

**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 Injunctions,
For Sanctions, And For Other Relief

COMES NOW, WILLIAM A. CABANA, *pro se*, to move this court deny the Former Wife's Motion For Injunctions, For Sanctions, And For Other Relief and in support thereof states as follows:

1. This matter is before the Court on Former Husband's Supplemental Petition for Modification dated March 19, 2004 (DE 89) and Former Wife's Motion for Contempt dated February 4, 2004 (DE 84).
2. On August 18, 2005 Former Wife filed Former Wife's Emergency Motion For Injunctions, For Sanctions, And For Other Relief objecting to his website entitled Abolish-Alimony.org and its content.
3. Former wife alleges in § 2. that the establishment of the Abolish-Alimon.org website for the sole "*purpose of causing damage to Former Wife*" is without any

supporting evidence or substantiation. Former Wife's allegation is erroneous and groundless.

4. The stated intent of the website is to inform other alimony sufferers of the respondent's experience that they may self educate themselves and learn.

5. Former Wife indicates in § 2. that the "*further purpose of generating revenues to himself*." Offering the public information via the Internet with a goal of making income is public policy. The materials on the website are all in the public domain and open public filings in the clerk of court's office 15th Judicial Circuit Court.

6. Former Wife's claims of harassment, intimidation and actions are groundless and meant to prejudice this court.

7. Former Wife has stated no material legal basis for this court to shut down the website at issue.

8. Former Wife has not proved that Former Husband has violated any law regarding the website's content.

9. Disagreement with the content of a website is no basis for abrogating Former Husband's Constitutional right to Freedom of Speech to express his views through the use of the website.

10. Former Wife has provided no evidence supporting a claim that immediate and irreparable injury, loss, or damage will result to the movant.

11. Former Wife's statement § 6.in her motion indicating Former Husband's "*intention to defend the pending Motion for Contempt by causing Former Wife to incur legal fees and expenses to thereby harass and intimidate Former Wife efforts to collect alimony.*" is groundless and without merit. The Respondent simply and respectfully is

attempting to protect his right of privacy and make a good faith challenge to the constitutionality of the Florida alimony statutes. His failure to acquiesce to each discovery request of third party non-parties cannot be construed to be harassing or dilatory. On the contrary, the Former Wife's excessive requests to produce and subpoenas of third party non-parties while herself not complying with requests to produce from her rings hollow and represent unclean hands.

12. In defending himself against the Motion for Contempt or any other subsequent motions, Former Husband is only exercising the opportunity to protect his federal and state constitutional rights of privacy.

13. In § 7. Former Wife claims that she "verily believes that she has been the victim of identity theft," yet offered no evidence to support this allegation. Stating that she believes she "will be a victim of identity theft" is pure speculation and cannot be proved.

14. Former Wife has unclean hands in that she has committed the same violations of Former Husband's Right To Privacy in an identical manner that precludes her from obtaining relief as requested by her Motion For Injunctions, For Sanctions, And For Other Relief as follows:

A. Former Wife has filed the following Notices of Production From Non-Party that exposed Former Husband's Social Security Number by putting it in the public domain for any and all to see, in violation to his Right To Privacy, with the following documents:

- a. Notice of Production from Non-party - SouthTrust Bank (DE 113)
- b. Notice of Production from Non-Party - Paypal (DE 184)
- c. Notice of Production from Non-Party - Wachovia Securities (DE 185)
- d. Notice of Production from Non-Party - Premier Community Bank (DE 186)
- e. Subpoena Duces Tecum for Depositions - SouthTrust Bank (DE 145)
- f. Notice of Taking Depositions Duces Tecum - Wachovia Securities (DE 201)

- g. Notice of Taking Depositions Duces Tecum – Premier Community Bank (DE 202)
- h. Notice of Taking Depositions Duces Tecum – Paypal (DE 203)

B. Former Wife has filed the following Notice of Production From Non-Party that exposed Former Husband's Bank Account number by putting it in the public domain for any and all to see, in violation to his Right To Privacy, with the following documents:

- a. Notice of Production from Non-Party – Premier Community Bank (DE 186)
- b. Notice of Taking Depositions Duces Tecum – Premier Community Bank (DE 202)

15. The subpoenas used in the above items 14 (A) & (B) are defective resulting from the lack of including a necessary clause mandated by the Florida Statutes 92.605 (2)(a) It was not on any of the subpoenas indicated in 14 (A) & (B). Therefore, any evidence so obtained from these non-parties through the use of these subpoenas is not admissible in any of the proceedings in the instant case.

16. Former Wife cannot seek relief behind the same laws in which she is denying Former Husband efforts to seek relief for himself.

17. Only after Former Wife submitted the Motion For An Emergency Hearing to the court and a resulting Order from the Honorable Judge Colin denying her request for an emergency hearing was Former Husband made aware of the occurrences that were taking place. The Former Husband is concerned that ex parte proceedings may have occurred between opposing counsel and the court.

18. In Former Wife's "Temporary Injunction" submitted to the court, she has knowingly made material misrepresentations as follows:

a. In the first paragraph of her she indicated that she has met the requirements of F.R.Civ. P. Rule 1.610. She has not complied with items (A), (B) and (C). The rules state:

RULE 1.610 INJUNCTIONS

(a) Temporary Injunction.

