

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,  
JENNIFER GRIFFITH,  
MARK WEINKRANTZ,  
CATHY SALUSTRI LOPER,  
PATRICK HEINZEN,  
OTHER UNKNOWN CO-CONSPIRATORS,  
Defendants.

**DEFENDANT GRIFFITH'S CONSOLIDATED MEMORANDUM IN OPPOSITION TO  
PLAINTIFF'S MOTION TO COMPEL RESPONSES TO REQUEST FOR  
PRODUCTION AND MOTION TO SHORTEN TIME TO RESPOND TO REQUEST  
FOR PRODUCTION**

Defendant, JENNIFER GRIFFITH, by and through her undersigned counsel, hereby files this Consolidated Memorandum in Opposition to Plaintiff's Motion to Compel Responses to Request for Production and Plaintiff's Motion to Shorten Time to Respond to Request for Production, and in support thereof states as follows:

1. On October 29, 2024, Plaintiff filed a Motion to Compel Responses to Request for Production against Defendant Griffith (as well as Defendant Loper) alleging that Ms. Griffith was served a Request for Production alongside the Amended Complaint on September 12, 2024, and did not respond within forty-five (45) days as required by the Rules of Civil Procedure.
2. In *arguendo*, if Plaintiff's assertion regarding the service of the Request for Production is accurate, the deadline to respond would have been October 28, 2024.
3. In spite of Plaintiff's allegations that a Request for Production was served on Ms. Griffith, the court file has no indication that a Request for Production was filed on Ms. Griffith until October 19, 2024 (Doc # 49).

*Liccione v. Marcus, et al*  
Case No. 24-003939-CI  
Defendant Griffith's Memorandum in Opposition  
to Plaintiff's Motion to Compel and Motion to Shorten Time  
Page 1 of 4

4. Based on the October 19, 2024 filing date of the Request for Production, Defendant's counsel believed that responses were due on or before November 20, 2024.
5. Undersigned counsel was not provided with a copy of any Request for Production which may have been served alongside the Amended Complaint.
6. Plaintiff made no effort to confer with counsel for Ms. Griffith as required for an *ex parte* order under local Administrative Order No. 2020-011 PA/PI-CIR regarding the purported failure to respond to the Request for Production.
7. Any failure to respond on or before October 28, 2024, if such date was actually a deadline for a response, was due to mistake, ambiguity or excusable neglect, and not out of any desire to delay providing response. Therefore, good cause exists for the failure to respond.
8. Without waiving the arguments stated above, in an abundance of caution, Defendant Griffith will file initial responses and/or objections to the Request for Production alongside this Memorandum on October 29, 2024—ten (10) days after counsel was served a copy of the Request.
9. In addition to his Motion to Compel, Plaintiff seeks expedited discovery from Defendants on the grounds that there is an upcoming hearing on Defendants' Motions to Dismiss, and seeks a continuance of that hearing due to no discovery responses being received.
10. Plaintiff's argument is entirely founded upon this Court's practice preference that evidence and pleadings be submitted to the Judge in hard copy on or before November 7, 2024, for the November 12, 2024 hearing on Defendants' Motions to Dismiss.
11. Notably, the November 12, 2024 hearing is not noticed as an evidentiary hearing. Therefore, Plaintiff will be unable to introduce evidence at such hearing.
12. Hearings on Motions to Dismiss are rarely held as evidentiary hearings. A Motion to Dismiss is a purely technical motion dealing with issues of law in which generally only evidence contained within the four corners of Plaintiff's Amended Complaint may be considered. *Steiner Transocean Ltd. v. Efremova*, 109 So. 3d 871, 873 (Fla. 3d DCA 2013). While exceptions to that general rule exist, Plaintiff's Request for Production does not touch on the procedural and technical issues raised within Defendant Griffith's

Motion to Dismiss nor would Defendant Griffith have documents or communications in her possession that would defeat dismissal under Florida's anti-SLAPP statute. See *Id.*

13. No case law supports Plaintiff's contention that he is entitled to a continuance of the Motion to Dismiss hearing. Even with summary judgment, "Summary judgment may be granted, even though discovery has not been completed, when the future discovery will not create a disputed issue of material fact." *Estate of Herrera v. Berlo Indus., Inc.*, 840 So. 2d 272, 273 (Fla. 3d DCA 2003). Further, "[a] trial court has the discretion to deny a continuance of a summary judgment hearing where the outstanding discovery items are immaterial to the dispositive issues in the case." *Crespo v. Fla. Entm't Direct Support Org.*, 674 So. 2d 154, 155 (Fla. 3d DCA 1996). Simply put, the discovery being sought by Plaintiff is immaterial to the issues raised in Defendant's Motion to Dismiss, and thus this Court can resolve those issues in spite of pending discovery.
14. Accordingly, whether or not the Defendants have responded to Plaintiff's discovery requests is irrelevant to the Court being able to hear Defendants' non-evidentiary Motion to Dismiss.
15. Additionally, granting a continuance would be a violation of Defendant's rights under Fla. Stat. § 768.295. Ms. Griffith's Motion to Dismiss seeks dismissal pursuant to Fla. Stat. § 768.295. Fla. Stat. § 768.295(4) states that "As soon as practicable, the court shall set a hearing on the motion, which shall be held at the earliest possible time after the filing of the . . . response" to the Defendant's Motion. Plaintiff filed his response to Defendant Griffith's Motion to Dismiss on October 16, 2024 (Doc # 45). Thus, it is practicable to have a hearing on November 12, 2024.

WHEREFORE, Defendant, JENNIFER GRIFFITH, respectfully requests that this Court enter an Order (1) denying Plaintiff's Motion to Compel; (2) denying Plaintiff's Motion to Shorten Time; and (3) denying Plaintiff's request for a continuance of the November 12, 2024 Motion to Dismiss hearing.

Dated: October 29, 2024

/s/ George A.D. Thurlow  
George A.D. Thurlow, Esquire  
FBN 1019960

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing was served upon all counsel of record and John William Liccione, Plaintiff *Pro Se*, via the Florida E-Filing Portal on this 29<sup>th</sup> day of October, 2024 and served via US Mail to:

Mark Weinkrantz  
4738 Belden Circle  
Palm Harbor, FL 34685

/s/ George A.D. Thurlow  
George A.D. Thurlow, Esquire  
FBN 1019960  
Rahdert & Mortimer, PLLC  
535 Central Avenue, Suite 200  
St. Petersburg, FL 33701  
Phone: (727)823-4191  
Fax: (727)823-6189  
Email: [gthurlow@rahdertlaw.com](mailto:gthurlow@rahdertlaw.com)  
[tmccreary@rahdertlaw.com](mailto:tmccreary@rahdertlaw.com)  
[service@rahdertlaw.com](mailto:service@rahdertlaw.com)

Attorney for Defendant,  
GRIFFITH