

IN THE SUPERIOR COURT OF COBB COUNTY
 STATE OF GEORGIA
 FAMILY DIVISION

| | | |
|----------------|---|-------------------|
| NATHAN WADE, |) | |
| |) | |
| Plaintiff, |) | |
| |) | CIVIL ACTION |
| v. |) | |
| |) | FILE NO. 21108166 |
| JOYCELYN WADE, |) | |
| |) | |
| Defendant. |) | |

**DEFENDANT'S MOTION FOR CITATION OF CONTEMPT AND SECOND MOTION
 TO EXTEND MEDIATION DEADLINE**

COMES NOW, Defendant herefo, JOYCELYN WADE (hereinafter referred to as "Defendant"), by and through her undersigned counsel of record, and herewith files this her *Defendant's Motion for Citation of Contempt* in the above-styled action against NATHAN WADE, (hereinafter referred to as "Plaintiff"), showing this Honorable Court in support thereof as follows:

MOTION FOR CITATION OF CONTEMPT

1.

On or about November 2, 2021, Plaintiff filed his Complaint for Divorce. On or about November 30, 2021, Defendant filed an Answer and Counterclaim for Divorce.

2.

Defendant 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") on November 30, 2021, via electronic mail and US Mail. Plaintiff inadequately responded to Defendant's Discovery Requests on December 27, 2021.

3.

A 6.4(b) Letter, dated January 14, 2022, was sent to Plaintiff requesting more complete responses, 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.

4.

Defendant filed her Motion to Compel Discovery on February 15, 2022, and her Amended Motion to Compel Discovery on February 21, 2023.

5.

On May 10, 2023, this Honorable Court entered its Order Granting Defendant's Motion to Compel and Compelling Plaintiff to Provide Discovery Responses. Pursuant to said Order, Plaintiff was ordered to provide all outstanding documents to Defendant no later than May 8, 2023.

6.

On June 15, 2023, more than *one month* after the court-imposed deadline, Plaintiff inadequately responded to Defendant's Discovery Requests. Plaintiff failed to adequately produce and serve most of the required documents as delineated in the Order Granting Defendant's Motion to Compel. Plaintiff further failed to provide any interrogatory responses whatsoever.

7.

As of the date of the instant filing, the following items are still outstanding:

(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;

(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/Nathan J. Wade, P.C.

8.

Plaintiff was a partner/owner and the registered agent for Wade, Bradley & Campbell Firm, LLC, however, Plaintiff dissolved said practice during the pendency of this divorce case and is now "Partner" at Wade & Campbell Firm

LLC, per the company website. However, a search of the Georgia Corporations Division reveals no such registered entity but does reveal separate active entities for Nathan J. Wade, P.C. and Christopher A. Campbell, P.C. As such, Defendant requests that full and complete responses to 1-16 of Defendant's Request for Production of Documents to Non-Party be provided by Nathan J. Wade, P.C. and Christopher A. Campbell, P.C.

9.

Georgia law gives trial courts the power to inflict punishment for contempt when a person's misbehavior, such as the conduct of Plaintiff herein, obstructs the administration of justice. See O.C.G.A. § 15-1-1(a)(1). Further, courts of this State may hold a person in contempt when he or she disobeys an order of the court. See O.C.G.A. § 15-1-4(a)(3). Moreover, trial courts may impose fines of up to ONE THOUSAND AND 00/100 DOLLARS (\$1,000.00) and imprisonment for up to twenty (20) days for each violation of a court order to discourage any further violation of the Court's directives. See O.C.G.A. § 15-6-8(5).

10.

Plaintiff's failure to comply with this Court's order is willful.

11.

As such, Defendant respectfully requests that the Court find Plaintiff in willful contempt of this Honorable Court's Order Granting Defendant's Motion to Compel and Compelling Plaintiff to Provide Discovery Responses entered on

May 10, 2023 and compel Plaintiff to produce all requested discovery immediately.

SECOND MOTION TO EXTEND MEDIATION DEADLINE

12.

On January 3, 2022, the parties were served with a copy of a Notice of ADR Referral, which required that the parties schedule mediation prior to February 3, 2022.

13.

As Plaintiff continuously failed to provide any substantive responses to Defendant's discovery requests, Defendant was forced to file a *Motion to Compel Discovery* on February 15, 2022.

14.

On February 17, 2022, the Cobb County ADR office served the parties with a *Notice of Mediation Conference* indicating that mediation was scheduled for April 18, 2022.

15.

As Plaintiff refused to respond sufficiently to allow Defendant to prepare for mediation, Defendant filed a *Motion to Extend Mediation Deadline* on April 12, 2022. Said *Motion to Extend Mediation* is unopposed and is still currently pending with the Court.

16.

On July 21, 2023, the Cobb County ADR office served the parties with a second Notice of Mediation Conference indicating that mediation is now scheduled for August 25, 2023.

17.

Without the requisite discovery documents, Defendant will not be able to properly prepare for and/or attempt to negotiate settlement at mediation. As such, Defendant respectfully requests that the Court extend the deadline to attend mediation by an additional ninety (90) days.

18.

Pursuant to Georgia Uniform Superior Court Rule 6.7, the Court may shorten the response time requirement on any matter requiring such expedited procedure. As the parties have mediation scheduled for August 25, 2023, Defendant requests that the response time for Plaintiff to respond to the instant motion be shortened to fifteen (15) days.

19.

Pursuant to Georgia Uniform Superior Court Rule 25.6, the Court may consider a motion solely upon the affidavits, and rule on the merits of the motion making written findings and conclusions. As such, Defendant requests that the Court rule on the merits of this motion without an evidentiary hearing.

Defendant has incurred reasonable attorney's fees and costs of litigation due to the willful actions of Plaintiff and as such is entitled to an award of fees pursuant to O.C.G.A. §§ 9-15-14(a) and/or (b) and all other applicable statutes. Defendant requests that this Court cast all attorney's fees and costs affiliated with this Motion and any hearing on same against Plaintiff pursuant to O.C.G.A. § 19-6-2 and O.C.G.A. § 9-15-14.

WHEREFORE Defendant prays as follows:

- a) That process issue and Plaintiff be served with this Motion pursuant to the laws of the State of Georgia;
- b) That the response time for Plaintiff to respond to the instant motion be shortened to fifteen (15) days;
- c) That this Court rule on the merits of this motion without an evidentiary hearing;
- d) That this Motion for Citation of Contempt and Second Motion to Extend Mediation be GRANTED;
- e) That this Court find Plaintiff to be in willful contempt and punish him up to and including incarceration;
- f) That this Court compel Plaintiff to produce all requested discovery immediately;
- g) That the Court extend the deadline to attend mediation by ninety (90) days;
- h) That Plaintiff be ordered to pay Defendant's attorney's fees and expenses of litigation in connection with the filing and bringing of this Motion; and

- i) That this Court GRANT Defendant such other and further relief as it deems just and proper under the circumstances.

This 2nd day of August, 2023.

Respectfully Submitted,

HASTINGS SHADMEHRY WRIGHT LLC
/s/ Mali C. Shadmehry
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