

IN THE SUPERIOR COURT OF FULTON COUNTY

STATE OF GEORGIA

STATE OF GEORGIA,

v.

JEFFREY B. CLARK, ET AL.,

Defendants

Case No.

23SC188947

**JEFFREY B. CLARK'S ADOPTION AND OF SUPPLEMENT
TO DEFENDANT MICHAEL ROMAN'S, PRESIDENT
TRUMP'S, AND ROBERT CHEELEY'S MOTIONS TO
DISMISS OR DISQUALIFY**

**CALDWELL, CARLSON, ELLIOTT &
DELOACH, LLP**

BERNARD & JOHNSON, LLC

Harry W. MacDougald
Ga. Bar No. 463076
6 Concourse Pkwy.
Suite 2400
Atlanta, GA 30328
(404) 843-1956
hmacdougald@ccedlaw.com

Catherine S. Bernard
Ga. Bar No. 505124
5 Dunwoody Park, Suite 100
Atlanta, Georgia 30338
Direct phone: 404.432.8410
catherine@justice.law

Attorneys for Jeffrey B. Clark

TABLE OF CONTENTS

Introduction	2
Statement of Facts	4
Argument and Citation of Authority	11
I. The DA Is Disqualified Based on Her Conflicts of Interest and the Indictment Should Be Quashed as a Matter of Law.....	11
A. Special Duties of Prosecutors	11
B. The Georgia Rules of Professional Conduct	12
C. If the DA Is Disqualified, the Entire Office Is Disqualified.....	12
D. If the DA Is Found to Have Personal or Financial Interests in This Prosecution, the Indictment Must Be Dismissed.	14
II. The DA Violated Ga. RPC 3.8(g) in Her Remarks at the Big Bethel AME Church.	16
III. The DA Violated Ga. RPC 3.4(h) by Threatening to Criminally Investigate and Prosecute Mrs. Wade.	18
IV. The Fulton County Code Establishes That Both DA Willis and Mr. Wade Have an Unwaivable Statutory Conflict of Interest Because She Is an Officer or Employee of Fulton County and Has Received “Gift[s] or Favor[s]” from Mr. Wade, a Contractor with Her Office.	19
A. The Fulton County Code Establishes That the Actual Conflict of Interest Is Unwaivable Under Ga. RPC 1.7(b, c) Because DA Willis Evaded Required Board of Commissioners Approval of Mr. Wade’s Contracts.	21
B. Neither The DA nor Mr. Wade Disclosed Their Conflicts of Interest as Required by the County Code and the Georgia Rules of Professional Conduct.	33
C. Both the DA and Mr. Wade Engaged in Multiple Evasions of Paperwork and Conflict of Interest and Other Disclosures That Operated to Conceal Their Relationship and Facilitate Wade’s Concealment of His Income in His Divorce.	33
Conclusion	37

IN THE SUPERIOR COURT OF FULTON COUNTY

STATE OF GEORGIA

STATE OF GEORGIA,

v.

JEFFREY B. CLARK, ET AL.,

Defendants

Case No.

23SC188947

**JEFFREY B. CLARK’S ADOPTION OF AND SUPPLEMENT
TO DEFENDANT MICHAEL ROMAN’S, PRESIDENT
TRUMP’S AND ROBERT CHEELEY’S MOTIONS TO
DISMISS OR DISQUALIFY**

Comes Now Jeffrey Bossert Clark, and adopts:

1. “Defendant Michael Roman’s Motion to Dismiss Grand Jury Indictment as Fatally Defective and Motion to Disqualify the District Attorney, Her Office and the Special Prosecutor From Further Prosecuting This Matter” (the “Roman Motion”);
2. “President Trump’s Motion to Adopt and Supplement Co-Defendant Roman’s Motion to Dismiss Grand Jury Indictment as Fatally Defective and Motion to Disqualify the District Attorney, Her Office, and the Special Prosecutor from Further Prosecuting This Matter”; and
3. “Defendant Robert David Cheeley’s Motion to Dismiss the Grand Jury Indictment and Disqualify the District Attorney, her Office, and the Special Prosecutors.”

Mr. Clark further supplements those motions with the following argument and evidence:

INTRODUCTION

The DA has three stark conflicts that require a judicial intervention. First, she has a personal and financial interest in the prosecution through her personal relationship with Mr. Wade, the lucrative and improperly awarded contracts that enrich him, and the gifts and financial benefits that in turn flow back to her from Mr. Wade. A government official cannot accept gifts from a contractor whose contracts she approves, even if they do not have an intimate relationship.

The second conflict arises from the DA's speech from the pulpit of the Big Bethel AME Church pointing the finger of racism at those who discovered and asserted her conflicts of interest. Her motive in doing so was not merely stoking racial animus against the Defendants for its own invidious sake and to poison the jury pool corruptly enhancing her odds of securing a conviction and the fame and fortune that will bring to her in modern America, but to exploit racial resentments to get out of her own scandalous predicament, in flagrant violation of her professional responsibilities under Ga. RPC 3.8(g).

The third conflict is that in her motion for protective order in Mr. Wade's divorce, she exploited the power of her office to threaten Mrs. Wade with criminal investigation and prosecution, again to solve her own scandalous predicament, again in flagrant

violation of her duties as a prosecutor, and the duty falling on all lawyers under Ga. RPC 3.4(h) to not “threaten to present criminal charges solely to obtain an advantage in a civil matter.”

These grave conflicts of interest and misconduct require disqualification of the DA and her entire Office under *McLaughlin v. Payne*, 295 Ga. 609 (2014), and dismissal of the Indictment under *Nichols v. State*, 17 Ga.App. 593 (1916). None of them can be hand-waived by the DA and her subordinates arguing that they are just about salacious sexual matters or office romances irrelevant to the Indictment. That attempt to trivialize the issues should be rejected in the firmest terms by the Court.

On Friday, February 2, 2024, the State Responded to the Roman Motion and the filings of President Trump and Mr. Cheeley seeking dismissal and disqualification (the “State’s Response”). The State’s Response makes five contentions: (1) that DA Willis has no disqualifying financial conflict of interest; (2) that DA Willis has no disqualifying personal conflict of interest; (3) that criticism of Mr. Wade’s qualifications are unfounded and provide no basis for dismissal or disqualification of Mr. Wade; (4) that DA Willis has not made any public statements or comments that warrant disqualification; and (5) that the process by which the DA contracted with Mr. Wade provides no basis for dismissal or disqualification.

Mr. Clark will address each of these contentions other than Mr. Wade’s qualifications. In general, however, the State’s Response misconstrues or ignores the

evidence, makes erroneous legal arguments, and fails to grapple with the legal significance of the conflicts of interest and violations of the Rules of Professional Conduct that are plainly shown by the evidence.

STATEMENT OF FACTS

The State's Response acknowledges a "personal relationship" between DA Willis and Mr. Wade, contending that it began sometime "in 2022." In this context, "personal relationship" is a euphemism for the intimate romantic relationship alleged in the Roman Motion.

The State does not deny (1) that the DA was receiving personal benefits in the form of lavish travel paid for by Mr. Wade, or (2) the amounts that Mr. Wade was paid under contracts approved by the DA, or (3) that the Board of Commissioners never approved the contracts. Instead, the State confirms these facts, and argues they do not show any disqualifying conflict and therefore do not matter.

To rebut the existence of a financial conflict, the State contends—very vaguely and with scant evidentiary support—that DA Willis' and Mr. Wade's travel expenses were "roughly divided equally between us." Wade Affidavit, ¶ 34. The only documentation of Ms. Willis' "roughly equally divided" travel spending are travel receipts from Delta Airlines for the purchase of two tickets for \$697.20 each on an unidentified credit card account. *See* State's Response, Wade Affid. Exh. 4. If we accept that this was paid for by DA Willis, this is the sum total of documentation of her paying for her travel with Mr.

Wade that the State could marshal—with a team of 12 lawyers plus investigators and staff—in the period from January 8, 2024 when Mr. Roman filed his motion, and February 2, 2024 when the State filed its Response.¹ This figure is far less than the documented expenditures by Mr. Wade for the benefit of Ms. Willis and does not come close to showing what Mr. Wade claims, that their travel expenses were “roughly evenly divided between them.”

Mr. Wade is embroiled in divorce litigation in Cobb County, *Wade v. Wade*, Cobb Superior Court Case No. 21-1-08166. On August 17, 2023, Mr. Wade was held in willful

¹ Legal commentator Harry Litman, a former U.S. Attorney, just stated yesterday on YouTube that he has learned that DA Willis also received outside legal help in preparing her response to the Roman motion. *See Fulton County DA BITES BACK against Trump’s WEAK ATTACK*, YOUTUBE (Feb. 4, 2024), *available at* <https://www.youtube.com/watch?v=4nydLjwCX-0>, begins 4:36 (last visited Feb. 5, 2024) (“This 176-page motion actually got an assist. We don’t know—I don’t know exactly who it was but there have been some outside lawyers who’ve been joining the cause. You know, everything is so different and we’re in a fishbowl that includes people who want to be helpful if they can. In terms of the overall lawyering of the case, I also, I see, you know, I think it’s been solid, though I have from the start thought, wow, charging it as a RICO has a lot of implications and I care the most about speed and I think it’s a big vehicle to try to lumber down the road and also be quick.”).

Such outside assistance makes more remarkable the thin nature of the DA’s Response to the Roman, *et al.* motions on the issue of luxury travel. Evidently, she is drawing, for purposes of responding, not only on her 12-lawyer team but also on an unknown number of outside lawyers scouring records and performing legal research. The Court should require DA Willis to disclose who has provided such outside help, whether they have taken any oath as Special Assistant District Attorneys, and how they might be compensated so that it can be evaluated as a possible improper gift and against other ethical standards that bind her. *See* Part IV, *infra*. We submit as well that the fact that DA Willis is receiving outside help underscores the political lawfare nature of this prosecution, particularly Litman’s references to “the cause” and to the need for “speed.” What cause? A political cause. Why a need for speed? To try to besmirch President Trump as much as possible before the election.

contempt in his divorce case for concealing his income from his contracts with the DA's office.² See Exh. 1 attached hereto.

On January 8, 2024, Mrs. Wade served a subpoena on the DA for her deposition on January 23, 2024. On Thursday, January 18, 2024, the DA filed an "emergency motion" for protective order seeking to quash the subpoena, a copy of which is attached hereto as Exh. 2.

The main thrust of the DA's motion for protective order that as District Attorney she was protected from giving a deposition by the "apex doctrine" codified in Georgia in 2023 as O.C.G.A. § 9-11-26.1.

More importantly, the DA's motion for protective order (in which she refers to herself as the DA 27 times) accused Mrs. Wade of "obstructing and interfering with an ongoing criminal prosecutions." See Exh. 2, p. 9. The DA's motion also asked for time within which the DA could "complete a review of the filings in the instant case, *investigate and depose relevant witnesses with regard to the interference and obstruction this motion contends.*" *Id.* at 11 (emphasis added). In this filing, the DA crudely exploited the power of her Office to threaten Nathan Wade's wife with a criminal investigation and possibly prosecution in order to gain personal advantage for herself and her boyfriend in her boyfriend's divorce.

² Mr. Wade's concealment of the source and amount of his income in his sworn Domestic Relations Financial Affidavit and interrogatory responses appears to violate Georgia Rule of Professional Conduct 3.3, Candor Towards the Tribunal.

The DA's emergency motion brought her unfortunate results. The very next day, on Friday, January 19, 2024, Mrs. Wade filed a response that included statements from Mr. Wade's credit card account that are documentary proof of the allegations in the Roman Motion that Mr. Wade had paid for expensive travel with the DA to Napa, California and on cruise lines to Caribbean resort destinations. A copy of the Mrs. Wade's response to the emergency motion is attached hereto as Exh. 3.

Before filing the State's Response, Ms. Willis took to the pulpit of the Big Bethel AME Church on January 14, 2024, to address the controversy raised by the Roman Motion. While not denying the affair (and in fact admitting to unspecified imperfections), she accused her accusers of racism. Her statement was televised and became national news. Video clips of her theatrically making the accusations of racism in the form of stentorian church rhetoric, punctuated by supportive murmurs from an amen corner, were in heavy rotation on news sites and networks for several days.³ Her waving the bloody shirt of racism served no legitimate law enforcement or public information purpose and was intended to whip up invidious racial animus against the Defendants, and deflect attention from her own misconduct. President Trump joined the Roman motion and moved for dismissal and disqualification for violation of Rule of Professional

³ See Kate Brumback, *Fani Willis Defends the Qualifications of Prosecutor Hired in Trump's Georgia Election Case*, FOX 5 ATLANTA, <https://www.fox5atlanta.com/news/fani-willis-big-bethel-nathan-wade-trump-georgia-election-case> (last visited Jan. 20, 2024).

Conduct 3.8, a motion Mr. Clark adopts. Both DA Willis’ “Letter to God” read at Big Bethel AME Church⁴ and her nakedly unethical threat to criminally investigate and prosecute Mrs. Wade, *see* Exh. 2, were grave breaches of her public and professional duties carried out to serve her personal and romantic interests and those of her boyfriend in his divorce. Such grievous misconduct is intolerable in any lawyer, but especially in a District Attorney, and even more especially in this case.

The following data, taken from Mrs. Wade’s response to DA Willis’ Motion for Protective Order, summarizes the personal benefits known thus far to have flowed from Mr. Wade, a contractor to the District Attorney, to the District Attorney, with the dates of Mr. Wade’s contracts noted:

Transaction Date	Description	Amount
11/1/21	One year Contract for Professional services (apparently cannot be found)	
3/1/22	Execution of Professional Services Agreement for period 11/1/21 to 10/31/22 (Roman Motion, Exh. C)	
10/4/22	ROYAL CARIBBEAN CRUISES8DD-327-67DOFL	1,387.70
10/4/22	ROYAL CARIBBEAN CRUISES8DD-327-67DOFL	1,284.85
10/4/22	AMERICAN AIROD12341865331FORT WDRHTX TK#: 0012341865331 PSGR: WADE/NATHAN ORIG: ATL, DEST: MIA S/O: X, CARRIER: AA. SVC: G ORIG: MIA, DEST: ATL. S/O: X, CARRIER: AA, SVC: L	477.21
10/4/22	AMERICAN AIR0012341865332FORT WORTH TX TK#: 0012341865332 PSGR: WILLIS/FANI ORIG: ATL, DEST: MIA S/O: X, CARRIER: AA. SVC: G ORIG: MIA, DEST: ATL, S/O: X, CARRIER: AA, SVC: L	477.21
10/11/22	AMERICAN AIR0010613893838FORT WORTH TX TK#: 0010613893838PSGR: WILLIS/FANI ORIG: RVU, DEST: FEE. S/O: D, CARRIER: AA. SVC: Y	61.24

⁴ See Donnell Suggs, News, “Me and my God, we talk like regular folks”: Fani Willis opens up about racism, death threats & solitude in her fight for justice as D.A.”, THE ATLANTA VOICE, January 14, 2024 at <https://theatlantavoices.com/me-and-my-god-we-talk-like-regular-folks-fani-willis-opens-up-about-racism-death-threats-solitude-that-in-her-fight-for-justice-as-d-a/> (last visited January 29, 2024).

