

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT,
IN AND FOR PALM BEACH COUNTY, FLORIDA

IN RE: THE MARRIAGE OF

CASE NO: 501971DR004137XXDIFD

WILLIAM A. CABANA,
Petitioner/Former Husband,

FAMILY DIVISION

and

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

**FORMER WIFE'S MOTION TO VACATE EX-PARTE ORDER GRANTING
FORMER HUSBAND'S EX-PARTE MOTION TO COMPEL DISCOVERY
PURSUANT TO ADMINISTRATIVE ORDER NO. 5.011-9/92, SUBSECTION B**

COMES NOW the Former Wife, SHARON ANN MAYO, by and through her undersigned counsel, files her Motion to Vacate Ex-parte Order Granting Former Husband's Ex-parte Motion to Compel Discovery Pursuant to Administrative Order No. 5.011-9/92, Subsection B, and in support thereof states as follows:

1. On December 12, 2005, Former Husband filed his Ex-parte Motion to Compel Former Wife to provide better answers to his previously filed requests to produce.
2. Pursuant to Administrative Order No. 5.011-9/92, (B), this Court may enter a ex-parte order compelling compliance with a discovery demand "when a motion to compel discovery alleges a complete failure to respond or object to discovery..." (emphasis added).
3. Former Husband erroneously requested entry of an ex-parte order since each of Former Husband's requests to produce were responded to, as set forth in Former

Cabana v. Mayo
Former Wife's Motion to Vacate Ex-parte Order Granting Former Husband's Ex-parte Motion to Compel, Etc.
CASE NO: 501971DR004137XXDIFD
Page 2 of 3

Husband's motion and in Former Wife's Former Wife's Response to Former Husband's Ex-parte Motion to Compel Discovery Pursuant to Administrative Order No. 5.011-9/92, Subsection B.

4. Since Former Wife has responded to Former Husband's discovery requests, entry of an Ex-parte order is improper.

5. Notwithstanding the foregoing, on December 15, 2005, this Honorable Court entered an Ex-Parte Order compelling Former Wife to "answer the requests to produce ... to the extent not previously produced". As such, the Order entered is erroneous.

6. The Former Wife has incurred attorney's fees as a result of Former Husband's continued abuse of the discovery process, for which Former Husband should be held answerable.

WHEREFORE Former Wife prays that this Court enter an Order Vacating the Ex-parte Order Granting Former Husband's Ex-parte Motion to Compel Discovery Pursuant to Administrative Order No. 5.011-9/92, Subsection B, for an award of attorney's fee and costs, and for such order and further relief as may be proper.

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by U.S. Mail and facsimile to William A. Cabana, 1050 Capri Isles Blvd., #F105, Venice, FL 34292 on this 19 day of December, 2005.

Cabana v. Mayo

Former Wife's Motion to Vacate Ex-parte Order Granting Former Husband's Ex-parte Motion to Compel, Etc.

CASE NO: 501971DR004137XXDIFD

Page 3 of 3

CATHY L. KAMBER, P.A.
Attorneys for Former Wife
1675 Palm Beach Lakes Blvd.
The Forum, Tower A
Suite 700
West Palm Beach, FL 33401
Telephone: 561/868-1602

By: 

CATHY L. KAMBER, ESQ.
Florida Bar No. 312819

IN THE CIRCUIT COURT OF THE 15TH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

IN RE: THE MARRIAGE OF

CASE NO: 501971DR004137XXDIFD

WILLIAM A. CABANA,
Petitioner/Former Husband,

FAMILY DIVISION

and

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

NOTICE OF HEARING

(Former Wife Objects to Former Husband Appearing Via Telephone)

To: William A. Cabana
1050 Capri Isles Blvd., #F105
Venice, FL 34292

YOU ARE HEREBY NOTIFIED that the undersigned has called up for hearing the following:

DATE: December 27, 2005
TIME: 8:45 a.m.
JUDGE: Martin H. Colin
PLACE: Palm Beach County Courthouse, Room 6C
205 N. Dixie Highway, West Palm Beach, FL 33401
SUBJECT: **Former Wife's Motion to Vacate Ex-parte Order Granting Former Husband's Ex-parte Motion to Compel Discovery Pursuant to Administrative Order No. 5.011-9/92, Subsection B**

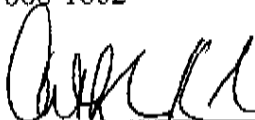
KINDLY BE GOVERNED ACCORDINGLY.

In accordance with the Americans with Disabilities Act, persons in need of a special accommodation to participate in this proceeding shall, not later than seven (7) days prior the proceedings, contact the Administrative Office of the Court, 205 No. Dixie Highway, West Palm Beach, FL 33401, telephone (561)355-2431, 1-800-955-8771 (TDD), or 1-800-955-8770 (V), via Florida Relay Service.

Cabana v. Cabana
CASE NO: 501971DR004137XXDIFD
Notice of Hearing
Page 2 of 2

I HEREBY CERTIFY that a true copy of the foregoing was furnished by U.S. mail and facsimile to the above named addressce this 17 day of December, 2005.

CATHY L. KAMBER, P.A.
Attorneys for Former Wife
1675 Palm Beach Lakes Blvd.
Suite 700
West Palm Beach, FL 33401
(561) 868-1602

By: 

CATHY L. KAMBER, ESQ.
Florida Bar #312819