

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PINELLAS COUNTY, FLORIDA  
CIVIL DIVISION**

**JOHN WILLIAM LICCIONE,**  
Plaintiff,  
v.

Case No. 24-003939-CI

JULIE MARCUS, et al.,  
Defendants.

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**PLAINTIFF’S MOTION TO COMPEL DISCOVERY  
AGAINST DEFENDANTS JENNIFER GRIFFITH AND  
CATHY SALUSTRI LOPER AND  
REQUEST FOR EXPEDITED SHOW CAUSE HEARING**

COMES NOW, Plaintiff, John William Liccione ("Liccione"), pro se, and respectfully moves this Court to compel Defendants Jennifer Griffith ("Griffith") and Cathy Salustri Loper ("Loper") to produce documents responsive to Plaintiff's First Request for Production of Documents. Plaintiff further requests an *expedited* show cause hearing because there is an upcoming motion to dismiss hearing on November 12<sup>th</sup> and the records sought are critical to Plaintiff's defense against the motions to dismiss. The court has set a deadline of 5-days prior to the November 12<sup>th</sup> Zoom hearing for Plaintiff to submit his evidence and pleadings in defense against the motions to dismiss. As such, Defendant also moves for a postponement of the November 12<sup>th</sup> hearing until at least two weeks after the Defendants deliver the requested records to Plaintiff. Thus, time is of the essence. In support of this Motion, Plaintiff states as follows:

## FACTS

1. On September 12, 2024, Plaintiff served a narrowly tailored First Request for Production of Documents on Defendant Griffith along with the First Amended Complaint and Summons, giving her 45 days to produce the records. (EXHIBIT A)
2. Likewise, on September 13, 2024, Plaintiff served a narrowly tailored First Request for Production of Documents on Defendant Loper along with the First Amended Complaint and Summons, giving her 45 days to produce the records. (EXHIBIT B)
3. The request for document production served on Griffith and Loper were identical and contained only one request: *“All communications with any 3rd party pertaining to Plaintiff since May 1st of 2023.”*
4. Neither Griffith nor Loper have produced the requested documents and the 45-day deadline has now expired.
5. Neither Griffith nor Loper have filed an answer in response to the Request for Production, nor have they raised any objections, or privilege, nor have they filed a motion to extend the discovery deadline, nor a motion for a protective order.
6. Instead, the Defendants have ignored the Requests for Production and they have each filed a Motion to Dismiss. A 1-hour Zoom hearing on their motions to dismiss has now been scheduled for November 12, 2024 at 3PM via Zoom in front of Judge Muscarella.
7. In her hearing scheduling order, Judge Muscarella has directed the parties to submit all pleadings and evidence to the court *5 days prior* to the November 12<sup>th</sup> Zoom hearing.
8. This leaves Plaintiff without the records and evidence critical to his defense against the motions to dismiss and Plaintiff alleges that this is by design.

## LEGAL STANDARD

9. Florida Rule of Civil Procedure 1.380(a) permits a party to compel production when the opposing party fails to respond adequately to valid discovery requests.
10. When a party refuses to comply with discovery obligations without justification, Florida Rule of Civil Procedure 1.380(b) allows the Court to impose sanctions, including compelling production, awarding expenses, and even imposing punitive measures if the noncompliance is found to be willful or obstructive.
11. In *Thompson v. Citizens Nat'l Bank of Leesburg*, 433 So. 2d 32 (Fla. 5th DCA 1983), the court emphasized the necessity of procedural compliance in discovery to ensure fairness in judicial proceedings.

## ARGUMENT

### **I. Defendant's Failure to Comply with Discovery Obligations Justifies Expedited Compulsion and Postponement of the November 12<sup>th</sup> Motion to Dismiss hearing**

12. Plaintiff's request for production is narrowly focused on communications between the two Defendants and 3<sup>rd</sup> parties pertaining to Plaintiff since May 1, 2023.
13. By ignoring Plaintiff's discovery request while filing a Motion to Dismiss and obtaining a hearing on it scheduled for just two weeks after the discovery deadline has passed, Griffith and Loper are executing a calculated strategy designed to deprive Plaintiff of the evidence critical to his defense against their Motions to Dismiss.

## **II. Defendant's Conduct may be Sanctionable**

14. The U.S. Supreme Court has held in *Roadway Express, Inc. v. Piper*, 447 U.S. 752, 764 (1980), that sanctions serve to deter parties from ignoring procedural obligations, which is essential to maintaining judicial integrity. Here, Defendants' complete lack of compliance, rise to the level of sanctionable obstruction and abuse of process.

## **III. Defendants Griffith and Loper are attempting to prejudice Plaintiff's defense against their Motions to Dismiss by Ignoring Discovery Obligations**

15. Defendant Griffith and Loper's actions reveal a strategy to have this case dismissed through discovery non-compliance in an effort prejudice Plaintiff's case.

16. With the Zoom hearing now scheduled for November 12<sup>th</sup>, Plaintiff must submit all pleadings and evidence to the Court by November 7, 2024. The suspicious timing of their requests for hearing on their motions to dismiss suggests an attempt to affect an end run around their discovery obligations. If they succeed on their motions to dismiss, discovery is rendered moot. Griffith and Loper's discovery defiance hinders Plaintiff's ability to obtain relevant discovery essential to defending against dismissal.