Transaction Date	Description	Amount
10/11/22	AMERICAN AIR0010613895925FORT WDRTHTX \$61.72 TK#: 0010613895925 PSGR: WADE/NATHAN J ORIG: RVU, DEST: FEE. S/O: 0, CARRIER: AA, SVC: Y	61.72
10/11/22	AMERICAN AIR0010613895926FORT WORTH TX TK#: 0010613895926 PSGR: WILLIS/FANI T	61.72
10/31/22	FREEDOM OF THE SEASMIAMI FL	992.28
11/4/22	HYATT REGENCY ARUBA RESORARUBA	370.88
11/6/22	Norwegian Cruise Line866-2347350FL	3,172.20
11/15/22	Execution of Professional Services Agreement for period 11/15/22 to 5/15/22	
4/17/23	DELTA AIR 0062103347437ATLANTAGA TK#: 0062103347437 PSGR: WILLIS/FANI TAI ORIG: ATL, DEST: SFO. S/O: 0, CARRIER: DL, SVC: W ORIG: SFO, DEST: ATL., CARRIER: DL, SVC: W	817.80
4/17/23	DELTA AIR 0062103347436ATLANTAGA TK#: 0062103347436PSGR: WADE/NATHAN J ORIG: ATL, DEST: SFQ S/O: 0, CARRIER: DL, SVC: W ORIG: SFO, DEST: ATL., CARRIER: DL, SVC: W	817.80
5/14/23	DOUBLETREE NAPA VALLEY707-6742100CA	228.04
5/14/23	DOUBLETREE NAPA VALLEYAMERICAN CANYCA	612.18
6/12/23	Execution of Professional Services Agreement for period 6/12/23 to 12/31/23	
	Total	10,822.83

This summary is based on what is known *so far*. The total of the amounts reasonably attributable to Ms. Willis's direct, personal benefit on these statements is \$5,452.33, *all before the indictment*.⁵ This amount is 7.8 times greater than the expenses

⁵ Ms. Willis cannot be heard to claim that the amount of the currently known financial benefits she has received are legally insignificant. The financial threshold in the federal bribery statute, 18 U.S.C. § 666(a)(2), where applicable, is "any business, transaction, or series of transactions of such organization, government, or agency involving anything of value *of \$5,000 or more*." (Emphasis added.) Prosecutions over amounts comparable to what is known so far to have been given by Mr. Wade to Ms. Willis are commonplace. See, e.g., *Former Congressional Staffer Found Guilty on Federal Bribery and Extortion Charges for Demanding \$5,000 from Compton Marijuana Shop*, U.S. ATTORNEY'S OFFICE, CENTRAL DISTRICT OF CALIFORNIA, March 2, 2018, <https://www.justice.gov/usao-cdca/pr/former-congressional-staffer-found-guilty-federal-bribery-and-extortion-charges> (last visited Jan 23, 2024); WTVG Staff, *Three Former Toledo City Councilmembers Sentenced for Taking Bribes for Votes*, <https://www.13abc.com/2023/09/05/former-toledo-councilmembers-sentenced-bribery-extortion-convictions/> (last visited Jan. 23 (2024) (charges included accepting \$1,500 for zoning votes); Camilo Montoya-Galvez, *POLITICS: Ex-Border Patrol Agent Charged with Seeking \$5,000 Bribe from Migrant*, CBS NEWS, August 1, 2023, <https://www.cbsnews.com/news/border-patrol-agent-charged-5000-bribe-migrant-fernando-castillo/> (last visited Jan. 23, 2024); *Eight More Sentenced to Federal Prison in Connection with a Maverick County Bribery, Kickback and Bid-Rigging Scheme*, Feb. 24, 2015, U.S. ATTORNEY'S

paid by DA Willis according to the documents attached to Mr. Wade's affidavit. The State's Response does not say a word about these expenditures for the DA's benefit, or their 7.8x mismatch with the amounts spent by DA Willis presented thus far. Instead, the State pretends that evidence does not exist, and contends, based on Mr. Wade's affidavit, that "[t]o be absolutely clear, the personal relationship between Special Prosecutor Wade and District Attorney Willis *has never involved direct or indirect financial benefit to District Attorney Willis*, there is *no evidence* that DA Willis *derived any financial benefit from Mr. Wade.*" State's Response, p. 15 (emphasis added). From the documentary evidence available thus far, this claim is greatly exaggerated, if not flatly untrue.

But the State is not content to merely ignore and mischaracterize the evidence about whether the DA has received any personal benefits from Mr. Wade. They also present her tribulations in this case as an ersatz ledger of offsetting sorrow by attaching as exhibits examples of profane and racist abuse to which she has been subjected. The abuse is deplorable and Mr. Clark and his counsel join all moral observers in condemning it. But, with this argument, the DA is again playing the race card to distract from her own professional misconduct. It is also true that the DA has ridden *State v. Trump* to national glory and adulation in congenial circles, including a hagiographic treatment of her role in the case by Michael Isikoff and Daniel Klaidman in their new book FIND ME THE VOTES:

OFFICE, WESTERN DISTRICT OF TEXAS, FEB. 24, 2015 (10 years in prison for paying a \$5,000 bribe to get a \$30,000 contract), <https://www.justice.gov/usao-wdtx/pr/eight-more-sentenced-federal-prison-connection-maverick-county-bribery-kickback-and-bid> (last visited Jan. 23, 2024).

A HARD-CHARGING GEORGIA PROSECUTOR, A ROGUE PRESIDENT, AND THE PLOT TO STEAL AN AMERICAN ELECTION (2024) (“featuring hours of interviews with Fani Willis herself”).

ARGUMENT AND CITATION OF AUTHORITY

I. THE DA IS DISQUALIFIED BASED ON HER CONFLICTS OF INTEREST AND THE INDICTMENT SHOULD BE QUASHED AS A MATTER OF LAW.

A. SPECIAL DUTIES OF PROSECUTORS

The law in Georgia does not allow a prosecutor to have *any* personal or financial interest in a criminal investigation, prosecution, or conviction. Having a personal interest conflicts with the special duties prosecutors owe the public and the system of justice in which they serve as officers of the court bound by the Georgia Rules of Professional Conduct.

O.C.G.A. § 15-18-2 specifies the Oath of Office to which every District Attorney in this State must subscribe:

I do swear that I will faithfully and impartially and without fear, favor, or affection discharge my duties as district attorney and will take only my lawful compensation. So help me God.

In *Carr v. State*, 267 Ga. 701, 711 (1997), *overruled on other grounds*, *Clark v. State*, 271 Ga. 6, 10 (1999), the Supreme Court observed that:

The responsibility of a public prosecutor differs from that of the usual advocate; his duty is to seek justice, not merely to convict.” Rules and Regulations of the State Bar of Georgia, EC 7–13; 241 Ga. 643, 700 (1978). ““While the safety of society requires the faithful prosecution of offenders against the laws, the State does not ask their conviction but upon calm and dispassionate investigation of the charges against them.’ [Cit.]”

Accord State v. Wooten, supra, 273 Ga. at 531, 543 S.E.2d at 723 (“Therefore, the district attorney is more than an advocate for one party and has additional professional responsibilities as a public prosecutor to make decisions in the public’s interest.”); Ga. Rules of Professional Conduct 3.8 [Comment 1].

B. THE GEORGIA RULES OF PROFESSIONAL CONDUCT

The Georgia Rules of Professional Conduct (“Ga. RPC”) provide the ethical framework for any analysis of the DA’s duties and, where they arise, conflicts of interest. Ga. RPC 1.7 provides, that a lawyer may not have a conflict of interest “*will materially and adversely affect the representation of the client*” unless it is both waivable and waived after full disclosure. (Emphasis added). Rule 1.7(c) describes the circumstances in which conflicts are not waivable, which includes where “prohibited by law or these rules.”

Where dismissal of the indictment or disqualification of a District Attorney is at stake based on a claim of personal or financial interest, the issue is whether the asserted interest of the prosecutor is sufficient to warrant those remedies.

C. IF THE DA IS DISQUALIFIED, THE ENTIRE OFFICE IS DISQUALIFIED.

If the DA is disqualified by her conflicting financial, personal and romantic interests, it is settled law under *McLaughlin v. Payne*, 295 Ga. 609 (2014), that the disqualification extends to the entire office of the Fulton County District Attorney:

When the elected district attorney is wholly disqualified from a case, the assistant district attorneys—whose only power to prosecute a case is

derived from the constitutional authority of the district attorney who appointed them—have no authority to proceed.

Id. at 613. The State’s Response cites *State v. Southerland*, 190 Ga.App. 606 (1989), and *State v. Davis*, 159 Ga. App 537 (1981) to argue that there is no basis for disqualification here. In *Southerland*, the DA had civil litigation pending against a defendant indicted by his office. The holding in *Southerland* is of dubious vitality after *McLaughlin v. Payne*, 295 Ga. 609 (2014). The Court of Appeals held in *Southerland* that “[a]ny disqualification of Mr. Wilson from participation in the prosecution of appellee would not automatically disqualify all members of his staff.” 190 Ga. App. 606, 606-607. This is inconsistent with the later Supreme Court ruling in *McLaughlin* that “When the elected district attorney is wholly disqualified from a case, the assistant district attorneys—whose only power to prosecute a case is derived from the constitutional authority of the district attorney who appointed them—have no authority to proceed.” 295 Ga. at 613. While the State cites *McLaughlin* on p. 4 of its response, it does not reconcile its holding with the cases on which the State relies to argue that there is no imputed disqualification. Moreover, in *Southerland*, the personal interest was unrelated to the criminal charges whereas here they arise from the financial arrangements for the investigation and prosecution of the case itself. The alleged conflict in *State v. Davis* was no conflict at all—the trial court had disqualified the DA over his decision to *nolle prosequi* the case, a purely official decision with no element of personal interest. Consequently, neither *Southerland* nor *Davis* control this case.

D. IF THE DA IS FOUND TO HAVE PERSONAL OR FINANCIAL INTERESTS
IN THIS PROSECUTION, THE INDICTMENT MUST BE DISMISSED.

In *Nichols v. State*, 17 Ga.App. 593 (1916), the solicitor general (now referred to as the district attorney) prosecuted a case in which he had a personal financial interest through a private client he represented on a contingent fee basis in a related case. As solicitor general, he indicted a witness for perjury in the private client's case. The court held that the solicitor general's personal interest from the contingent fee in the related civil case, if proven, disqualified him from presenting the case to the grand jury and from prosecuting the case, *and that the indictment should therefore be quashed*:

[W]here the *disqualified solicitor general* appears before the grand jury and advises with them as to the finding of the indictment for perjury, and where the indictment is returned by them, a written plea in abatement, setting forth the above-stated facts, presented by the accused before pleading to the merits, and where the defendant had no notice of the pendency of the indictment against him, and no earlier opportunity of presenting his objections to it, is not subject to general demurrer, and should be sustained, unless issue is joined upon it; and in the latter event, **if the issue is determined in favor of the defendant, and is supported by proof, the plea in abatement should be sustained, and the indictment quashed.**

Id. (syllabus by the court, part (b)) (forms of emphasis added).

A companion case to *Nichols*, decided the same day, also held, following *Nichols*, that "if, having so joined issue, the material averments therein are supported by proof, and the issue determined in favor of the defendant, the indictment must be quashed." *Hughes v. State*, 17 Ga. App. 611, 87 S.E. 823 (1916). In this case, the grand jury issued the indictment long after the personal relationship and personal gifts and benefits began,

even according to the vague reckoning of Mr. Wade that the Willis-Wade romantic relationship began “in 2022.” *See the* table at p.8 above. Thus, when the case was presented to the grand jury (and to the Special Purpose Grand Jury), the DA had a disqualifying personal and financial interest in the prosecution through her lucrative contracts with her boyfriend that funded their luxury travel together. Nor did Mr. Clark have any advance notice of the conflict or that he would even be included in the Indictment.⁶

The State suggests that to be relevant to disqualification the personal interest must be in conviction, suggesting by negative implication that there can be no pre-conviction disqualification. *See State’s Response* at 3. This is not the law. Prosecutors’ professional duties are not limited to the time of conviction. Their obligation to do justice inheres in everything they do, from the moment they begin a case until well after conviction if they should learn that a past conviction was unjust. *See Hicks v. Brantley*, 102 Ga. 264, 29 S.E. 459, 462 (1897) (describing prosecutors’ special duties through the entire life cycle of a case). In *Nichols* and its companion case the indictments were to be quashed if the personal interest existed when the case was presented to the grand jury, as it did in this case.

The State concedes, as it must, that a sufficient personal interest warrants disqualification and dismissal. Its argument instead is that no sufficient interest has been

⁶ The defense in this case did not learn of the direct personal benefits to the DA from Mr. Wade until the Roman Motion was filed January 8, 2024, and did not have documentary evidence confirming those benefits until Mrs. Wade filed her response in her divorce case on January 19, 2024.

shown, but that argument collapses based on the credit card statements summarized above showing substantial gifts to DA Willis before at least two of Mr. Wade's contracts were executed and before the case was presented to the grand jury and the Indictment returned.

The State's Response also argues that there has been no showing of prejudice, as if all that has been laid before the Court amounts to nothing. That is not correct. "If the assigned prosecutor has acquired a personal interest or stake in the conviction, the trial court abuses its discretion in denying a motion to disqualify him, and the defendant is entitled to a new trial, *even without a showing of prejudice.*" *Amusement Sales, Inc. v. State*, 316 Ga.App. 727, 735 (2012) (emphasis added).

II. THE DA VIOLATED GA. RPC 3.8(g) IN HER REMARKS AT THE BIG BETHEL AME CHURCH.

As described in President Trump's adoption of the Roman Motion, the DA's speech at the Big Bethel AME Church was a clear violation of Ga. RPC 3.8(g), which prohibits prosecutors from "from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused "except for statements that are necessary to inform the public of the nature and extent of the prosecutor's action and that serve a legitimate law enforcement purpose. These comments served no legitimate law enforcement purpose whatsoever, and therefore without more clearly violate Rule 3.8(g) and warrant disqualification. But that is not all. The obvious purpose of the speech was to deflect public attention and criticism from the DA's personal relationship with Mr.

