounts referenced in Interrogatories: Statements from January 1, 2016 through present;

- (ix) Wells Fargo IRA Account ending in 0540: Statements from June 30, 2019 through June 30, 2020, and June 1, 2021 through present;
- (x) Transamerica Life Insurance Policy: Statements from January 1, 2016 to present;
- (xi) Marital Residence: Deed, Note, and most recent mortgage statement;
- (xii) Personal Tax Returns: 2016 through 2020, and 2022 when filed;
- (xiii) Pay stubs, or other income statements from 2016 through present;
- (xiv) Full and complete responses to Interrogatories numbered 2(c), 8, 9, 16, 17, 18, 20, 22, and 24; and
- (xv) Full and Complete responses to 1-16 of Defendant's Request for Production of Documents to Non-Party Wade, Bradley & Campbell Firm, LLC.

15.

Plaintiff shows that O.C.G.A. § 9-11-37(a)(4)(A) provides as follows:

"If the motion is granted, the court shall, after opportunity for hearing, require the party or deponent whose conduct necessitated the motion or the party or attorney advising such conduct or both of them to pay to the moving party the reasonable expenses incurred in obtaining the order, including attorney's fees, unless the court finds that the opposition to the motion was substantially justified or that other circumstances make an award of expenses unjust."

O.C.G.A. § 9-11-37(a)(4)(A).

16.

Plaintiff had also been wholly uncooperative and non-compliant during this discovery process thereby prolonging the resolution of this case. Defendant has been forced to chase down even the most basic information needed to fairly litigate the issues. Plaintiff previously filed a motion to mediate within 30 days, and for a final trial within 60 days but, in bad faith, refuses to cooperate in the steps necessary in order for the parties to actually mediate or litigate the issues in good faith. In fact, due to Plaintiff's refusal to cooperate, mediation that was set for April 18, 2022 had to be cancelled with no reschedule date in sight. As such, Defendant requests reimbursement of her reasonable attorney's fees and costs incurred in issuing non-party subpoenas to obtain requested documents and for having to bring forth this motion caused solely by the actions of Plaintiff pursuant to O.C.G.A. §19-6-2 and O.C.G.A. § 9-11-37(a)(3).

17.

As detailed herein-above, due to Plaintiff's bad faith and failure to respond to discovery Defendant requests that this Court grant the relief requested below.

WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief:

- a) That this Honorable Court issue an Order compelling Plaintiff to respond fully to Defendant's discovery requests within thirty (30) days from entry of such Order;
- b) That this Honorable Court award Defendant reimbursement of her reasonable attorney's fees and costs incurred in issuing non-party subpoenas to obtain requested documents and for having to bring forth this motion;
- c) That this Honorable Court order Plaintiff to appear before the Court on a date certain to show why the prayers of Defendant should not be granted;
- d) That this Honorable Court impose any and all other sanctions on Plaintiff for his failure to respond to Defendant's discovery requests as this Court deems just and proper; and
- e) That this Honorable Court award Defendant such other and further relief as it deems just and proper.

This 21<sup>st</sup> day of February 2023.

Respectfully Submitted,

HASTINGS SHADMEHRY WRIGHT LLC

/s/ Andrea Hastings

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