

**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.**

_____ /

**MOTION TO SHORTEN TIME
FOR DEFENDANTS GRIFFITH AND LOPER TO RESPOND TO PLAINTIFF'S
MOTION TO COMPEL DISCOVERY**

COMES NOW, Plaintiff, **John William Liccione ("Liccione")**, pro se, and respectfully moves this Court to shorten the time for Defendants Jennifer Griffith and Cathy Salustri Loper to respond to Plaintiff's contemporaneously filed **Motion to Compel Discovery**. In support of this Motion, Plaintiff states as follows:

BACKGROUND

1. As stated in Plaintiff's contemporaneously filed Motion to Compel Discovery, on September 12, 2024, Plaintiff served a First Request for Production of Documents on Defendant Jennifer Griffith. On September 13, 2024, Plaintiff served an identical First Request for Production of Documents on Defendant Cathy Salustri Loper. Each request required a response within 45 days per Rule 1.350.
2. **Defendants' Noncompliance:** As of the date of this Motion, the 45 day discovery deadline has passed and neither Defendant has provided any response, sought a protective order, nor filed any objections to Plaintiff's discovery demands.

Both Defendants have instead filed Motions to Dismiss, which are now scheduled for a hearing on November 12, 2024 at 3:00 PM before Judge Muscarella. It is noted that Defendant Griffith filed her Motion to Dismiss on October 2, 2024, while Defendant Loper filed her Motion to Dismiss on October 3, 2024. As such, both Defendants had four *unencumbered weeks after* having filed their motions to dismiss, to produce the requested documents.

3. **Upcoming Deadlines:** The Court has set a deadline of November 7, 2024, for Plaintiff to submit all evidence and pleadings for the November 12 hearing. Given that the hearing is only 14 days away, and the filing deadline is 9 days away, Plaintiff seeks an expedited order compelling Defendants to produce the records sought to avoid prejudicing Plaintiff's defense. He also seeks a postponement of the November 12th hearing until at least two weeks after the Defendants have delivered the discovery materials to him.

LEGAL STANDARD

4. **Authority to Shorten Time:** Under Florida Rule of Civil Procedure 1.090(b), the Court may shorten the time required for parties to perform procedural actions such as responding to a motion to compel discovery in advance of a motion to dismiss hearing, for cause shown. Courts have discretion to shorten response deadlines where justice requires, especially when necessary to prevent prejudice.

ARGUMENT

DEFENDANTS' WAIVER OF RIGHT TO CONTEST DISCOVERY AND CONTEMPORANEOUS FILING OF MOTION TO COMPEL DISCOVERY

5. **Contemporaneous Filing of Motion to Compel Discovery:** Plaintiff has contemporaneously filed a **Motion to Compel Discovery** and a Request for a

Show Cause Hearing against Defendants Jennifer Griffith and Cathy Salustri Loper, requesting immediate compliance with Plaintiff's First Request for Production of Documents. Given the short timeline between today's date and the upcoming November 12, 2024, hearing on Defendants' Motions to Dismiss, Plaintiff's Motion to Compel Discovery would otherwise not be ripe for consideration until after the November 12th hearing, which would deprive Plaintiff of the necessary information critical to his defense due to Defendants' willful discovery non-compliance.

6. **Defendants' Waiver of Rights by Non-Response:** The Florida Rules of Civil Procedure, particularly Rule 1.380, along with case law such as *Bank of New York v. Calloway* (157 So. 3d 1064) and *American Funding, Ltd. v. Hill* (402 So. 2d 1369), establish that failing to respond to discovery requests within the required timeframe without filing objections, a motion for a protective order, or asserting privileges can result in the waiver of those rights. Specifically, Rule 1.380(d) addresses the failure of a party to attend their own deposition or serve answers to interrogatories or respond to a request for inspection, which can result in sanctions, including compelling discovery and requiring the non-compliant party to pay reasonable expenses caused by the failure. By failing to respond in any manner whatsoever to Plaintiff's discovery requests within the allotted 45-day period, Defendants Griffith and Loper have waived their rights to object to discovery if no good cause is shown for the failure to comply.
7. **Need for Immediate Court Intervention:** Due to the pressing deadline, Plaintiff respectfully requests that the Court grant the Motion to Shorten Time for Defendants to respond to Plaintiff's Motion to Compel Discovery, or in the

alternative, to immediately grant Plaintiff's Motion to Compel against both Defendants without any hearing. Without immediate intervention, Plaintiff will be unfairly prejudiced by Defendants' failure to comply with discovery obligations, as the motion to dismiss November 12 hearing date approaches.

8. **Urgency of Expedited Discovery:** The requested documents, communications between Defendants and third parties concerning Plaintiff, are essential for Plaintiff to counter the factual claims made in Defendants' Motions to Dismiss. Without this information, Plaintiff is unable to prepare a complete defense for the November 12 hearing, which risks unfairly prejudicing Plaintiff's case.

9. **No Prejudicing Defendants' Cases in Shortening Time to Respond**
Plaintiff argues that Defendants have prejudiced their own case through their own willful acts of discovery non-compliance, concealment, and obstruction. Postponing the Motion to Dismiss until after Defendant's have met their discovery obligations does not prejudice Defendants' cases in any manner.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

- A. Grant this Motion to Shorten Time for Defendants Jennifer Griffith and Cathy Salustri Loper to respond to Plaintiff's Motion to Compel Discovery
- B. Grant any further relief that the Court deems just and proper.

Respectfully submitted,



John William Liccione

Plaintiff, Pro Se

6800 Gulfport Blvd S, Ste 201-116

South Pasadena, FL 33707

443-698-8156

jliccione@gmail.com

CERTIFICATE OF SERVICE

I, John W Liccione, HEREBY CERTIFY that on this 29th day of October 2024, the foregoing Motion to Shorten Time 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 Kirby Kreider, attorney for Julie Marcus, George A.D. Thurlow, Esq., Attorney for Defendant Jennifer Griffith, James B. Lake, Esq., Attorney for Defendant Cathy Salustri Loper, 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.