Wade and other the irregularities described here and in the Roman Motion. Doing so served her personal interests and Mr. Wade's personal interests, not the public interest. The speech is therefore a paradigmatic example of an actual conflict between a prosecutor's personal interests and their public responsibilities. By choosing her personal interests over her professional responsibilities in her church speech, the DA has breached her duties under the Rules of Professional Conduct and should be disqualified.

The State's Response on this issue misses the point. It first attacks the straw man that the speech does not constitute selective prosecution, an argument not made in President Trump's motion. The next straw man slain by the State's Response is a change of venue motion, which has not yet been filed.

The argument actually made by President Trump but studiously ignored by the State's Response is couched strictly in terms of the policy interests behind Ga. RPC 3.8(g), which prohibits "making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused." The murmurs through the crowd at the Big Bethel AME Church when the DA invoked both God Almighty and the alleged racism of her critics are direct proof of the very public condemnation Rule 3.8(g) and comment 5 are intended to prevent⁷. It is an unfortunate reality of modern American life

⁷ See, e.g., Donnell Suggs, *Breaking News: Ice is cold, water is wet, and Fani Willis' relationships have nothing to do with her job as D.A.*, THE ATLANTA VOICE, February 4, 2024) <https://theatlantavoices.com/breaking-news-ice-is-cold-water-is-wet-and-fani-willis-relationships-have-nothing-to-do-with-her-job-as-d-a/> (last visited Feb. 5, 2024). THE ATLANTA VOICE is the self-styled "the unchallenged leader and foremost provider of

that race runs through many public issues and controversies. In light of this, prosecutors have a special duty *not* to whip up racial animus and resentment against the defendants they are prosecuting, especially in a jurisdiction like Fulton County. The DA's breach of this rule is so flagrant and outrageous and that it warrants dismissal and disqualification on its own. It is all the more egregious because she did it to distract the public from her own misconduct. The entire case is now certainly irreparably tainted (only worsening the taint of the financial conflicts of interest that existed even before the Indictment was handed down).

III. THE DA VIOLATED GA. RPC 3.4(H) BY THREATENING TO CRIMINALLY INVESTIGATE AND PROSECUTE MRS. WADE.

Ga. RPC 3.4(h) provides that a lawyer "shall not ... present, participate in presenting or threaten to present criminal charges solely to obtain an advantage in a civil matter." The DA's motion for protective order in Mr. Wade's divorce does just that. It was premised on her status as District Attorney, accused Mrs. Wade *in writing in a public filing* of interfering and obstructing a criminal prosecution and asked the Court for time to investigate the accusation. *See* Exh. 2. A more naked threat of criminal prosecution is hard to imagine. It is indisputable that this threat was made not to advance a legitimate law enforcement interest as DA but to gain advantage for herself and her boyfriend in her boyfriend's divorce case.

news and information pertinent to the well being of Atlanta's African American community." *See Our Story*, THE ATLANTA VOICE, <https://theatlantavoices.com/our-story/> (last visited Feb. 5, 2024).

It is one thing—and a bad thing—for a private attorney to violate this rule. But it is another thing altogether for a District Attorney to do so. In this instance the DA has again breached her professional responsibilities as a public official to protect and promote the interests of the people of Fulton County by subordinating those duties to both her personal self-interest and Mr. Wade’s self-interest. This abuse of her authority and breach of her professional responsibilities warrants disqualification of her and her entire Office.

IV. THE FULTON COUNTY CODE ESTABLISHES THAT BOTH DA WILLIS AND MR. WADE HAVE AN UNWAIVABLE STATUTORY CONFLICT OF INTEREST BECAUSE SHE IS AN OFFICER OR EMPLOYEE OF FULTON COUNTY AND HAS RECEIVED “GIFT[S] OR FAVOR[S]” FROM MR. WADE, A CONTRACTOR WITH HER OFFICE.

The State’s Response contends that there was no irregularity or impropriety in the contracts between the DA and Mr. Wade on the theory that the DA is subject to no oversight in such matters by the Board of Commissioners. As explained below, this argument cannot withstand scrutiny.

The Fulton County Code Section 2-68(a, b)⁸ forbids the appearance of a conflict of interest. Section 2-69(a)⁹ forbids any County officers or employees, including the DA from accepting gifts from contractors:

directly or indirectly ... receiv[ing], or agree[ing] to receive a gift, loan, favor, promise, or thing of value, in any form whatsoever, for himself or

⁸ See <http://tinyurl.com/43utnnyw> (last visited Feb. 4, 2024). Certified copies of relevant County Code provisions cited herein will be tendered at the hearing on February 15, 2024. The full County Code is available at https://library.municode.com/ga/fulton_county/codes/code_of_ordinances.

⁹ See <http://tinyurl.com/yck455y2> (last visited Feb. 4, 2024).

herself or another person, *from any prohibited source*, including, without limitation, any person or business which the officer or employee *knows or should know is doing business with the county* or attempting to do business with the county, or the agent or representative of such a person or business.

(Emphasis added).

In this case both the DA *and* Mr. Wade have both actual *and* an apparent conflicts of interest.

Under Fulton County Code § 2-67,¹⁰ an “[i]nterest means any financial interest or personal interest or any other direct or indirect pecuniary or material benefit held by or accruing to an officer or employee as a result of a contract or transaction which is or may be the subject of an official act or action by or with the county.” (Emphasis in the original)

It is undisputed that Ms. Willis has caused substantial County funds to be paid Mr. Wade for the investigation and prosecution of this case.¹¹ Regardless of any personal relationship she may have with him, Mr. Wade is a “prohibited source” of gifts to her because he is a contractor to the DA. The “gifts and favors” the DA has received from Mr. Wade show that an actual conflict of interest exists. Section 2-67 defines “gifts and favors” as “anything of value given by or received from a prohibited source,” including one who is “(b) ... doing business with the county” or who “(d) [h]as interests that may be affected by the performance or non-performance of official duties by the officer or employee.”

¹⁰ See <http://tinyurl.com/54d845xb> (last visited Feb. 4, 2024).

¹¹ The improprieties through which these contracts were entered into are further discussed below.

As noted above, the State contends that Ms. Willis has not received any gifts or benefits from Mr. Wade, but the documentary evidence before the Court is to the contrary. It is enough to disqualify Ms. Willis and her entire office that Mr. Wade, as a contractor whose appointment was within the DA's discretion,¹² lavished expensive travel upon the DA—the person who signs his contracts and initiates payment of his invoices. Both DA Willis *and* Special Counsel Wade have “actual,” statutory conflicts of interest prohibited by the County Code, and those conflicts are therefore unwaivable and prohibited under Ga. RPC 1.7. Accordingly, under Ga. RPC 1.7(c)(1) and (3) *both* of them are disqualified as a matter of law.

A. THE FULTON COUNTY CODE ESTABLISHES THAT THE ACTUAL
CONFLICT OF INTEREST IS UNWAIVABLE UNDER GA. RPC 1.7(B, C)
BECAUSE DA WILLIS EVADED REQUIRED BOARD OF
COMMISSIONERS APPROVAL OF MR. WADE'S CONTRACTS.

Even a cursory review of Ga. RPC 1.7(b) and (c) confirms that a *separate* conflict of interest arose when DA Willis evaded Board of Commissioners approval of Mr. Wade's contracts. Had the contract been submitted to the Board of Commissioners for approval, and had the Board known of the relationship between Ms. Willis and Mr. Wade, and of the gifts given by Mr. Wade to Ms. Willis, it is doubtful, to say the least, that consent would have been granted *because* such “gifts and favors” are expressly forbidden by the

¹² See discussion of O.C.G.A. § 15-18-20, *infra*.

County Code. Ga. RPC 1.7(c) is explicit: “Client informed consent is not permissible if the representation: (1) *is prohibited by law or these rules.*” (emphasis added).

The State’s Response contends that no approval from the Board of Commissioners was required for the appointment of Mr. Wade as a Special Assistant District Attorney. This is a *non sequitur* that is, in essence, a shell game that tries to move the pea from under the cup of ethics law and into the administrative-law box of the DA’s authority to use SADAs. Thus, while the State’s Response chides Roman and the supporting Defendants for failing to understand the relevant law, it is State’s lawyers whose analysis has gone awry. The legal shell game should not cause the Court to take its eyes off the ethics ball. It is not a sufficient condition for the DA, Mr. Wade, other SADAs, and employees of the DA’s Office to stay on the case that the DA had the legal authority to appoint Mr. Wade. She possessed that authority, but it must be exercised ethically and in compliance with various other sources of Georgia law.

The State relies principally on the contention that the DA is a state constitutional officer who is not subject to any financial or contractual oversight by the Board of Commissioners. This argument, however, cannot carry the weight placed upon it by the State. The DA is not merely a state constitutional officer. The DA is also part of County government, her office’s employees are County employees, their offices are provided and furnished by the County, and their budget is funded by the County.

There is case law holding that a district attorney has “inherent authority” to *appoint* a Special Assistant District Attorney (“SADA”). See *State v. Cook*, 172 Ga.App. 433 (1984), and *Amusement Sales, Inc. v. State*, 316 Ga.App. 727 (2012). But this does not exonerate the DA here.

The DA’s inherent authority to *appoint* a SADA is limited by and must be harmonized with the constitutional vesting of the *spending* authority in the Board of Commissioners. Georgia Const., Art. IX, Sec. IV, Para. II:

Power of expenditure. The governing authority of any county, municipality, or combination thereof may expend public funds to perform any public service or public function as authorized by this Constitution or by law or to perform any other service or function as authorized by this Constitution or by general law.

This provision of the Georgia Constitution blocks another of the DA’s shell games—her attempt to argue that she is a state official and thus her tapping of Mr. Wade is outside the power of Fulton County, a state subdivision, to regulate.

In reality (and as an instance of the principle that the specific controls the general), the State Constitution does not vest *any* expenditure authority in the District Attorney. Instead, Ga. Const. (1983) Art. VI, Sec. VIII, Para. 1(c) provides that “The district attorneys shall receive such compensation and allowances *as provided by law* and shall be entitled to receive such *local supplements* to their compensation and allowances as may be *provided by law*.” (Emphasis added). Financially, the DA is not a free agent as the State’s

Response slyly implies but never explicitly claims. Instead, as shown below, the DA is bound to the Board of Commissioners' fiscal authority.

It is unambiguously "provided by law" in local legislation that the compensation of the Fulton County District Attorney and the funding of the office, her assistants and staff, must be authorized and approved by the Board of Commissioners. For example:

- Fulton County Code § 10-111¹³ provides that the Board can supplement the DA's salary from the State.^[14]
- County Code § 10-112¹⁵ provides that all costs, fines, forfeitures and fees collected by the District Attorney belong to the County and must be paid into the County treasury. Any failure by the District Attorney to pay over to the County treasury any funds they may collect is defined as an embezzlement in County Code § 10-113.
- County Code § 10-114¹⁶ says the DA is empowered to appoint one first assistant DA and 15 trial assistant DAs. It further provides that "[t]he salaries of all of the assistant district attorneys shall be fixed by and in the discretion of the district attorney of the Atlanta Judicial Circuit at not less than \$10,000.00 nor more than \$63,000.00 per annum, and said maximum amount shall not be exceeded *without the concurrence of the Board of Commissioners of Fulton County.*"

Section 10-114 further provides:

The district attorney, *with the concurrence of the governing authority of Fulton County, may establish positions and compensations for deputy district attorneys in excess of the number specifically authorized in this article*, as amended, and in an act approved March 24, 1970 (1970 Ga. Laws,

¹³ See <http://tinyurl.com/59pzt97> (last visited Feb. 4, 2024).

¹⁴ The DA must take the bitter with the sweet. Surely, she would never be heard complaining that Fulton County salary supplements are *ultra vires* and can come only from the State or they are void.

¹⁵ See <http://tinyurl.com/23uu4s58> (last visited Feb. 4, 2024).

¹⁶ See <http://tinyurl.com/bdd96kf9> (last visited Feb. 4, 2024).

page 716), as amended, and may make appointments to positions so established.

Section 10-115¹⁷ requires the DA to file with the Board of Commissioners “a detailed statement of the number and nature of assistants and clerks and other employees needed and the amount necessary to be expended for such assistants, clerks and other employees of said office ... other than the assistant district attorneys provided in section 10-114.” The Board of Commissioners is then required to take up and consider, with the DA, and fix the aggregate amount of funding as compensation for the various assistants. Within the aggregate amounts approved by the Board of Commissioners, the DA can hire and fire and set compensation as she sees fit.

Each year, the Board of Commissioners approves a budget funding the DA’s Office. Attached hereto as Exhibit 4 are pages from the 2024 Budget for Fulton County approved by the Board of Commissioners showing the budget for the current and prior years.¹⁸ Moreover, Exh. C to the Roman motion further exemplifies approval by the Board of Commissioners of positions and overall budgets for salaries in the DA’s office.

This local legislation, which is part of the County Code of Ordinances, irrefutably establishes that the Board of Commissioners controls most funding for the DA’s office. While DA has enormous discretion in investigating and prosecuting cases, authority over

¹⁷ See <http://tinyurl.com/4d4463r4> (last visited Feb. 4, 2024).

¹⁸ See, e.g., 2024 Budget, Resolution 23-0822, on December 6, 2023 agenda, available at <https://fulton.legistar.com/LegislationDetail.aspx?ID=6411434&GUID=9DA6564E-5BE4-49B1-A8C7-585F14F06AAE&Options=Advanced&Search=> (last visited Feb. 5, 2024).

funding and additional positions lies firmly with the Board of Commissioners. *See also* Ga. RPC 1.8.

But this is not just a matter of local legislation or the County Code. The Board of Commissioners' authority over the employment of additional attorneys and staff is also specified by a state statute of general application, O.C.G.A. § 15-18-20, which provides as follows:

O.C.G.A. § 15-18-20. Additional Personnel as State Employees

The district attorney in each judicial circuit may employ such additional assistant district attorneys, deputy district attorneys, *or other attorneys*, investigators, paraprofessionals, clerical assistants, victim and witness assistance personnel, **and other employees or *independent contractors* as may be provided for by local law or as may be authorized by the governing authority of the county or counties comprising the judicial circuit.** The district attorney shall define the duties and fix the title of any attorney or other employee of the district attorney's office.

Personnel employed by the district attorney pursuant to this Code section shall serve at the pleasure of the district attorney **and shall be compensated by the county or counties comprising the judicial circuit, the manner and amount of compensation to be paid to be fixed either by local Act or by the district attorney with the approval of the county or counties comprising the judicial circuit.**

(Forms of emphasis added). The plain text of this statute requires Board approval of "other attorneys ... or independent contractors." Mr. Wade's contracts expressly provide in Section 4.2 that "Attorney contracts herein with the FCDA as an independent contractor," so the engagement of Mr. Wade is plainly within the terms of this statute. The State offers no explanation of why this statute does not require Board approval of

Mr. Wade's contracts, mentioning it only once in passing and not addressing the fundamental problem it poses for the State's position.

