

**IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT IN
AND FOR PALM BEACH COUNTY,
FLORIDA**
Family Division
Case No. 501971DR004137XXDIFD

**In Re Marriage of
WILLIAM A. CABANA**
Petitioner, Former Husband, *pro se*

and

**SHARON ANN MAYO f/k/a
SHARON ANN CABANA**
Respondent/Former Wife.

**Former Husband's Motion to Deny Former
Wife's Motion for Sanctions**

COMES NOW WILLIAM A. CABANA, *pro se*, respectfully requesting this court to Deny Former Wife's Motion for Sanctions on the basis that Former Husband had complied with the court order compelling discovery in a timely manner. Opposing counsel has moved with unclean hands because of rules violations herself and therefore sanctions are not appropriate. In support he offers,

1. On November 17, 2005, Former Wife filed an ex-parte motion to compel discovery and mailed Former Husband a copy.
2. On November 21, 2005, this court granted the motion and issued an order to comply within ten (10) days, which was mailed to Former Husband.
3. On November 30, 2005, Former Husband served Former Wife and filed the following documents with the court:

- a. Notice of Service of Former Husband's Answers To Former Wife's Interrogatories For Modification Proceedings In Compliance With Order Dated November 21, 2005
 - b. Former Husband's Response To Second Request To Produce In Compliance With Order Dated November 21, 2005
4. Fla. R. Civ. P. 1.090 states:
- (a) **Computation.** In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included.
 - (e) **Additional Time after Service by Mail.** When a party has the right or is required to do some act or take some proceeding within a prescribed period after the service of a notice or other paper upon that party and the notice or paper is served upon that party by mail, 5 days shall be added to the prescribed period.
5. In computing the time according to the rules, the starting date is the 22nd and runs for 15 days through to the 6th of December.
6. On December 1, 2005, at 4:20 p.m., opposing counsel faxed a Motion for Sanctions and a Notice of Hearing for December 8th to Former Husband. The Motion was filed far short of the time allotted Former Husband for reply.
7. Opposing counsel has unclean hands in violating the Fla. R. Civ. P. 1.090.
8. Former Husband objects to Former Wife's sanction motion filings that apparently are willful, malicious and strictly intended to cause harm and prejudice the court against him.
9. Former Wife has filed 38 primary pleadings and only 9 replies/responses against Former Husband. Former Husband has filed 31 primary pleadings and 24 replies/responses.

In summary:	<u>Mayo</u>	<u>Cabana</u>
Motions on Rules of Procedure	17	4
Motions for Sanctions	3	0
Primary Motions	10	10
Procedural Motions and Notices	28	21
Memorandums of Law	0	5
Answers/Replies	9	24

WHEREFORE WILLIAM A. CABANA prays that the Court take jurisdiction over this matter, enter such orders as are appropriate to expedite consideration of this motion, and:

1. Deny Former Wife's Motion for Sanctions and to retain jurisdiction to sanction Former Wife appropriately.
2. Awarding WILLIAM A. CABANA all costs pursuant to F.S. §86.011 and F.S. §57.041, for the defense of this motion.
3. For such and other relief that may be proper.

Respectfully submitted,



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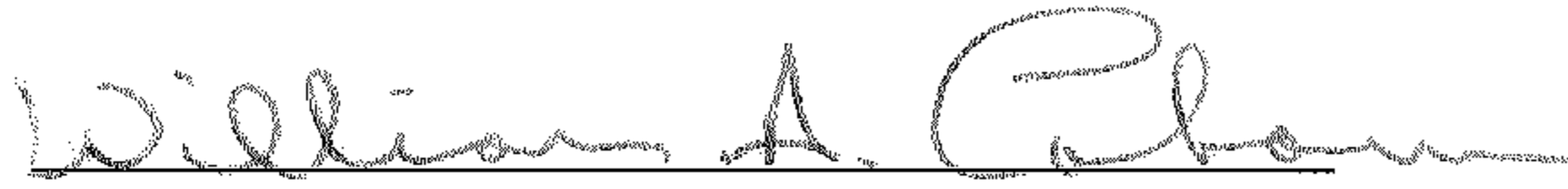
Telephone/Fax: 941-480-1395

Email: bcabana2@comcast.net

Dated: December 2, 2005

Certificate of Service

I certify that a copy of this Former Husband's Motion to Deny Former Wife's Motion for Sanctions was faxed and mailed to Cathy L. Kamber, Esq., Attorneys for former wife., 1675 Palm Beach Lakes Boulevard, The Forum, Tower A, Suite 700, West Palm Beach, FL 33401 this 2nd day of December, 2005



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