

**IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA**

NATHAN WADE,

PLAINTIFF,

V.

JOYCELYN WADE,

DEFENDANT.

CIVIL ACTION FILE

NUMBER: 21-1-8166-68

DEFENDANT'S MOTION TO REOPEN DISCOVERY

COMES NOW, JOYCELYN WADE, by and through her attorney of record, and files this *Defendant's Motion to Reopen Discovery* pursuant to Uniform Superior Court Rule 5.1 and the discretionary power of this Court and in support of same, respectfully shows as follows:

INTRODUCTION

1.

This divorce case was filed by Plaintiff, Nathan J. Wade, on November 2, 2021. Since that date, Plaintiff has engaged in a pervasive pattern of what can only be described as a willful and deliberate effort on the part of Plaintiff to withhold information and documents which are relevant to the instant divorce action and necessary for Defendant to properly defend herself and assert her claims regarding alimony and equitable division of marital property. Defendant recently learned that Plaintiff was appointed the Anti-Corruption Special Prosecutor for the Fulton County District Attorney's Office in the matter of The

State of Georgia v. Donald John Trump et. al., CAFN 23SC188947, Superior Court of Fulton County, Atlanta, Georgia on or about November 1, 2021. As stated, Plaintiff filed the instant divorce action from his wife of twenty-six (26) years on or about November 2, 2021. Upon information and belief, Plaintiff has earned no less than a half million dollars in his role as Special Prosecutor in the criminal case against Donald Trump and his alleged co-conspirators. Plaintiff has not produced one single document evidencing this income. Plaintiff has not produced one single bank statement indicating where those funds have gone. Plaintiff has knowingly obfuscated this civil litigation to his own ends. Furthermore, while earning such substantial sums, Plaintiff has provided nearly nothing to Defendant for her support and survival as her own bank account is often in overdraft.

Plaintiff has engaged in a pattern of repeated obstruction of Defendant's ability to prepare to assert her claims and/or defense in any reasonable manner in this litigation. Defendant timely served discovery requests in the instant action, to which Plaintiff refused to properly respond. Defendant served subpoenas upon Plaintiff's law firm in order to attempt to obtain financial information, to which Plaintiff and his law firm refused to respond. Defendant was forced to file a Motion to Compel, and this honorable Court required Plaintiff to provide the very discovery Defendant has been diligently seeking. Defendant was then forced to file a Motion for Contempt of this Court's order for Plaintiff's ongoing willful and persistent refusal to meaningfully participate in the very discovery process to which he submitted upon filing this action. On or about August 17, 2023, Plaintiff

was then held in contempt by the Court for his willful failure to provide discovery. After the hearing at which Plaintiff was found in contempt, Plaintiff then provided a smattering of documents that essentially provide Defendant with no opportunity to assess the marital estate, Plaintiff's income, and to properly prepare Defendant's claims and defenses.

This behavior of the part of Plaintiff is the most gross display of abuse of the process to which Plaintiff availed himself on or about November 2, 2021. In order for this case to move forward, for Defendant to have any hope of properly asserting her claims and defenses in this case, Defendant implores this Court to reopen and extend the discovery period in this matter until the time of trial. Defendant further respectfully requests time and the opportunity to obtain the documents and information Plaintiff has so clearly withheld. Defendant has been placed in a position where she must complete nonparty discovery and potentially depositions in order to gather all relevant financial and conduct-related information pertaining to Plaintiff, his income, and his business(es), as said discovery is relevant and critical to the issues of equitable division, alimony, attorney's/expert's fees, and establishing the grounds for divorce in this case. Thus, Defendant respectfully requests that this Court extend the discovery period until ten (10) days prior to trial in this case so that Defendant can adequately obtain the information and documents that Plaintiff refuses to produce.

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

2.

The instant action is one for divorce, the parties having been married on June 21, 1997. Plaintiff filed this case on November 2, 2021, and Defendant filed her *Answer and Counterclaim for Divorce* on November 30, 2021. Defendant anticipates that she will be amending her *Counterclaim for Divorce*, adding additional grounds for this divorce. At issue in this case are equitable division, temporary and permanent/final alimony, grounds for divorce, and temporary/final attorney's and expert's fees.

3.

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.

4.

A letter dated January 14, 2022, was sent to Plaintiff pursuant to USCR 6.4(b) requesting more complete responses, however, no further responses were received. Again, and in anticipation of mediation which then later had to be cancelled due to Plaintiff's refusal to provide discovery, another letter, dated April 4, 2022, was sent to Plaintiff outlining all discovery deficiencies.

5.

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

6.

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.

7.

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.

8.

Defendant filed her *Motion for Citation of Contempt and Second Motion to Extend Mediation Deadline* on August 2, 2023. The parties then appeared for a hearing on said Motion on August 17, 2023, and the Court issued its *Order on Defendant's Motion for Citation of Contempt and Second Motion to Extend Mediation Deadline* on the same day. Defendant's Motion was granted in full. The Court found Plaintiff in willful contempt of its May 10, 2023 Order and stated that, "[Plaintiff] may purge himself of this contempt by delivering the discovery

described in Paragraphs seven (7) and eight (8) of Defendant's Motion... within 10 days of the entry of this Order." The Court also extended the mediation deadline for another ninety (90) days and reserved the issue of attorney's fees.

9.

Since the entry of the August 17, 2023 Order, Plaintiff provided only piecemeal additional discovery documents but still has not fully responded to discovery. Plaintiff has failed to provide, for example, personal financials and/or financials for his business(es) including but not limited to tax returns, bank accounts, and credit card accounts related to Plaintiff's business(es) and account statements for his individual bank and credit card accounts. Plaintiff has also failed to provide adequate tax documents for both himself and his business(es), as well as basic financial information related to his business(es) such that an income for Plaintiff or marital value for said businesses can be calculated by Defendant's expert. Plaintiff has produced **no documents** regarding his income as the Anti-Corruption Special Prosecutor for the Fulton County District Attorney's Office in the matter of The State of Georgia v. Donald John Trump et al. or other business ventures in which he has been engaging prior to and during the pendency of this case.