Historically, as a vestige of English common law, Georgia has allowed "special prosecutors," hired and paid by the families of crime victims, to prosecute criminal cases under the supervision of the public prosecutor. "It is an established legal procedure in this state to allow the family to retain at personal expense a special prosecutor, provided such counsel is no more than an assistant to the district attorney and does not exceed the authority conferred upon him as an assistant." *Todd v. State*, 143 Ga. App. 619, 621 (1977). That is not this case. The parties agree that Mr. Wade is paid with County funds.

In *State v. Cook*, 172 Ga.App. 433 (1984), a 5-3 *en banc* decision, the court considered whether "a district attorney is authorized to appoint anyone to serve in the capacity of a 'special assistant district attorney' for his circuit" without approval by the governing authority of the County. *Id.* at 436. The court rejected the argument that O.C.G.A. § 15-18-20 required approval by the county, noting that the Special Assistant District Attorneys in question were from the Prosecuting Attorneys Council and were paid by the State, not the county in question, making O.C.G.A. § 15-18-20 inapplicable:

The Special Assistant District Attorneys in the instant case *receive no compensation from Chatham County*, and it is therefore clear that OCGA § 15-18-20 is not specific statutory authority for their appointments.

Id. at 437 (emphasis added).

The court held that former O.C.G.A. § 15-18-14 and O.C.G.A. § 15-18-20 were not the *sole basis* of a district attorney's authority to appoint a SADA. *Id.* Instead, "it has long been recognized that attorneys may be appointed to assist the prosecuting attorney in criminal cases." *Id.*

Thus, it is clear that former OCGA § 15-18-14 merely established the maximum number of *assistant* district attorneys who, as general and on-going members of the district attorney's staff, would be compensated by the State, and that OCGA § 15-18-20 merely provides that the *employment* of additional general and on-going staff members shall be a matter between the district attorney and the county or counties comprising his judicial circuit. Those statutes do *not* necessarily limit the authority of a district attorney so as to prohibit his *appointment* of a *Special Assistant District Attorney* in a *specific* case, **pursuant to whatever private arrangements regarding compensation are mutually agreeable to the district attorney and the appointee.** See *Vernon v. State*, 146 Ga. 709, 711, 92 S.E. 76 (1917)

Id. (Italics in original, bold added). *State v. Cook* makes clear that § 15-18-20 does not apply if no county funds are used to pay the appointee. Conversely, *where county funds are used*, then § 15-18-20 does apply and County Commission approval is required. The State cites *State v. Cook* for the proposition that the proviso for "whatever private arrangements regarding compensation are mutually agreeable" covers the retention of Mr. Wade. State's Response at 11. The State misreads that proviso because Mr. Wade's compensation is by public arrangement, not private arrangement.

State v. Cook was followed in *Greater Georgia Amusements, LLC v. State*, 317 Ga.App. 118, 120 (2012), which held that "[i]n *State v. Cook* ... we rejected the argument that a district attorney may not hire a special assistant in a particular matter without explicit

approval from his county or counties.” *Greater Amusements* was physical precedent only, but was adopted by a full panel in *Amusement Sales, Inc. v. State*, 316 Ga.App. 727 (2012). In neither of the two *Amusements* cases, however, were the SADAs paid by the County. Instead, their compensation was a contingent fee in forfeiture cases. Section 15-18-20 was therefore not implicated. In both cases, however, the contingent fee agreements violated public policy because they gave the SADAs a personal financial interest in the prosecution and the attorneys were disqualified.¹⁹

The importance of the source of funding to whether approval of the Board of Commissioners is required that runs through these cases is also made clear in *Vernon v. State*, 146 Ga. 709 (1917), where the court rejected a motion for mistrial and disqualification of the solicitor general (now DA) over the use of an associate counsel because the SG “was solely and individually responsible for the payment of the fee of the employed counsel.” *Id.* at Div. 1. The court emphasized that the nature and source of the funding and payment for the associate counsel made the appointment permissible:

Considering that the interest of the solicitor general was official only, and the duties to be performed by the employed counsel, the inference is that the employment was by the solicitor in his official capacity for assistance to him in his official capacity, and that the payment for the services was to be

¹⁹ *Cf. Tumey v. Ohio*, 273 U.S. 510 (1927) (establishing the venerable due process standard that a conviction must be reversed where pecuniary interests caused a municipal judge to run afoul of the principle that “[e]very procedure which would offer a possible temptation to the average man as a judge to forget the burden of proof required to convict the defendant, or which might lead him not *to hold the balance nice, clear, and true* between the state and the accused denies the latter due process of law.”) (emphasis added).

made in the official capacity of the solicitor. To hold that this effected a disqualification would be unreasonable.

Id. Here, of course, the interest of the DA in the appointment and compensation of Mr. Wade is very far from being “official only” —she is receiving personal financial benefits from her boyfriend contractor that he can afford because of the contracts she gives him.

In this case, however, Mr. Wade has been paid extraordinary sums *by the County* without any approval by the Board of Commissioners. Because he was paid with County money, Board of Commissioners approval was required under O.C.G.A. § 15-18-20. In awarding Mr. Wade his contracts, the DA evaded the requirements of the Georgia Constitution, local legislation, and the County Code requiring Board approval. Her inherent authority to appoint SADAs, which is not here questioned, does not carry with it the power to pay them with County funds without approval of the Board of Commissioners, especially when they are paid over \$650,000 over two years and are involved in a romantic relationship with the DA, are showering her with gifts and travel.

Looking to the full span of the applicable law, it clearly vests authority over such expenditures in the Board of Commissioners, and not the DA. No county officer or employee has any authority, much less inherent authority, to override the Board of Commissioners’ explicit textual constitutional authority over expenditures.

The County’s purchasing code contains extensive procedures for awarding contracts with the County. The DA and her staff evaded all of them when she approved the contracts with Mr. Wade. *See generally*, County Code, Subpart B, Chapter 102, Article

V, Purchasing and Contracts.²⁰ The contracting code is spread across 13 divisions in Article V. Among the notably applicable provisions violated by the DA are:

1. § 102-464²¹, prohibiting employee conflicts of interest in contracting;
2. § 102-465²², requiring prompt disclosure of any financial interest pertaining to a procurement;
3. § 102-466²³, prohibiting any person to offer or give any gratuity or kickback to any employee involved in procurement.

The County's Purchasing and Contracting Code is a comprehensive regulatory framework that seeks to identify, prohibit, and prevent the giving and receiving of gratuities and kickbacks, so as to prevent waste, fraud and abuse. The means by which the DA entered into her contracts with Mr. Wade and his former partners, Terrence Bradley and Christopher Campbell,²⁴ evaded all of those safeguards.

The State's Response argues that the DA was not required to comply with any such requirements, but is bereft of any binding or even persuasive authority to support that position. They cite statements to the press by Pete Skandalakis, head of the Prosecuting Attorneys Council of Georgia, and Robb Pitts, Chairman of the Fulton County Board of Commissioners, and vaguely reference the Attorney General's office hiring of outside

²⁰ See <http://tinyurl.com/nm5np7p8> (last visited Feb. 4, 2024).

²¹ See <http://tinyurl.com/4pweebzs> (last visited Feb. 4, 2024).

²² See <http://tinyurl.com/37m3y29x> (last visited Feb. 4, 2024).

²³ See <http://tinyurl.com/3j3vujx4> (last visited Feb. 4, 2024).

²⁴ See Clark Joinder of Shafer Motion for an Evidentiary Hearing, filed September 7, 2023, Exhs. 3, 4 and 5, summarized on p. 7 of the filing. The list of payments to Mr. Wade submitted with that filing did not include subsequent payments in 2023.

counsel. They also cite to historical practice in the County, to manuals of standard operating procedures, and to counsel's characterizations of what the Chief Financial Officer thinks. *See* State's Response, p. 21. None of these are "law." The standard operating procedures are not attached to the State's Response and no internet link is provided for Defendants or the Court to review them. These arguments are no more than arm-waving.

Any long-time resident of Atlanta will recall a long parade of local government officials—and the contractors who bribed them—being packed off to federal prison.²⁵ Whether the gifts given to Ms. Willis by Mr. Wade and the sole-source no-bid contracts Ms. Willis given to Mr. Wade are in the same category remains to be seen.

²⁵ *See, e.g.,* from the U.S. Attorney's Office for the Northern District of Georgia: *Former City of Atlanta Official Sentenced for Accepting Bribes*, February 24, 2023, <https://www.justice.gov/usao-ndga/pr/former-city-atlanta-official-sentenced-accepting-bribes> (last visited Jan. 201, 2024); *Businessman Jeff Jafari Sentenced to Five Years in Federal Prison for Bribing City of Atlanta and Dekalb County Officials to Obtain Contracts*, July 19, 2023, <https://www.justice.gov/usao-ndga/pr/businessman-jeff-jafari-sentenced-five-years-federal-prison-bribing-city-atlanta-and> (last visited Jan. 201, 2024); *Business Owner Sentenced for Bribing City of Atlanta Official to Win Contract at Atlanta's Airport*, <https://www.justice.gov/usao-ndga/pr/business-owner-sentenced-bribing-city-atlanta-official-win-contract-atlanta-s-airport> (last visited Jan. 21, 2024); *Former City of Atlanta Employee Mitzi Bickers Sentenced to 14 Years in Federal Prison*, <https://www.justice.gov/usao-ndga/pr/former-city-atlanta-employee-mitzi-bickers-sentenced-14-years-federal-prison>, last visited Jan. 21, 2024); *City of Atlanta Director of the Office of Contract Compliance Sentenced to More Than Two Years in Federal Prison for Wire and Tax Fraud*, January 7, 2020, <https://www.justice.gov/usao-ndga/pr/city-atlanta-director-office-contract-compliance-sentenced-more-two-years-federal> (last visited Jan. 21, 2024); *see also* Richard Witt, *Fulton Ex-Chairman Sentenced to Prison; Skandalakis Lied About Payment*, ATLANTA JOURNAL-CONSTITUTION, Feb. 13, 2004, <https://www.ajc.com/news/fulton-chairman-sentenced-prison-skandalakis-lied-about-payment/tpbIFRpfgWZIL2chUZXOGK/?mode=new> (last visited Jan. 21, 2024) (also reviewing related bribery convictions of contractor George Greene, former Fulton County Commissioner Michael Hightower and Skandalakis staffer Josh Kenyon).

B. NEITHER THE DA NOR MR. WADE DISCLOSED THEIR CONFLICTS OF INTEREST AS REQUIRED BY THE COUNTY CODE AND THE GEORGIA RULES OF PROFESSIONAL CONDUCT.

County Code § 2-79²⁶ requires public officials to publicly disclose any interest they may have in a contract, matter, or transaction that will be affected by their official actions. Disclosure of conflicts of interest is also required by County Code § 102-464²⁷ and § 102-465.²⁸ Despite her claim to be a constitutional officer exempt from County contracting rules, the DA filed disclosure forms attached as Exhibit C to Defendant Cheeley's adoption of the Roman Motion. But the DA's disclosures are incorrect because she did not set out her conflicts of interest in the contracts or the gifts she received from him in 2022.

C. BOTH THE DA AND MR. WADE ENGAGED IN MULTIPLE EVASIONS OF PAPERWORK AND CONFLICT OF INTEREST AND OTHER DISCLOSURES THAT OPERATED TO CONCEAL THEIR RELATIONSHIP AND FACILITATE WADE'S CONCEALMENT OF HIS INCOME IN HIS DIVORCE.

The Roman Motion noted that Mr. Wade's contract term began on November 1, 2022, and that he filed for divorce the next day, November 2, 2022.

1. The first contract between the District Attorney's Office and Mr. Wade began on November 1, 2021.

²⁶ See <http://tinyurl.com/2z2nn894> (last visited Feb. 5, 2024).

²⁷ See <http://tinyurl.com/4pweebzs> (lasts visited Feb. 5, 2024).

²⁸ See <http://tinyurl.com/37m3y29x> (last visited Feb. 5, 2024).

2. Mr. Wade's Domestic Relations Financial Affidavit in his divorce did not disclose his compensation from Fulton County or his contract with Fulton County. *See* Exh. 5. He claimed in the affidavit that his income was \$14,000 per month, or \$168,000 per year. Records from the Fulton County Checkbook website²⁹ show that the County paid Mr. Wade \$30,000 on January 14, 2022, just four days before he stated under oath that his gross income was \$14,000 per month. Mr. Wade's total compensation from the DA's office for 2022 was \$303,227, or \$25,268 per month, much more than what he disclosed in his financial affidavit. The reported total for 2023 according to the latest records through October 2023 was \$350,654, or \$29,221 per month.
3. Nor did Mr. Wade disclose the source or amount of his compensation from the Fulton County DA's office in his responses to his wife's interrogatories.
4. On August 17, 2023, three days after the indictment in this case, Mr. Wade was held in wilful contempt by the judge in his divorce case for disobeying a Court order to disclose the sources and amount of his income—which was his income from the D.A.'s office. *See* Exh. 1. In

²⁹ *See* https://opencheckbook.fultoncountyga.gov/#!/year/All%20Years/explore/0-/vendor_legal_name/Law+Offices+of+Nathan+J.+Wade/1/departement_name. This website is not maintained by the District Attorney's Office.

- plain terms, Mr. Wade was hiding from his wife the income he was receiving from his girlfriend, Ms. Willis.
5. The DA's contracts with Mr. Wade were never submitted to the Board of Commissioners for approval or subjected to the normal rigors of the County's contracting procedures. Had the DA submitted these contracts for Board approval through the Purchasing Department and made full disclosure as required by the County Code, they never would have been approved due to the compound conflicts of interest.
 6. DA Willis never disclosed her conflicts of interest, hiding the gifts she was receiving from her contractor and boyfriend. *See* Exh. C to Cheeley Adoption of Roman Motion.
 7. Mr. Wade did not file his oath as a Special Assistant District Attorney until defense counsel raised the issue after this case began.
 8. The DA's office and the County have refused to comply with multiple Open Records Act requests from Mr. Roman's counsel and from Judicial Watch, Inc. for records pertaining to the employment and payment of Mr. Wade and other SADA's working on this case. As a result, the requesting parties filed lawsuits to enforce their requests, being *The Merchant Law Firm, P.C. v. Fulton County District Attorney's Office*, Fulton Superior Court Civil Action File No. _____, filed January 30, 2024, and

Judicial Watch, Inc. v. Fulton County, Georgia, Fulton Superior Court Civil

Action File No. _____, filed January 29, 2024.³⁰

The totality of the circumstances shows the DA's multiple evasions of contracting procedure and disclosure, and her multiple failures to submit the contracts for Board approval, and her obstruction of multiple valid Open Records Act requests all dovetail with Mr. Wade's misrepresentations under oath of the source and amount of his income, his wilful contempt of a discovery order in his divorce, his failure to disclose his conflicts of interest and his failure to file his oath in a timely manner. The DA and Mr. Wade's dovetailed evasions and omissions benefitted them both by covering up their personal and financial relationship and their disqualifying conflicts of interest. The cover-up lasted two years during which the DA paid Mr. Wade over \$653,000 and his two former partners another nearly \$200,000. The longer the cover-up lasted, the longer the scheme could continue and the more Mr. Wade would be enriched, and the less his divorce would cost him. Mr. Wade's enrichment by these methods inured to the DA's personal benefit through their personal relationship and the travel they enjoyed together at his expense. And though the DA has asserted to the contrary based on a Nathan Wade affidavit, she has refrained from putting in her own affidavit, and there is thus no real—or at least scant—evidence that they split the costs of trips, gifts, and dates equally.