17. **Discovery's Impact on the Motion to Dismiss:** Griffith and Loper's discovery delay tactics are especially prejudicial given that the requested discovery materials are directly relevant to the issues in Plaintiff's claims that are being challenged in their motions to dismiss. Access to this information, their communications with 3<sup>rd</sup> parties pertaining to Plaintiff, is critical for Plaintiff to present a complete factual record in opposition to their motions to dismiss. The absence of this discovery will deprive Plaintiff of essential evidence, while the two

Defendants benefit unfairly from an incomplete evidentiary record at the hearing by way of obstruction and willful concealment.

**18. Bad Faith in Evading Discovery Obligations:** Defendant's actions are a willful attempt to evade discovery obligations to prejudice Plaintiff's case.

Defendant has neither provided timely responses, sought a protective order, invoked any privilege, nor filed a motion to stay discovery, which indicates bad faith in choosing to violate discovery protocols where the Plaintiff is a pro se litigant. Under Florida Rule of Civil Procedure 1.380(b), such willful misconduct warrants sanctions, as it compromises the integrity of the judicial process itself by undermining Plaintiff's right to access relevant information before a potentially fully-dispositive motions hearing.

**IV. Court Intervention is Required to Prevent Prejudice to Plaintiff:**

19. Given the pending motion to dismiss hearing is in 14 days and the deadline for evidence and pleadings submittal is just 9 days away, Plaintiff respectfully requests that the Court intervene to compel the immediate production of all responsive documents and to give Plaintiff the additional time required to review Griffith's produced records before a motion to dismiss hearing is convened. An expedited Show Cause hearing is requested to ensure that Defendants Griffith and Loper are held accountable for their discovery defiance and to ensure no further procedural discovery violations will prejudice Plaintiff's case preparation for a motion to dismiss hearing. Finally, Plaintiff requests a postponement of the November 12<sup>th</sup> motion to dismiss hearing until at least two weeks after Griffith and Loper have delivered the requested records to him so he has adequate time to review the records and prepare his defense against their motions to dismiss.

**V. Defendants Motions to Dismiss are not Ripe for Consideration Due to Defendants' Willful Non-Compliance With the Rules of Discovery**

20. Florida Rules of Civil Procedure: Rule 1.380 – FAILURE TO MAKE DISCOVERY; SANCTIONS, outlines the sanctions that may be imposed for failure to make discovery, including compelling discovery and imposing sanctions such as entering a default judgment when a party acts with the intent to deprive another party of the information's use in the litigation, which is what is happening in this case to Plaintiff's detriment. This rule emphasizes the court's authority to ensure compliance with discovery obligations and the potential consequences of failing to respond to discovery requests.

21. Here, the appropriate “sanctions” are to compel Defendants to comply with Plaintiff's discovery requests, and to stay further proceedings; particularly the Motion to Dismiss hearing scheduled for just two weeks from today, until such time that all Defendants comply with the Court's order and deliver the requested documents to Plaintiff, and Plaintiff is afforded reasonable time to examine them.

**REQUEST FOR RELIEF**

**WHEREFORE**, Plaintiff respectfully requests that this Court:

- A. Compel Defendants Griffith and Loper to produce all documents responsive to Plaintiff's First Requests for Production of Documents.
- B. Schedule an expedited Show Cause Hearing for Defendants Griffith and Loper to explain their failure to comply with Plaintiff's discovery request;
- C. Postpone or otherwise stay the November 12<sup>th</sup> Motion to Dismiss hearing and set a future hearing date contingent on Defendants' discovery compliance.
- D. Grant any other relief this Court deems just and proper.

## REQUEST FOR EXPEDITED SHOW CAUSE HEARING

Plaintiff requests an expedited show cause hearing.

Respectfully submitted,

A handwritten signature in cursive script that reads "John W. Liccione".

John William Liccione  
Plaintiff, Pro Se  
6800 Gulfport Blvd S, Ste 201-116  
South Pasadena, FL 33707  
443-698-8156  
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### Attachments:

1. EXHIBIT A: Defendant Griffith Proof of Service
2. EXHIBIT B: Defendant Marcus Proof of Service
3. Motion to Shorten Time
4. Proposed Order

## CERTIFICATE OF SERVICE

I, John W Liccione, HEREBY CERTIFY that on this 29th day of October 2024, the foregoing Motion to Compel Discovery was filed with the Clerk of the Circuit Court by using the Florida Courts E-Filing Portal and simultaneously served through the E-Portal to George A.D. Thurlow, Esq., Attorney for Defendant Jennifer Griffith, James B. Lake, Attorney for Defendant Cathy Salustri Loper, Kirby Kreider, attorney for Julie Marcus, and via postage pre-paid first-class mail to Defendant Patrick Heinzen at 4200 54th Ave S #1382, St. Petersburg, FL 33711, and Defendant Mark Weinkrantz at 4738 Belden Circle, Palm Harbor, FL 34685.

A handwritten signature in black ink that reads "John W Liccione". The signature is written in a cursive, flowing style.

John W Liccione