10.

Defendant's review of the minimal documents provided by Plaintiff as well as recently obtained information regarding Plaintiff's current employment and business ventures has only led Defendant to conclude that significantly more

discovery is necessary. There are accounts and significant income which Plaintiff appears to have but has willfully refused to disclose.

11.

Plaintiff has dissolved and formulated entirely new business entities purportedly before and during the pendency of this case; yet, he has refused to comply with discovery so as to provide even the most basic of financials regarding same. For instance, 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. Essentially, Plaintiff is acting in ways which make him appear to be deliberately "transitioning" his business(es) in order to hide information.

12.

Further, Plaintiff is believed to be under contract with the Fulton County District Attorney's Office to provide special services related to anti-corruption matters and has been for multiple years. Plaintiff is believed to earn substantially under the terms of said contract(s) but has refused to provide information regarding same. An income cannot be established for Plaintiff in this case without said information, and obtaining said information will require nonparty discovery and depositions due to Plaintiff's refusal to provide same.

13.

Plaintiff's refusal to provide adequate documents in discovery or disclose full information in response to the Interrogatories paired with the fact that Plaintiff has been working intimately with the Fulton County District Attorney's Office as the Anti-Corruption Special Prosecutor for the Fulton County District Attorney's Office in the matter of The State of Georgia v. Donald John Trump et. al. while dissolving and creating multiple new law firms throughout the pendency of this case is extremely concerning. Plaintiff appears to be deliberately attempting to undermine this Court, the Georgia Civil Practice Act and Georgia law through his behavior during the pendency of this case.

14.

In order to reach a conclusion in this case, Defendant will need to complete significant non-party discovery and depositions based on the limited information which has been received to date in order to begin to obtain information regarding the marital estate and to properly assert Defendant's claims and/or defenses in this matter. What Plaintiff has provided has only illustrated that there is a need for a much more robust discovery production, and Plaintiff's behavior thus far indicates that he would rather drag out the instant litigation than produce what is required under Georgia law. Defendant merely seeks an opportunity for a level playing field in the dissolution of her twenty-six (26) year marriage.

ARGUMENT AND CITATION TO AUTHORITY

15.

Pursuant to Georgia Superior Court Rule 5.1, the discovery period expired in this case on May 30, 2021. For the foregoing reasons, Defendant respectfully requests that this Court re-open discovery pursuant to the Court's broad discretion under O.C.G.A. § 9-11-26 and Georgia Uniform Superior Court Rule 5.1, which states that, "In order for a party to utilize the court's compulsory process to compel discovery, any desired discovery procedures must first be commenced promptly, pursued diligently, and completed without unnecessary delay and within 6 months after the filing of the answer...At any time, the court, in its discretion, may open, extend, reopen or shorten the time to utilize the court's compulsory process to compel discovery."

16.

Defendant also requests that the Court grant this Motion without the need for a hearing pursuant to Georgia Uniform Superior Court Rule 6.3, which states that, "Unless otherwise ordered by the court, all motions in civil actions... shall be decided by the court without oral hearing."

17.

Specifically, Defendant seeks to engage in the procedure described by Unif. Sup. Ct. R. 6.4 to obtain complete responses to her previously served discovery requests and to serve additional Interrogatories, Requests for Production of Documents, and Requests for Admissions upon the Plaintiff.

Additionally, Defendant seeks the ability to depose the Plaintiff prior to trial, if necessary. Finally, Defendant seeks to preserve the ability to compel full and complete responses to the discovery requests through the Court's compulsory process as needed.

18.

Therefore, Defendant seeks an Order reopening the discovery period in this case for at least ten days prior to the final trial. By reopening the discovery period, Defendant will be able to properly evaluate the pending claims at issue and prepare for trial.

21.

Defendant shows that Plaintiff will not be unduly inconvenienced or prejudiced by reopening the discovery period. Indeed, Plaintiff's own bad faith, willful and obstructionist behavior necessitates that discovery be reopened.

22.

Defendant requests that this Court exercise its authority pursuant to Uniform Superior Court Rule 6.7 and shorten the deadline for Plaintiff to file a response to this Motion to ten (10) days.

23.

Defendant has been forced to incur attorney's fees and expensive with Plaintiff's ongoing abusive refusal to meaningfully participate in discovery, which has necessitated the filing of the instant Motion. Defendant requests an award of attorney's fees and expenses of litigation in connection with same.

WHEREFORE, Defendant respectfully requests:

- a) That the Court issue an Order reopening the discovery period for a period not less than ten days prior to the date of a final trial;
- b) That this Court exercise its authority and shorten the deadline for Plaintiff to file a response to this Motion to ten (10) days;
- c) That this Court rule on the instant Motion without the need for a hearing;
- d) That this Court Order that Plaintiff pay to Defendant a sum for attorney's fees and expenses of litigation in connection with the preparation, filing and pursuit of the instant Motion; and
- (e) For further such relief deemed necessary and in the interests of justice.

This 26th day of September, 2023.

HASTINGS SHADMEHRY WRIGHT LLC

ANDREA DYER HASTINGS

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CERTIFICATE OF SERVICE

I certify that I have this day, served a copy of the foregoing *Defendant's Motion to Reopen Discovery* upon Plaintiff, by and through his counsel of record, by statutory electronic service addressed as follows:

Leslie Gresham, Esq.
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This 26th day of September, 2023.

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