³⁰ Neither case has yet been assigned a case number due to a cyber attack on Fulton County's computer systems that began on January 29, 2024 and remains unresolved (to our knowledge) as of this filing.

CONCLUSION

The DA has repeatedly lost track of the distinction between the public interest and her self interest. The DA has three stark conflicts that require a judicial intervention. *First*, she has a personal and financial interest in the prosecution through her personal relationship with Mr. Wade, the lucrative and improperly awarded contracts that enrich him, and the gifts and benefits that flow back to her from Mr. Wade. The interlocking set of relationships and monetary flows look much like a kickback scheme.

Second, the DA's speech from the pulpit of the Big Bethel AME Church exploited and fomented racial resentments to get out of her own scandalous predicament, in flagrant violation of her professional responsibilities under Ga. RPC 3.8(g).

Third, the DA's motion for protective order in Mr. Wade's divorce exploited the power of her office to threaten Mrs. Wade with criminal investigation and prosecution, again to solve her own scandalous predicament, again in flagrant conflict with her duties as a prosecutor and with the duty falling on all lawyers under Ga. RPC 3.4(h) not to "threaten to present criminal charges solely to obtain an advantage in a civil matter."

"The administration of the law, and especially that of the criminal law, should, like Cæsar's wife, be above suspicion, and should be free from all temptation, bias, or prejudice, so far as it is possible for our courts to accomplish it." *Nichols v. State*, 87 S.E. at 821.

The DA is afflicted by a veritable compendium of grave conflicts of interest that require disqualification of her and her entire Office and dismissal of the Indictment, which has been tainted by her and Mr. Wade's participation in both the Special Purpose Grand Jury and ordinary grand jury processes from their inception.

Respectfully submitted, this 5th day of February 2024.

**CALDWELL, CARLSON, ELLIOTT &
DELOACH, LLP**

/s/ Harry W. MacDougald
Harry W. MacDougald
Ga. Bar No. 463076
6 Concourse Pkwy.
Suite 2400
Atlanta, GA 30328
(404) 843-1956
hmacdougald@ccedlaw.com

BERNARD & JOHNSON, LLC

/s/ Catherine S. Bernard
Catherine S. Bernard
Ga. Bar No. 505124
5 Dunwoody Park, Suite 100
Atlanta, Georgia 30338
Direct phone: 404.432.8410
catherine@justice.law

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of February 2024, I electronically lodged the within and foregoing *Jeffrey B. Clark's Adoption of and Supplement to Defendant Michael Roman's, President Trump's, and Robert Cheeley's Motions to Dismiss or Disqualify* with the Clerk of Court using the PeachCourt eFile/GA system which will provide automatic notification to counsel of record for the State of Georgia:

Fani Willis, Esq.
Nathan J. Wade, Esq.
Fulton County District Attorney's Office
136 Pryor Street SW
3rd Floor
Atlanta GA 30303

**CALDWELL, CARLSON, ELLIOTT &
DELOACH, LLP**

/s/ Harry W. MacDougald
Harry W. MacDougald
Ga. Bar No. 463076

6 Concourse Pkwy.
Suite 2400
Atlanta, GA 30328 (404) 843-1956
hmacdougald@ccedlaw.com

IN THE SUPERIOR COURT OF COBB COUNTY

STATE OF GEORGIA

NATHAN WADE,

Petitioner,

vs.

JOYCELYN WADE,

Respondent.

*
*
*
*
*
*
*
*

Civil Action

File Number: 21-1-8166

**ORDER ON DEFENDANT'S MOTION FOR CITATION OF
CONTEMPT AND SECOND MOTION TO EXTEND MEDIATION
DEADLINE**

The above-styled case came before the court today, August 17, 2023, on Defendant's Motion For Citation Of Contempt And Second Motion To Extend Mediation Deadline. All parties and their respective counsel appeared virtually. After hearing argument of counsel, the Court hereby finds, and Orders as follows:

1.

Defendant's motion is granted, the Court finds the Petitioner in willful contempt of the Court's May 10, 2023, Order Granting Defendant's Motion To Compel. Defendant may purge himself of this contempt by delivering the discovery described in Paragraph's seven (7) and eight (8) of Defendant's Motion For Citation Of Contempt And Second Motion To Extend Mediation Deadline within 10 days of the entry of this Order.

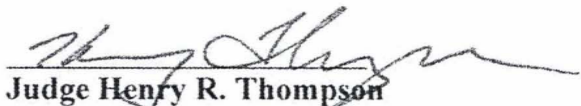
2.

The Court further extends the deadline for mediation in this case, mediation shall be completed by the parties in ninety days (90) or sooner if the parties are able.

3.

The issue of attorney's fees in relation to the instant motion is reserved for future determination.

SO ORDERED this 17th day of August 2023.



Judge Henry R. Thompson
Cobb Superior Court
Cobb Judicial Circuit

IN THE SUPERIOR COURT OF COBB COUNTY

STATE OF GEORGIA

NATHAN J. WADE,)
Plaintiff) CASE NO.:
v.) 21-1-08166
JOYCELYN WADE,)
Defendant)
_____)

EMERGENCY MOTION

BY NON-PARTY DEPONENT FOR PROTECTIVE ORDER

COMES NOW, FANI T. WILLIS, Non-Party Deponent in the above-styled action, and hereby moves this Court for a Protective Order, pursuant to O.C.G.A. § 9-11-26 and 9-11-26.1, because justice so requires.

Defendant Joycelyn Wade seeks to conduct a deposition of Willis on January 23, 2024 at 10:00 a.m. In support of Non-Party Deponent's Emergency Motion for Protective Order, Non-Party Deponent shows this Court the following:

FACTS

Fani T. Willis is the elected District Attorney of the Atlanta Judicial Circuit (commonly known as the Office of the Fulton County District Attorney). Fani T. Willis was elected as District Attorney in November of 2020 and began serving in this capacity on January 1, 2021.

The Office of the Fulton County District Attorney executed a contract with Nathan J. Wade, P.C., which is the legal entity that employs the Plaintiff, Nathan J. Wade. This contract was executed in compliance with state and local rules and regulations. The contract commenced in November 2021. As a part of the contract, Nathan J. Wade worked as a special prosecutor on the case charged under indictment 23SC188947 concerning the former president of the United States and other alleged co-conspirators (hereinafter, "the Election Interference Case").

On January 8, 2023 at 12:01 p.m., Defendant Joycelyn Wade, through her attorney Andrea Hastings, attempted to serve Fani T. Willis with a Notice of Deposition (See Exhibit A). Joycelyn Wade is the defendant wife in the above titled domestic case involving Fulton County special prosecutor Nathan J. Wade. The subpoena was presented to an employee at the Office of the Fulton County District Attorney.

Contemporaneously on January 8, 2023, Michael Roman, who is a defendant in the Election Interference Case, through his attorney Ashleigh Merchant, filed a Motion to Unseal the above styled divorce matter.

Additionally, on January 8, 2023 at 4:42 p.m., the same date of the deposition notice to Non-Party Deponent, Michael Roman, the defendant in the Election Interference Case, filed a Motion to Disqualify the District Attorney, her office, and Special

Prosecutor Nathan J. Wade from further prosecuting the Election Interference Case alleging a "conflict of interest" among the lawyers prosecuting on behalf of Fulton County.

ARGUMENT

I. A protective order should issue and the subpoena for the deposition of District Attorney Fani T. Willis should be quashed pursuant to O.C.G.A. 9-11-26.1 as the deposition is not reasonably calculated to lead to the discovery of relevant or admissible evidence.

Section 26.1 of Chapter 11 of the Georgia Civil Practices Act, which is titled, **"Protective orders for certain high-ranking members of a governmental body or public or private entity,"** provides that "good cause for a protective order to prohibit the deposition of an officer may be shown by proof that such person is an officer and lacks unique personal knowledge of any matter that is relevant to the subject matter involved in the pending action." (O.C.G.A. 9.11.26.1).

There can be no serious dispute that Ms. Willis is an officer as defined by the statute given that in her position as Fulton County District Attorney with authority over criminal prosecutions for the entire Atlanta Judicial District, she is a "high-ranking officer" of a "governmental entity" and has "extensive scheduling demands and responsibilities." (O.C.G.A. § 9-11-26.1(a)).

More importantly, District Attorney Willis "lacks unique personal knowledge of any matter that is relevant to the subject

matter involved in the pending action" and Defendant Joycelyn Wade has not alleged otherwise. Indeed, the deposition of District Attorney Fani T. Willis cannot provide unique personal knowledge of any matter that is relevant to Defendant Wade's divorce; because on Information and belief, the Plaintiff filed for divorce on November 2, 2021, on the grounds the marriage was irretrievably broken, and on November 30, 2021, the Defendant answered and agreed the marriage was irretrievably broken.¹ By definition, as reasoned by the Supreme Court in *Harwell v. Harwell*, 233 Ga. 89, 91, 209 S.E.2d 625, 627 (1974), "an 'irretrievably broken' marriage is one where either or both parties are unable or refuse to cohabit and there are no prospects for a reconciliation."

Examination of the docket reveals that for the 26 months prior to attempting to serve this non-party witness subpoena for a deposition, the parties have not amended their pleadings.² Thus,

¹ Attorney of record has confidence that the facts as presented, under information and belief, are true and correct. Because the record is sealed, no pleading or record entry has been cited to confirm the information and facts presented.

² Counsel also notes that the subpoena for the deposition of Fani T. Willis was not properly served. Counsel will address the improper notice in a future pleading. O.C.G.A. § 9-11-45 (a)(1)(C) provides that a subpoena "shall be issued and served in accordance with law governing issuance of subpoenas for attendance at court, except as to issuance by an attorney." O.C.G.A. § 24-13-24, a "[s]ubpoena may be served by any sheriff, by his or her deputy, or by any other person not less than 18 years of age. Proof may be shown by return or certificate endorsed on a copy of the subpoena. Subpoenas may also be served by registered or certified mail or statutory overnight delivery..." Non-Party Deponent was not served personally or by certified mail. On January 8, 2024, an employee of the Office of the Fulton County District Attorney was summoned to the reception area. The employee accepted service of Defendant Joycelyn Wade's Notice of Deposition. No employee of Fulton County is authorized to accept personal service on behalf of Fani T. Willis. The subpoena is also defective. O.C.G.A. § 9-11-30, "notice shall state the time and place for taking the deposition, the means by which the testimony shall be recorded, and the name and address of each person to be examined." The Subpoena of Deposition fails to indicate topics, dates, or subjects which the deposition is to cover. It further fails to state the means by which the deposition shall be recorded.

they each separately allege and maintain that their marriage was and remains irretrievably broken.

It is well-established that when both parties in a divorce proceeding assert that a marriage is irretrievably broken, which is a legal conclusion signifying that there is no hope for reconciliation, there is no genuine issue of fact that remains to be decided concerning the divorce. *Friedman v. Friedman*, 233 Ga. 254, 210 S.E.2d 754 (1974) (per curiam). In *Friedman*, the Supreme Court of Georgia affirmed the trial court's ruling that since the parties admitted in their pleadings that the marriage was irretrievably broken, the fact-finder was not required to decide whether the wife was additionally entitled to divorce based on her allegations of cruel treatment by the husband as there was no genuine issue of fact to be decided by a jury and it was proper to grant the divorce based solely on the pleadings. *Id.* at 255.

On information and belief, Plaintiff and Defendant do not live together, and the Defendant has lived outside the state of Georgia separate and apart from the Plaintiff since 2021. Thus, there is no prospect of reconciliation and genuine issue of material fact in need of resolution. Defendant Joycelyn Wade has not alleged otherwise.

In fact, the Defendant has not made a specific request for information from District Attorney Willis. If, however, media reports are any indication, the Defendant may intend to ask

questions regarding the nature of any relationship with the Plaintiff. Because the parties agree that the marriage is irretrievably broken and the concept of fault is not at issue, there is no information that District Attorney Willis could provide that might prove relevant to granting or denying the divorce. Thus, any information sought from District Attorney Willis would be irrelevant to the divorce proceedings pending in this Court. See *Dickson v. Dickson*, 238 Ga. 672, 674, 235 S.E.2d 479, 482 (1977) (holding judgment of divorce on pleadings is permitted where parties agree marriage irretrievably broken (citing *Friedman v. Friedman*, 233 Ga. 254, 210 S.E.2d 754 (1974); *Marshall v. Marshall*, 234 Ga. 393, 216 S.E.2d 117 (1975); *Whitmire v. Whitmire*, 236 Ga. 153, 223 S.E.2d 135 (1976); "*Loftis v. Loftis*, 236 Ga. 637, 225 S.E.2d 685 (1976); *Anderson v. Anderson*, 237 Ga. 886, 230 S.E.2d 272 (1976) decided October 20, 1976." *Adams v. Adams*, 232 S.E.2d 919, 238 Ga. 326 (Ga. 1977)).

As a result, the sought-after deposition in this case is outside the scope of the pending divorce action and outside the scope of discovery. On information and belief, Defendant is using discovery as a vehicle to harass Non-Party Deponent Willis. The sought-after deposition of District Attorney Willis is not relevant to the subject matter involved in the pending action and should not be permitted.

For these reasons, there is good cause for a protective order under O.C.G.A. § 9-11-26.1 to prohibit the deposition of Non-Party Deponent, Fani T. Willis.

II. Defendant Joyce Wade's failure to identify a relevant purpose for the sought-after deposition suggests that it is intended to harass.