(1) A temporary injunction may be granted without written or oral notice to the adverse party only if:

(A) it appears from the specific facts shown by affidavit or verified pleading that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and

(B) the movant's attorney certifies in writing any efforts that have been made to give notice; and

(C) the reasons why notice should not be required.

c. In Former Wife's Motion For Injunctions, For Sanctions, And For Other Relief §11. she specifically states that she "certifies that "no efforts" were made to give Former Husband notice" in direct violation of (1)(A) as shown by the word "and" which indicates in (B) that efforts have to be made to give notice to Former Husband.

19. In addition to his Constitutional right to Freedom of Speech, the Former Husband's rights to publish dissolution proceeding documents on the internet are established in the following cases of Amway v. Procter & Gamble, File No. 1:98-CV-726 (W.D.Mich. Jan. 6, 2000) (Bell, J.) (unpublished opinion)"which protects individuals who fairly and accurately report information that substantially represents matters contained in court records" and Barron v. Florida Freedom Newspapers, 531 So. 2d 113 (Fla. 1988) where the Florida Supreme Court affirmed that the Florida Legislature has mandated the openness of dissolution proceedings to the public. :

“We find no justification to give dissolution proceedings special consideration, as advocated by [the husband]. The parties seeking a dissolution of their marriage are not entitled to a private court proceeding just because they are required to utilize the judicial system. Dissolution proceedings are regulated by statute and are unique because the state is considered an interested third party to protect the public welfare. . . . While Florida, as a matter of public policy, has expressly made certain civil proceedings confidential . . . and some states have enacted legislation limiting public access to divorce proceedings[,] . . . the Florida Legislature has chosen not to do so. We conclude that dissolution proceedings must be treated similar to other civil proceedings . . . , and thus the presumption of openness applies.”

20. Fla.Sta. 119.01 General state policy on public records. — states that:

(1) It is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.

21. Amway v. Procter & Gamble, File No. 1:98-CV-726 (W.D.Mich. Jan. 6, 2000)

(Bell, J.) (unpublished opinion) states:

“The publication of defamatory matter concerning another in a report of an official action or proceeding or of a meeting open to the public that deals with a matter of public concern is privileged if the report is accurate and complete or a fair abridgement of the occurrence reported.”

22. A report from the The Supreme Court of Florida, titled, “Privacy Access and Court Records,” a *Report and Recommendations of the Committee on Privacy and Court Records*, Aug. 15, 2005 sought to come up with a better answer in one very important area: Internet availability of public court records. The Committee on Privacy and Court Records recognizes the great value in open government, and so plans to recommend that appropriate court records be accessible on the Internet. Their conclusion was:

“Once filed, judicial immunity protects the filer from liability for harm to reputation because the law of privacy holds that no person has an action for invasion of privacy based on the filing or publication of a court record.”

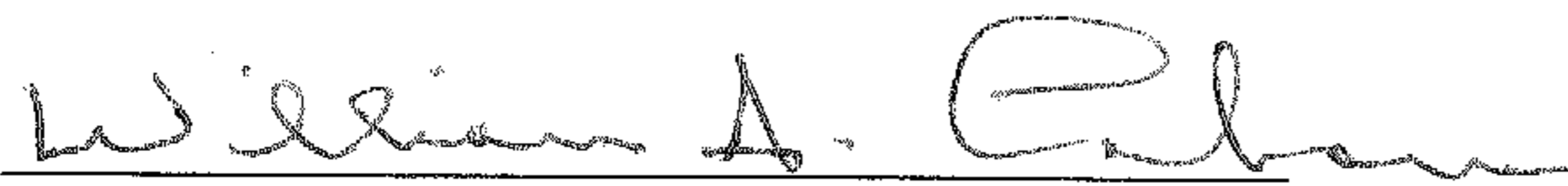
“The Right of Privacy in the Florida Constitution is intended to

protect people from unwarranted governmental intrusion into their personal lives. The judicial branch should take steps to ensure that the judicial process does not require litigants to disclose information without adequate reason.”

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 adjudicating Former Wife as follows:

1. Denying Former Wife’s requests for injunctions, sanctions and other relief based on her unclean hands, unsupported allegations and failure to show good reason the respondents’ First Amendment rights should not be protected.
2. Awarding WILLIAM A. CABANA all costs pursuant to F.S. §86.011 and F.S. §57.041, for the defense of this motion.

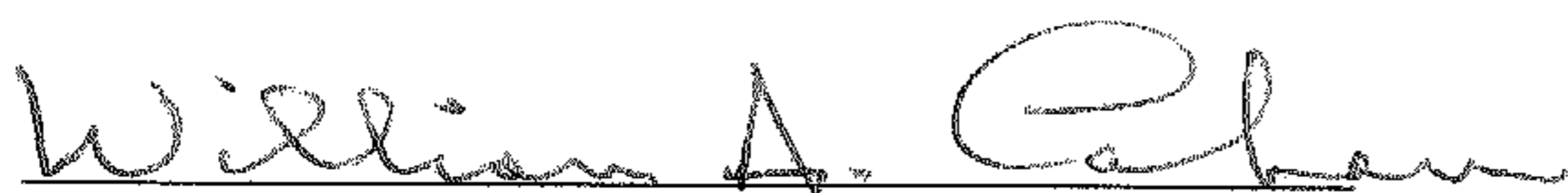
Respectfully submitted,



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Certificate of Service

I certify that a copy of this Addendum to Motion to Deny Former Wife’s Motion For Injunctions, For Sanctions, And For Other Relief was mailed, first class, to Cathy L. Kamber, P.A., Attorneys for former wife., 1675 Palm Beach Lakes Boulevard, The Forum, Tower A, Suite 700, West Palm Beach, FL 33401 this 31st day of August, 2005



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