

IN THE SUPERIOR COURT OF FORSYTH COUNTY

STATE OF GEORGIA

ELIZABETH ANDERSON,

Plaintiff,

v.

JOHNNY ANDERSON,

Defendant.

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Civil Action

File No. 20CV-4321-1

MOTION TO COMPEL DISCOVERY

COMES NOW the Defendant, Johnny Anderson, by and through counsel and files this his *Motion to Compel Discovery* against the Plaintiff, Elizabeth Anderson. In support of this Motion, the Defendant shows as follows:

PROCEDURAL HISTORY

1.

This matter is currently pending before this Court on Plaintiff's *Complaint for Divorce* against the Defendant filed August 1, 2020 and Defendant filed his *Answer and Counterclaim* on August 19, 2020.

2.

On September 15, 2020, the Defendant served the Plaintiff with *Defendant's First and Continuing Interrogatories to Plaintiff* and *Defendant's First Notice to Produce and Request for Production of Documents to Defendant*.

3.

Plaintiff's discovery responses were due to Defendant no later than October 15, 2020. See an accurate copy of the Interrogatories, Notice to Produce and *U.S.C.R. 5.2 Certificate of Service*

attached hereto as Exhibits “A”, “B” and “C” respectively. Discovery was e-mailed by Patterson Moore Butler paralegal, Marissa Wood on September 15, 2020 via STATUTORY ELECTRONIC SERVICE.

4.

On October 22, 2020, Plaintiff’s counsel provided Response to Defendant’s First and Continuing Interrogatories to Defendant, but did not respond to the Defendant’s First Notice to Produce and Request for Production of Documents.

5.

On November 1, 2020, Defendant’s counsel sent a good faith letter pursuant to Georgia Uniform Superior Court Rule 6.4, requesting that the Plaintiff provide her outstanding discovery responses without objection and by the close of business on Wednesday, November 10, 2020. A copy of this Good Faith Letter is attached hereto as Exhibit “D.”

6.

On November 24, 2020, Counsel received Plaintiff’s Response to Defendant’s First Notice to Produce and Request for Production of Documents. However, these documents were barebones and included only pictures of the actual documents requested.

7.

On December 1, 2020, Defendant’s counsel sent a second good faith letter pursuant to Georgia Uniform Superior Court Rule 6.4, requesting that the Plaintiff provide her outstanding discovery responses without objection and by the close of business on December 15, 2020. Further, counsel stated in her e-mail that this information is needed prior to mediation, as mediation is scheduled for December 18, 2020. A copy of this Good Faith Letter is attached hereto as Exhibit “E.”

8.

To date, Plaintiff has failed to provide a full response to *Defendant's First Notice to Produce and Request for Production of Documents to Plaintiff*.

Argument and Citation to Authority

9.

The Defendant files this *Motion to Compel Discovery* pursuant to Uniform Superior Court Rule 6.4 and O.C.G.A. § 9-11-37 seeking an order to compel the Plaintiff to fully produce documents responsive to *Defendant's First Notice to Produce and Request for Production of Documents to Plaintiff*.

10.

Uniform Superior Court Rule 6.4 states,

prior to filing a motion seeking resolution of a discovery dispute, counsel for the moving party shall confer with counsel for the opposing party and any objecting persons or entity in a good faith effort to resolve the matters.

11.

Here, Defendant's counsel sent communication to Plaintiff's counsel and allowed Plaintiff time beyond the date due to respond; however, Plaintiff has failed to fully comply and produce the necessary documents.

12.

"There is no requirement in U.S.C.R. 6.4 that counsel for the movant make more than one attempt to resolve the discovery matter." Deep South Constr. v. Slack, 248 Ga.App. 183, 546 S.E.2d 302 (2001), cited in Gropper v. STO Corp., 276 Ga. App. 272, 277, 623 S.E.2d 175, 181 (2005). Here, Defendant has made multiple attempts to resolve the dispute and has allowed Plaintiff time to respond or resolve the issues.

13.

This case has been pending for months. The discovery responses are needed in order to have full disclosure of all marital assets and debts for preparation for mediation and for a final trial to be set. Plaintiff is causing unnecessary and purposeful delay.

14.

Defendant has been forced to incur attorney's fees to bring this Motion to Compel Discovery to require the Plaintiff to provide responses to Defendant's discovery requests. Defendant seeks for the Plaintiff to pay his costs association with this Motion pursuant to O.C.G.A. §§ 9-11-37, 9-15-14 and any other applicable law.

WHEREFORE, Defendant prays that:

- (a) That the Court, read and consider Defendant's Motion;
- (b) The Plaintiff be ordered to respond to discovery as noted;
- (c) That a Rule Nisi issue setting a date certain for Plaintiff to appear before this Court to explain why the requests of Defendant should not be granted; and
- (d) Defendant have such other relief as the Court may deem just and necessary including sanctions and attorney's fees pursuant to O.C.G.A. § 9-11-37, 9-15-14, and any other applicable law.

This _____ day of _____, 2021.

PATTERSON MOORE BUTLER, LLC
Attorney for Defendant

Jennifer D. Patterson
Georgia Bar No. 566519

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IN THE SUPERIOR COURT OF FORSYTH COUNTY

STATE OF GEORGIA

WAYNE EDWARD REIDY,

Plaintiff,

v.

MYRA MONROE REIDY,

Defendant.

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Civil Action

File No. 20CV-1099-3

CERTIFICATE OF SERVICE

I hereby certify that I have served upon the Plaintiff (or counsel thereof) the foregoing ***Motion to Compel Discovery***, by certified United States mail with sufficient postage attached thereon to ensure proper delivery, and by email, addressed as follows:

Jane Smith

The Law Office of Jane Smith
432 Statute Drive
Cumming, Georgia 30040
janesmith@aol.com

This ____ day of _____, 2021.

PATTERSON MOORE BUTLER, LLC
Attorney for Defendant

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Georgia Bar No. 566519

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