On information and belief, as early as 2017, prior to Plaintiff Nathan J. Wade ever meeting Non-Party Deponent Willis, the parties to the above-styled divorce agreed that their marriage was irretrievably broken after the Defendant Joycelyn Wade confessed to an adulterous relationship with the Plaintiff's longtime friend. The Defendant Joycelyn Wade's adultery precluded any chance of reconciliation. To protect the interest of both parties, Plaintiff and Defendant agreed to seal the records in their divorce case; however, the parties delayed filing for the benefit of their children - specifically to allow the children to reach the age of majority.

Defendant Joycelyn Wade has not objected to Michael Roman's motion to unseal the proceedings despite having previously sought it and having benefited from its protection for more than two years.

On further information and belief, the subpoena for the deposition of District Attorney Willis is being sought in an attempt to harass and damage her professional reputation. It is

also being sought in an unreasonable manner to annoy, embarrass, and oppress the deponent.

On further information and belief, Defendant Joycelyn Wade has conspired with interested parties in the criminal Election Interference Case to use the civil discovery process to annoy, embarrass, and oppress District Attorney Willis. In support of this contention:

- (1) A defective subpoena for the Deposition of District Attorney Fani T. Willis was conspicuously coordinated with pleadings in the Election Interference Case. Specifically, criminal Defendant Michael Roman filed a motion seeking to unseal Mr. and Mrs. Wade's divorce proceedings on the same day and within hours of Defendant Joycelyn Wade's public request to depose Ms. Willis as part of the divorce proceedings involving Plaintiff Nathan J. Wade.
- (2) Prior to the attempted service of the subpoena on District Attorney Willis, Plaintiff Nathan J. Wade and Defendant Joycelyn Wade filed a consent motion to seal their divorce proceedings to keep them private. The Court sealed the divorce on February 10, 2022. It was only after Defendant Joycelyn Wade sought to subpoena District Attorney Fani T. Willis that there was a request to unseal the divorce proceedings. This

sequence of events, coupled with the absence of any relevant basis for deposing District Attorney Willis in an uncontested no-fault divorce where the parties have been separated for over two years, suggests that Defendant Joycelyn Wade is using the legal process to harass and embarrass District Attorney Willis, and in doing so, is obstructing and interfering with an ongoing criminal prosecutions.

- (3) On information and belief, because the parties to the above-styled divorce have no minor children and they each contend that the marriage is irretrievably broken, the only potential issue that might be relevant to Plaintiff Nathan J. Wade's current employment would be how his compensation relates to the division of marital property. Yet, even this is not an issue presently in dispute. And even if it were, Defendant Joycelyn Wade has acknowledged through counsel receipt of all financial documents related to Plaintiff Nathan J. Wade's employment by the Office of the Fulton County District Attorney. In fact, the custodian of records for the Fulton County District Attorney, pursuant to O.C.G.A. § 24-8-803(6), has provided Defendant Joycelyn Wade with all documents related to Plaintiff Nathan J. Wade's compensation.

As a result, Defendant Joycelyn Wade has released from deposition the Deputy of Operations for Fulton County who would have the most relevant information related to the practices and procedures concerning employee and contractor compensation. Defendant Joycelyn Wade has not identified any other relevant basis for questioning or seeking discovery from the District Attorney Willis.

III. The non-party Witness Subpoena Deposition of District Attorney Fani T. Willis is overburdensome and unreasonable.

The non-party Witness Subpoena Deposition was improperly served on January 8, 2024 specifies that the deposition shall take place on January 23, 2024, at 10:00 a.m., a mere fifteen (15) days after improper service. A fifteen-day compliance deadline is unreasonable and is overburdensome for District Attorney Fani T. Willis to prepare to give sworn testimony.

IV. The Subpoena of Deposition is unlimited in scope, is overbroad and should be quashed.

The one-page Notice of Deposition fails to state how the oral testimony will be recorded, written, or transcribed. It does not provide a list of documents, evidence or information requested from Fani T. Willis. As a result, it is not reasonably calculated to lead the District Attorney, or her counsel, to know what information is being sought. This

overbroad Notice of Deposition is nothing more than a fishing expedition designed to vex its recipient. Based on the foregoing, Non-Party Deponent respectfully requests this Court's assistance to enter an order GRANTING her Motion for Protective Order.

WHEREFORE, Petitioner prays that:

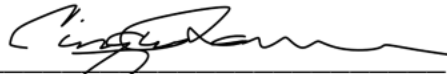
- (a) This Court grant a protective order quashing the attached subpoena for deposition;
- (b) Non-Party Deponent be awarded attorney's fees and expenses incurred in preparing, filing, and litigating this response;
- (c) In the alternative, that Non-Party Deponent, be given 180 days to complete a review of the filings in the instant case, investigate and depose relevant witnesses with regard to the interference and obstruction this motion contends;
- (d) Barring a protective order quashing the subpoena for deposition, this Court should:
 - 1. Order the Defendant Joycelyn Wade to provide a scope of information sought in the deposition.
 - 2. Order the Defendant Joycelyn Wade be required to state the method of deposition they request to perform.

3. Order the Defendant Joycelyn Wade be required to use a reasonable means, other than deposition, to retrieve the information she is seeking.

(e) Non-Party Deponent be awarded any other and further relief as this Court deems appropriate.

This 17th day of January 2024.

Respectfully submitted,



Cinque Axam
Attorney for Non-Party Deponent
Georgia Bar No. 812810

AXAM~ROBERTS LEGAL GROUP

Decatur, Georgia 30031

SUPERIOR COURT

Pursuant to O.C.G.A. 24-13-21 a subpoena must be completed prior to being served on a witness. Any person misusing a subpoena is subject to punishment for contempt of court and may be fined not more than \$300.00 and imprisoned for not more than 20 days, or both. Witnesses may contact the Office of the Clerk of Court, telephone 770-528-1300 to verify that this subpoena was issued for a valid case.

**IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA**

NATHAN J. WADE,)	
)	
Plaintiff,)	
)	CIVIL ACTION
V.)	
)	FILE NO. 21-1-08166
JOYCELYN WADE,)	
)	
Defendant.)	

**DEFENDANT'S RESPONSE TO EMERGENCY MOTION BY NON-PARTY DEPONENT FOR
PROTECTIVE ORDER**

COMES NOW the Defendant, JOYCELYN WADE, by and through her counsel of record, and hereby files her response to non-party, Fani T. Willis's, *Emergency Motion by Non-Party Deponent for Protective Order* and would demonstrate to this Honorable Court as follows:

INTRODUCTION

Non-party, Fani T. Willis, seeks this Court's intervention via a protective order to avoid sitting for a court-ordered deposition. The arguments asserted by Ms. Willis are disingenuous, specious, and her claimed basis for same fails as a matter of law. Upon information and belief, Ms. Willis has information and knowledge directly relevant to alleged conduct of the Plaintiff that would be considered by the Court as to equitable division of the marital estate, dissipation of marital assets, and spousal support. Furthermore, Ms. Willis's implied threat to pursue charges against Defendant and her counsel, based on inconvenient facts from her

Nathan J. Wade v. Joycelyn Wade

Superior Court of Cobb County; CAFN: 21-1-08166

Defendant's Response to Emergency Motion by Non-Party Deponent for Protective Order

Page 1 of 11

personal life that are directly relevant to the ongoing divorce proceedings in the above-styled action, is an affront to the integrity of her office.

Contrary to the assertions in her *Motion*, Ms. Willis's prevarications regarding Defendant's conduct in her marriage seem to demonstrate that Ms. Willis does, in fact, possess intimate information about The Wade's marriage, albeit false and libelous misinformation.

BACKGROUND

Plaintiff was appointed as a special prosecutor by Ms. Willis on November 1, 2021. Plaintiff filed for divorce on November 2, 2021. Defendant was served by process server on November 3, 2021. Before Defendant even filed her Answer and Counterclaim, Plaintiff filed a motion asking the court to seal the record in this divorce action.

Plaintiff did not reveal to Defendant his appointment by Ms. Willis or the substantial income he has been receiving throughout this divorce case as a result of that appointment, and Defendant did not discover the same until much later in the proceedings. Plaintiff also left Defendant with little means of financial support while simultaneously spending tens of thousands of dollars per month on a very lavish lifestyle. Plaintiff willfully failed to comply with his discovery obligations in the very divorce case that he initiated, which led to the Court holding him contempt of this Court's Order on Defendant's Motion to Compel Discovery.

On December 22, 2023, Plaintiff only produced a portion of his outstanding required discovery responses. In these responses were credit card statements which demonstrated that Plaintiff had paid for and taken trips unrelated to his work with the Fulton County District Attorney's office. Since Plaintiff filed for divorce, he has taken trips to San Francisco and Napa Valley, to Florida and even gone on Caribbean cruises, enjoyed a trip to Belize, another to the country of Panama and even just last month took a trip to Australia. The evidence is clear that Ms. Willis was an intended travel partner for at least some of these trips as indicated by flights he purchased for her to accompany him. [True and accurate copies of credit card statements showing purchase of plane tickets for Plaintiff and Ms. Willis are attached hereto as composite Exhibit A.]

ARGUMENT

Defendant seeks to depose Ms. Willis in order to determine details surrounding her romantic affair with Plaintiff, as there appears to be no reasonable explanation for their travels apart from a romantic relationship. Ms. Willis contends in error that given the parties both citing in their divorce pleadings the no-fault provision of "irretrievably broken with no reasonable hope of reconciliation" that Defendant's inquiry into Plaintiff's infidelity is impermissible. However, Ms. Willis is mistaken. In Georgia divorce proceedings, a party can amend a pleading up to the entry of the pre-trial order, and as no pre-trial order has been entered in this case such amendments are permissible. Price v.

Price, 243 Ga. 4, 5 (252 S.E.2d 402) (1979); Nelson v. Zant, 261 Ga. 358, 405 S.E.2d 250 (1991); Jackson v. Paces Ferry Dodge, 183 Ga. App. 502, 503 (359 S.E.2d 412) (1987), and Ga. Code Ann. § 9-11-15 (a).

Furthermore, a party to a divorce action is not required to allege adultery in the complaint or counterclaim in order to discover and present evidence of same.

Although the Defendant was unaware of a romantic relationship between Ms. Willis and her husband when filing her counterclaim, the Court of Appeals of Georgia in Ewing v. Ewing stated:

"in divorce cases, such as this case, in which the equitable division of property is at issue, the conduct of the parties, including evidence of a spouse's alleged adultery, is relevant and admissible. See Wood v. Wood, 283 Ga. 8, 11 (5) (655 SE2d 611) (2008). Accordingly, the wife is entitled to engage in discovery which might lead to admissible evidence of the husband's alleged adultery. See OCGA § 9-11-26 (b) (1)." Ewing v. Ewing, 333 Ga. App. 766 (2015).

Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action[.] OCGA § 9-11-26 (b) (1). "[I]n the discovery context, courts should and ordinarily do interpret 'relevant' very broadly to mean matter that is relevant to anything that is or may

become an issue in the litigation." [emphasis supplied] Bowden v. The Medical Center, 297 Ga. 285, 291 (2) (a) (773 SE2d 692) (2015).

Contrary to Ms. Willis's belief, the Defendant is not utilizing the deposition to harass her but rather to seek pertinent information from her husband's paramour regarding her relationship with Plaintiff and the extent of the Plaintiff's financial involvement in the same. These answers are relevant to the equitable division of the marital estate, dissipation of marital assets, and the Plaintiff's capacity to provide spousal support.

Ms. Willis also mistakenly relies on Section 26.1 of Chapter 11 of the Georgia Civil Practice Act to shield herself from deposition. O.C.G.A. § 9-11-26.1 stating that "[p]rotective orders for certain high-ranking members of a governmental body or public or private entity...[can be issued for] good cause... to prohibit the deposition of an officer [who] lacks unique personal knowledge of any matter that is relevant to the subject matter involved in the pending action." Upon information and belief, Ms. Willis certainly would have unique personal knowledge of a romantic relationship she was having with Plaintiff and trips she took with him, either before or after the divorce was filed; therefore, her argument lacks merit.¹

¹ See General Motors, LLC v. Buchanan, 313 Ga 811 (2022) which held that to the extent the factors are asserted by a party seeking a protective order, a trial court should consider whether the executive's high rank, the executive's lack of unique personal knowledge of relevant facts, and the availability of information from other sources demonstrate good cause for a protective order under O.C.G.A. § 9-11-26. The Court also stated that this "apex" doctrine can also apply to high-level government officials, who are not subject to depositions unless they have some personal knowledge about the matter and the party seeking the deposition makes a showing that the information cannot be obtained elsewhere.

Nathan J. Wade v. Joycelyn Wade

Superior Court of Cobb County; CAFN: 21-1-08166

Defendant's Response to Emergency Motion by Non-Party Deponent for Protective Order

Page 5 of 11

As for Ms. Willis's argument that the subpoena service was defective, the subpoena, which came from and was sealed by the clerk of court of Cobb County, was properly served in accordance with Georgia law, and a notice of deposition was contemporaneously filed into the Court's record and served upon Plaintiff's counsel, which denoted the method by which the subpoena would be recorded. It would be impossible to obtain Ms. Willis's home address due to her position which allows for her address to be shielded from public view, so normal investigative techniques for locating home addresses would be fruitless, such as a skip trace. The process server effectuated notorious service with Tia Green, Executive Assistant to District Attorney Fani T. Willis at the Fulton County District Attorney's offices on January 8, 2024. It should be noted that after a previous attempt to serve Ms. Willis at the Fulton County District Attorney's office the week prior, notorious service was accomplished with Ms. Willis' Executive Assistant upon Ms. Green's representation that she was authorized to accept service on Ms. Willis's behalf. [A true and accurate copy of the Affidavit of Process Server is attached hereto as Defendant's Exhibit B]. However, in an abundance of caution, Defendant has served a new subpoena for deposition upon Ms. Willis by statutory overnight service congruent with O.C.G.A. § 24-13-24, the same to be delivered to the Fulton County District Attorney's Office on January 19, 2024, four

(4) days before her deposition. [A true and accurate copy of the second subpoena to Fani Willis dated January 18, 2024 attached hereto as Exhibit C.]

In her Motion, Ms. Willis has presented extensive, personal information regarding the Wade's marriage, including false allegations of the Defendant engaging in an affair in 2017. However, the evidence will demonstrate that Ms. Wade did not have an affair. Defendant was experiencing a profound sense of disconnection in her marriage to the Plaintiff, who had essentially ceased investing in their relationship following Plaintiff's own, actual infidelity. Feeling lonely and isolated following Plaintiff's prior infidelity, Defendant regrettably reconnected with an old friend through social media and text messages were the sole extent of their contact. Plaintiff and Defendant successfully worked through this issue, as evidenced by the fact that it was not until four (4) years later that Plaintiff filed for divorce. It is crucial to emphasize that the Defendant never met in person with the individual she texted with during that period, had no physical contact with him and certainly did not engage in any travel with him. Defendant's counsel intends to, among other things, examine Ms. Willis regarding these allegations she has made against Defendant, the facts and circumstances surrounding her obtaining this "information", as well as regarding her own personal relationship with Defendant.

Allegations regarding the parties' marriage contained in Ms. Willis Motion essentially raises the question of whether Ms. Willis possesses equal intimate

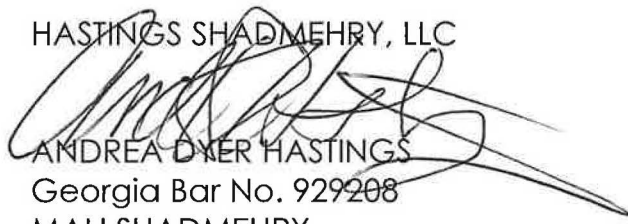
knowledge of any marital discord involving any other of her special prosecutors. Her public inquiry of "why the one" seems to be met with a response that suggests, "because you, Ms. Willis, are having an affair with him and not them."

It is regrettable that Ms. Willis has filed such an inflammatory *Motion*, which has left Defendant with no other choice than to respond forcefully and with supporting evidence in a case that is very personal in nature. The Defendant's sole objective is to lead a peaceful life, and her counsel is committed to ensuring she has adequate means to support herself and defend herself in this litigation. If non-party, Ms. Willis, seeks protection, it appears that the one she needs protection from is herself.

WHEREFORE, Defendant prays this Honorable Court deny the *Emergency Motion by Non-Party Deponent for Protective Order*. And all other relief the Court deems fair and proper.

Respectfully submitted this 19th day of January, 2024.

HASTINGS SHADMEHRY, LLC



ANDREA DYER HASTINGS

Georgia Bar No. 929208

MALI SHADMEHRY

Georgia Bar No. 670858

STEPHANIE WEIL

Georgia Bar No. 447893

Attorneys for Respondent

3650 Mansell Road, Suite 475
Alpharetta, Georgia 30022
(770) 641-8200
andee@hsfamilylaw.com
mali@hsfamilylaw.com
stephanie@hsfamilylaw.com

**IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA**

NATHAN WADE,

Plaintiff,

v.

JOYCELYN WADE,

Defendant.

CIVIL ACTION

FILE NO. 21-1-08166

CERTIFICATE OF SERVICE

I certify that I have this day, served a copy of the foregoing *Defendant's Response to Emergency Motion by Non-Party Deponent for Protective Order*, upon Plaintiff and Non-Party Deponent, by and through their counsels of record, via statutory electronic service addressed as follows:

M. Scott Kimbrough skimbrough@dupree-lawfirm.com Attorney for Plaintiff	Cinque Axa Cinque.axam@axamlaw.com Attorney for Non-Party Deponent
---	--

This 19th day of January, 2024.

HASTINGS SHADMEHRY LLC

ANDREA DYER HASTINGS

Georgia Bar No. 929208

MALI C. SHADMEHRY

Georgia Bar No. 670858

STEPHANIE D. WEIL

Georgia Bar No. 447893

Attorneys for Defendant

3650 Mansell Road, Suite 475
Alpharetta, Georgia 30022
andee@hsfamilylaw.com
mali@hsfamilylaw.com
stephanie@hsfamilylaw.com

Transactions

Visit capitalone.com to see detailed transactions.

NATHAN J WADE #2144: Payments, Credits and Adjustments

Trans Date	Post Date	Description	Amount
Apr 20	Apr 20	CAPITAL ONE ONLINE PYMTAuthDate 18-Apr	- \$20,000.00

NATHAN J WADE #2144: Transactions

Trans Date	Post Date	Description	Amount
Apr 17	Apr 18	STATE BAR OF GEORGIA404-527-8700GA	\$289.00
Apr 23	Apr 24	FRAMEBRIDGE202-629-0727DC	\$272.25
Apr 25	Apr 27	DELTA AIR 0062103347436ATLANTAGA TK#: 0062103347436PSGR: WADE/NATHAN J ORIG: ATL, DEST: SFO, S/O: O, CARRIER: DL, SVC: W ORIG: SFO, DEST: ATL, CARRIER: DL, SVC: W	\$817.80
Apr 25	Apr 27	DELTA AIR 0062103347437ATLANTAGA TK#: 0062103347437PSGR: WILLIS/FANI TAI ORIG: ATL, DEST: SFO, S/O: O, CARRIER: DL, SVC: W ORIG: SFO, DEST: ATL, CARRIER: DL, SVC: W	\$817.80
May 1	May 2	WWP*BUG BUSTERS USA770-517-0200GA	\$87.00
May 2	May 3	ETT*AlightBatonRougeRENT801-8775491IL	\$643.90
May 4	May 4	COMCAST CABLE COMM800-COMCASTGA	\$397.55
May 4	May 4	1-800-FLOWERS.COM,INC.800-468-1141NY	\$73.58
May 4	May 4	1-800-FLOWERS.COM,INC.800-468-1141NY	\$73.58
May 5	May 6	A *Mack for Judge225-2501301GA	\$250.00
May 12	May 13	UBER TRIPHELP.UBER.COMCA	\$148.46
May 13	May 15	UBER TRIPHELP.UBER.COMCA	\$22.15
May 14	May 15	UBER TRIPHELP.UBER.COMCA	\$27.58
May 14	May 15	UBER TRIPHELP.UBER.COMCA	\$155.34
May 14	May 16	DOUBLETREE NAPA VALLEY707-6742100CA	\$228.04
May 14	May 16	DOUBLETREE NAPA VALLEYAMERICAN CANYCA	\$612.18
May 17	May 18	BURSAR OPERATIONS225-5787809LA	\$7,128.88
NATHAN J WADE #2144: Total Transactions			\$12,045.09

Total Transactions for This Period

\$12,045.09

Fees

Trans Date	Post Date	Description	Amount
Total Fees for This Period			\$0.00

Additional Information on the next page



Transactions			
Visit capitalone.com to see detailed transactions.			
NATHAN J WADE #2144: Payments, Credits and Adjustments			
Trans Date	Post Date	Description	Amount
Dec 29	Dec 29	CAPITAL ONE ONLINE PYMTAuthDate 29-Dec	- \$1,550.00
Jan 5	Jan 6	DELTA AIR 0062351980386FIUMICINO \$119.30 EUR 0.951203955 Exchange Rate TK#: 0062351980386 PSGR: WADE/NATHAN JER ORIG: ROM, DEST: ROM, S/O: O, CARRIER: DL	- \$125.42
NATHAN J WADE #2144: Transactions			
Trans Date	Post Date	Description	Amount
Dec 17	Dec 19	UBER TRIPHELP.UBER.COMCA	\$23.67
Dec 22	Dec 23	TARGET 00011064MARIETTAGA	\$87.41
Dec 28	Dec 28	UBER EATSHelp.UBER.COMCA	\$23.38
Jan 1	Jan 2	ETT*AlightBatonRougeRENT801-8775491IL	\$620.28
Jan 2	Jan 3	RUM RUNNERSFREEPORT \$198.75 BSD 1.000000000 Exchange Rate	\$198.75
Jan 2	Jan 3	ISLAND JEEP & CAR RENTALFREEPORT \$98.00 BSD 1.000000000 Exchange Rate	\$98.00
Jan 3	Jan 4	NORWEGIAN SKY8662347350FL	\$214.80
Jan 4	Jan 4	COMCAST CABLE COMM800-COMCASTGA	\$372.63
Jan 4	Jan 4	UBER TRIPHELP.UBER.COMCA	\$12.94
Jan 5	Jan 6	MACYS TOWN CENTERKENNESAWGA	\$392.15
Jan 8	Jan 9	KROGER #657MARIETTAGA	\$107.04
NATHAN J WADE #2144: Total Transactions			\$2,151.05
Total Transactions for This Period			\$2,151.05
Fees			
Trans Date	Post Date	Description	Amount
Total Fees for This Period			\$0.00

Transactions			
Visit capitalone.com to see detailed transactions.			
NATHAN J WADE #2144: Payments, Credits and Adjustments			
Trans Date	Post Date	Description	Amount
Oct 22	Oct 22	CAPITAL ONE ONLINE PYMTAuthDate 22-Oct	- \$3,500.00
Oct 25	Oct 25	CREDIT-CASH BACK REWARD	- \$175.17
Nov 15	Nov 15	CAPITAL ONE ONLINE PYMTAuthDate 15-Nov	- \$2,500.00
NATHAN J WADE #2144: Transactions			
Trans Date	Post Date	Description	Amount
Oct 21	Oct 22	JD 1141ATLANTAGA	\$424.71
Oct 28	Oct 29	UBER TRIPHELP.UBER.COMCA	\$5.18
Oct 28	Oct 29	UBER TRIPHELP.UBER.COMCA	\$23.30
Oct 31	Nov 1	FREEDOM OF THE SEASMIAMI FL	\$992.28
Nov 2	Nov 3	ETT*AlightBatonRougeRENT801-8775491IL	\$640.02
Nov 4	Nov 7	HYATT REGENCY ARUBA RESORARUBA	\$370.88
Nov 6	Nov 7	Norwegian Cruise Line866-2347350FL	\$3,172.20
Nov 7	Nov 8	AT&T C382 46374MARIETTAGA	\$102.34
NATHAN J WADE #2144: Total Transactions			\$5,730.91
Total Transactions for This Period			\$5,730.91
Fees			
Trans Date	Post Date	Description	Amount
Total Fees for This Period			\$0.00
Interest Charged			
Interest Charge on Purchases			\$275.61
Interest Charge on Cash Advances			\$0.00
Interest Charge on Other Balances			\$0.00
Total Interest for This Period			\$275.61
Totals Year-to-Date			
Total Fees charged			\$0.00
Total Interest charged			\$1,137.82

Transactions

Visit capitalone.com to see detailed transactions.

NATHAN J WADE #2144: Payments, Credits and Adjustments

Trans Date	Post Date	Description	Amount
Oct 1	Oct 1	CAPITAL ONE ONLINE PYMTAuthDate 01-Oct	- \$1,500.00
Oct 13	Oct 13	ELECTRONIC PAYMENT	- \$5,000.00

NATHAN J WADE #2144: Transactions

Trans Date	Post Date	Description	Amount
Sep 23	Sep 24	SQ *COPY CENTRAL. INCAtlantaGA	\$212.60
Sep 23	Sep 26	AUDI ATLANTAATLANTAGA	\$6,014.65
Oct 1	Oct 3	ETT*AlightBatonRougeRENT801-8775491IL	\$606.20
Oct 4	Oct 5	ROYAL CARIBBEAN CRUISES800-327-6700FL	\$1,387.70
Oct 4	Oct 5	ROYAL CARIBBEAN CRUISES800-327-6700FL	\$1,284.85
Oct 4	Oct 5	AMERICAN AIR0012341816759FORT WORTH TX TK#: 0012341816759PSGR: BOWMAN/CLARA ORIG: IAH, DEST: MIA, S/O: O, CARRIER: AA, SVC: N ORIG: MIA, DEST: DFW, S/O: O, CARRIER: AA, SVC: V ORIG: DFW, DEST: IAH, S/O: O, CARRIER: AA, SVC: VO	\$413.20
Oct 4	Oct 5	AMERICAN AIR0012341865331FORT WORTH TX TK#: 0012341865331PSGR: WADE/NATHAN ORIG: ATL, DEST: MIA, S/O: X, CARRIER: AA, SVC: G ORIG: MIA, DEST: ATL, S/O: X, CARRIER: AA, SVC: L	\$477.21
Oct 4	Oct 5	AMERICAN AIR0012341865332FORT WORTH TX TK#: 0012341865332PSGR: WILLIS/FANI ORIG: ATL, DEST: MIA, S/O: X, CARRIER: AA, SVC: G ORIG: MIA, DEST: ATL, S/O: X, CARRIER: AA, SVC: L	\$477.21
Oct 5	Oct 6	VACATION EXPRESS800-309-4717GA	\$3,835.26
Oct 6	Oct 7	WM SUPERCENTER #1181MARIETTAGA	\$315.88
Oct 9	Oct 10	AT&T PM60 16425JASPERGA	\$101.45
Oct 9	Oct 10	AT&T PM60 16425JASPERGA	\$144.88
Oct 9	Oct 11	HOLIDAY INN EXP WOODSTOCKWOODSTOCKGA	\$226.16
Oct 11	Oct 13	AMERICAN AIR0010613893837FORT WORTH TX TK#: 0010613893837PSGR: WADE/NATHAN ORIG: RVU, DEST: FEE, S/O: O, CARRIER: AA, SVC: Y	\$62.50
Oct 11	Oct 13	AMERICAN AIR0010613893838FORT WORTH TX TK#: 0010613893838PSGR: WILLIS/FANI ORIG: RVU, DEST: FEE, S/O: O, CARRIER: AA, SVC: Y	\$61.24
Oct 11	Oct 13	AMERICAN AIR0010613895925FORT WORTH TX TK#: 0010613895925PSGR: WADE/NATHAN J ORIG: RVU, DEST: FEE, S/O: O, CARRIER: AA, SVC: Y	\$61.72
Oct 11	Oct 13	AMERICAN AIR0010613895926FORT WORTH TX TK#: 0010613895926PSGR: WILLIS/FANI T	\$61.72

Additional Information on the next page

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

Nathan Wade,

Plaintiff(s),

Case No.: 21-1-08166

vs.

Joycelyn Wade,

Defendant(s).

Connie Taylor, Clerk of Superior Court
Cobb County, Georgia

AFFIDAVIT OF SERVICE

Personally appeared before me the undersigned officer duly authorized to administer oaths, Danny Davidson, who, after being duly sworn, deposes and states the following:

1.

Affiant states that he/she is appointed by this Court to serve process. The statements made are true and correct and are based upon my personal knowledge.

2.

I served Ms. Fani T. Willis with a Witness Subpoena Deposition by leaving the documents with Tia Green, Executive Assistant to District Attorney of Ms. Fani T. Willis at said person's place of employment/place of business located at 136 Pryor St. SW, Atlanta, GA 30303 on January 08, 2024 at 11:57 AM.

Description of person process was left with:

Sex: Female - Ethnicity: African American - Hair: Black - Age: 40-45 - Height: 5ft 09in - Weight: 170 lbs

Comments: Authorized to accept service.

Signed and sworn to before me on
this 9 day of January, 2024
by an affiant who is personally known to me
or produced identification.

Notary Public


Danny Davidson
Express Legal Services LLC
860 Johnson Ferry Rd.
Atlanta, GA 30342
(678) 648-6330



RESPONDENT'S
EXHIBIT

B

5149841

DEPOSITION

TO WITNESS:

NAME:

ADDRESS:

DIVISION: ☒ CIVIL

☐ CRIMINAL

CASE NO.:

YOU ARE COMMANDED that, laying all business aside, you be and appear at the time set forth below to testify at a deposition to be taken in this case. If you are an organization that is not a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Deponent's romantic relationship with Plaintiff.
- videotaped + court reporter

PLACE:

DATE AND TIME:

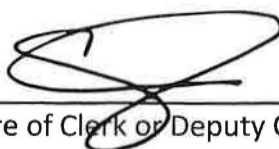
Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material, or those set forth in an attachment:



HEREIN FAIL NOT UNDER PENALTY OF LAW.

Witness my hand and the seal of this court, this the 18th day of January, 2024.

Connie Taylor, Clerk, Superior Court of Cobb County.


Signature of Clerk or Deputy Clerk

OR

Attorney of Record

If you have questions, contact:

Attorney's Name:

Telephone No.:

Address:

Andrea Dyer Hastings
770-641-8300
3650 Mansell Rd Ste 475
Alpharetta, GA 30022
andee@hstfamilylaw.com



Stephanie Weil

From: TrackingUpdates@fedex.com
Sent: Friday, January 19, 2024 9:28 AM
To: Stephanie Weil
Subject: FedEx Shipment 774864384807: Your package has been delivered



Hi. Your package was
delivered Fri, 01/19/2024 at
9:20am.



Delivered to 185 CENTRAL AVE SW, ATLANTA, GA 30303
Received by M.ONIEL

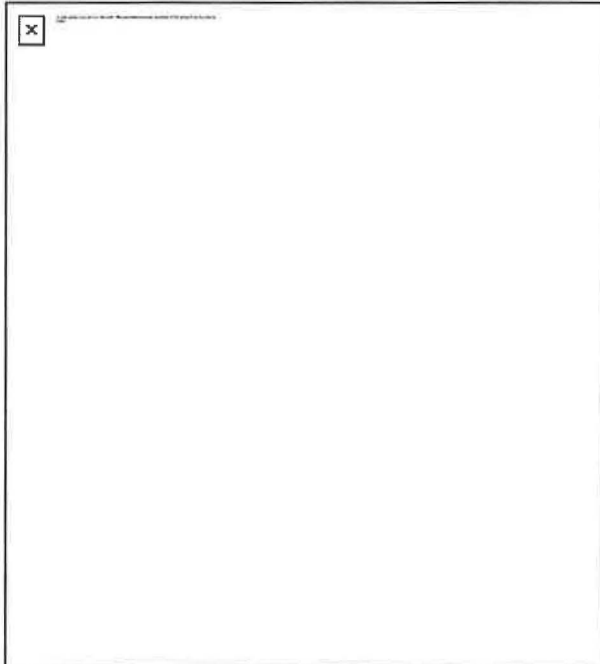
OBTAIN PROOF OF DELIVERY

How was your delivery ?



TRACKING NUMBER 774864384807

FROM	Hastings Shadmehry LLC 3650 Mansell Road Ste 475 Alpharetta, GA, US, 30022
TO	Ms. Fani T. Willis 141 Pryor Street SW ATLANTA, GA, US, 30303
INVOICE NUMBER	Wade 2723-01
SHIP DATE	Thu 1/18/2024 07:13 PM
DELIVERED TO	Mailroom
PACKAGING TYPE	FedEx Envelope
ORIGIN	Alpharetta, GA, US, 30022
DESTINATION	ATLANTA, GA, US, 30303
NUMBER OF PIECES	1
TOTAL SHIPMENT WEIGHT	0.50 LB
SERVICE TYPE	FedEx Priority Overnight



Notifications, from start to finish

Get push notifications when you pair FedEx Delivery Manager® with the FedEx® Mobile app. You can activate alerts in the app to track your package. Then listen for the virtual doorbell chime that lets you know your package was delivered.

DOWNLOAD THE MOBILE APP

FY 2024 Proposed Budget by Department and Focus Area

in millions \$

Department	Health and Human Services	Justice and Safety	Open and Responsible Government	Infrastructure and Economic Development	Arts and Libraries	Grand Total
Arts & Culture	\$ -	\$ -	\$ -	\$ -	\$ 6.2	\$ 6.2
Behavioral Health	\$ 18.1	\$ -	\$ -	\$ -	\$ -	\$ 18.1
Board of Commissioners	\$ 0.2	\$ -	\$ 4.4	\$ -	\$ -	\$ 4.7
BOH Allocation	\$ 11.2	\$ -	\$ -	\$ -	\$ -	\$ 11.2
Child Attorney	\$ -	\$ 3.7	\$ -	\$ -	\$ -	\$ 3.7
Clerk to the Commission	\$ -	\$ -	\$ 1.4	\$ -	\$ -	\$ 1.4
Community Dev.	\$ 9.9	\$ -	\$ -	\$ -	\$ -	\$ 9.9
County Attorney	\$ -	\$ -	\$ 15.3	\$ -	\$ -	\$ 15.3
County Auditor	\$ -	\$ -	\$ 1.4	\$ -	\$ -	\$ 1.4
County Manager	\$ -	\$ -	\$ 4.1	\$ -	\$ -	\$ 4.1
County Marshal	\$ -	\$ 7.3	\$ -	\$ -	\$ -	\$ 7.3
District Attorney	\$ -	\$ 37.6	\$ -	\$ -	\$ -	\$ 37.6
Diversity and Civil Rights	\$ -	\$ -	\$ 1.7	\$ -	\$ -	\$ 1.7
Econ. Dev./ Select Fulton	\$ -	\$ -	\$ -	\$ 0.9	\$ -	\$ 0.9
Emergency Management	\$ -	\$ 12.6	\$ -	\$ -	\$ -	\$ 12.6
Emergency Services - 911	\$ -	\$ 12.2	\$ -	\$ -	\$ -	\$ 12.2
External Affairs	\$ -	\$ -	\$ 2.8	\$ -	\$ -	\$ 2.8
Family & Children Services	\$ 1.7	\$ -	\$ -	\$ -	\$ -	\$ 1.7
Finance	\$ 0.0	\$ -	\$ 14.2	\$ -	\$ -	\$ 14.3
Fire	\$ -	\$ 0.5	\$ -	\$ -	\$ -	\$ 0.5
Fire Rescue	\$ -	\$ 0.4	\$ -	\$ -	\$ -	\$ 0.4
Grady Hospital Transfer	\$ 51.3	\$ -	\$ -	\$ -	\$ -	\$ 51.3
HIV Elimination	\$ 0.1	\$ -	\$ -	\$ -	\$ -	\$ 0.1
Human Resources	\$ -	\$ -	\$ 6.7	\$ -	\$ -	\$ 6.7
Information Technology	\$ -	\$ 0.0	\$ -	\$ 35.9	\$ -	\$ 35.9
Juvenile Court	\$ -	\$ 16.7	\$ -	\$ -	\$ -	\$ 16.7
Library	\$ -	\$ 0.1	\$ -	\$ -	\$ 30.8	\$ 30.9
Magistrate Court	\$ -	\$ 4.9	\$ -	\$ -	\$ -	\$ 4.9
Medical Examiner	\$ -	\$ 6.5	\$ -	\$ -	\$ -	\$ 6.5
Non Agency	\$ 19.9	\$ 75.2	\$ 129.2	\$ 64.3	\$ 19.6	\$ 308.1
Police	\$ -	\$ 15.0	\$ -	\$ -	\$ -	\$ 15.0
Probate Court	\$ -	\$ 5.8	\$ -	\$ -	\$ -	\$ 5.8
Public Defender	\$ -	\$ 26.1	\$ -	\$ -	\$ -	\$ 26.1
Public Works	\$ 76.6	\$ 0.1	\$ -	\$ 196.6	\$ -	\$ 273.2
Purchasing	\$ -	\$ -	\$ 4.7	\$ -	\$ -	\$ 4.7
Real Estate & Asset Mgmt	\$ -	\$ -	\$ -	\$ 39.3	\$ -	\$ 39.3
Registration & Elections	\$ -	\$ -	\$ 40.2	\$ -	\$ -	\$ 40.2
Senior Services	\$ 26.8	\$ -	\$ -	\$ -	\$ -	\$ 26.8
Sheriff	\$ -	\$ 146.7	\$ -	\$ -	\$ -	\$ 146.7
Solicitor General	\$ -	\$ 12.9	\$ -	\$ -	\$ -	\$ 12.9
State Court - General	\$ -	\$ 8.6	\$ -	\$ -	\$ -	\$ 8.6
State Court - Judges	\$ -	\$ 6.9	\$ -	\$ -	\$ -	\$ 6.9
State Court General	\$ -	\$ 0.5	\$ -	\$ -	\$ -	\$ 0.5
State Court Solicitor	\$ -	\$ 0.7	\$ -	\$ -	\$ -	\$ 0.7
Superior & Magistrate Court - Clerk	\$ -	\$ 26.3	\$ -	\$ -	\$ -	\$ 26.3
Superior Court - General	\$ -	\$ 23.6	\$ -	\$ -	\$ -	\$ 23.6
Superior Court - Judges	\$ -	\$ 9.8	\$ -	\$ -	\$ -	\$ 9.8
Superior Court General	\$ -	\$ 2.2	\$ 0.0	\$ -	\$ -	\$ 2.2
Tax Assessor	\$ -	\$ -	\$ 21.9	\$ -	\$ -	\$ 21.9
Tax Commissioner	\$ -	\$ -	\$ 18.7	\$ -	\$ -	\$ 18.7
Grand Total	\$ 215.8	\$ 462.8	\$ 266.7	\$ 337.0	\$ 56.6	\$ 1,338.9

Exhibit 4

Fulton County FY2024 Proposed Budget General Fund

Proposed
November 15, 2023

	2022 Actuals	2023 Amended Budget	2023 Mid Year Projection	2024 Proposed Budget
REVENUES				
Property Taxes	\$ 656,446,818	\$ 678,215,033	\$ 722,405,092	\$ 771,150,675
Additional 2% Revenue	-	\$ 16,000,000		
Revenue for Budgetary Changes	-	20,531,911		
Local Option Sales Taxes	17,551,513	17,000,000	18,000,000	\$ 18,500,000
All Other	86,330,754	91,053,253	91,129,397	\$ 89,394,796
Total Revenues	\$ 760,329,086	\$ 822,800,197	\$ 831,534,489	\$ 879,045,471
EXPENDITURES				
Arts and Culture	5,454,045	\$ 9,685,272	\$ 9,239,126	\$ 6,011,720
Behavioral Health	14,199,437	18,465,916	16,780,110	\$ 18,088,401
Board of Commissioners	3,666,317	4,477,947	3,812,129	\$ 4,445,631
Clerk to the Commission	1,151,448	1,323,704	1,220,853	\$ 1,354,894
Community Dev.	10,885,912	14,654,332	14,231,151	\$ 9,926,265
County Attorney	3,650,564	5,069,994	5,069,994	\$ 5,069,994
County Auditor	1,373,838	1,418,195	1,407,560	\$ 1,410,358
County Manager	3,488,650	3,827,658	3,724,416	\$ 4,058,114
Econ. Dev./ Select Fulton	640,519	871,850	870,023	\$ 911,268
Diversity and Civil Rights	1,158,348	1,514,230	1,236,258	\$ 1,670,087
Emergency Management	5,394,893	5,664,486	5,534,536	\$ 1,337,830
Child Attorney	3,374,762	3,821,519	3,816,382	\$ 3,736,104
County Marshal	6,871,086	7,425,060	7,102,777	\$ 7,300,573
District Attorney	32,324,900	41,643,241	41,376,655	\$ 36,646,261
Emergency Services - 911	3,209,018	3,516,628	3,203,746	\$ 3,418,235
External Affairs	3,660,163	2,926,775	2,725,639	\$ 2,821,515
Family & Children Services	1,124,471	1,684,840	1,353,181	\$ 1,684,840
Finance	6,462,252	7,706,489	7,178,331	\$ 7,916,858
Grady Hospital Transfer	63,850,003	49,813,841	49,813,841	\$ 51,303,444
HIV Elimination	64,109	190,432	104,676	\$ 139,459
BOH Allocation	11,168,462	11,150,587	11,150,587	\$ 11,150,587
Information Technology	27,492,476	35,149,309	32,968,516	\$ 34,614,883
Juvenile Court	15,620,623	16,927,218	16,901,389	\$ 16,685,657
Library	26,826,762	30,496,143	28,743,505	\$ 30,589,555
Magistrate Court	4,211,403	5,116,197	4,663,866	\$ 4,929,067
Medical Examiner	5,148,580	6,457,310	6,126,869	\$ 6,460,673
Non Agency	146,256,582	208,295,345	198,941,559	\$ 212,073,173
- Emergency Response Reserve	16,400,000			\$ -
- Pension		65,450,522		\$ 65,450,522
- Leases/Debt		33,761,434		\$ 34,588,904
- Utilities		24,200,000		\$ 26,766,638
- Other		84,883,389		\$ 85,287,109
Human Resources	5,067,587	5,960,041	5,760,343	\$ 6,340,229
Police	9,480,593	11,435,513	10,934,684	\$ 11,170,649
Probate Court	4,085,126	6,318,377	5,517,872	\$ 5,683,601
Public Defender	21,928,273	25,377,575	24,440,362	\$ 26,145,319
Public Works	500,000	500,000	500,000	\$ 500,000
Purchasing	3,730,202	4,959,943	4,654,723	\$ 4,674,611
Real Estate & Asset Mgmt	33,712,408	39,514,605	39,241,130	\$ 39,309,676
Registration & Elections	25,514,168	8,553,165	8,116,871	\$ 40,157,759
Senior Services	22,192,276	28,869,727	24,764,707	\$ 26,768,285
Sheriff	125,171,376	142,706,567	142,466,877	\$ 146,384,724
State Court - General	7,458,289	8,809,769	8,652,924	\$ 8,600,422
State Court - Judges	6,158,432	6,893,734	6,518,068	\$ 6,900,659
Solicitor General	9,935,608	12,516,397	11,542,131	\$ 12,852,970
Superior & Magistrate Court - Clerk	19,983,861	21,820,092	20,895,840	\$ 21,942,346
Superior Court - General	22,000,729	23,398,655	23,037,627	\$ 23,600,117
Superior Court - Judges	9,104,485	9,720,397	9,439,342	\$ 9,824,079
Tax Assessor	17,519,571	22,146,677	20,358,443	\$ 21,943,164
Tax Commissioner	17,212,563	18,747,272	18,656,265	\$ 18,688,694
Total of Expenditures	785,885,173	\$ 897,543,024	\$ 864,795,886	\$ 917,242,752
Revenues > Expenditures	\$ (25,556,087)		\$ (33,261,397)	\$ (38,197,281)
Fund Balance - Beginning	\$ 249,919,336		\$ 224,363,249	\$ 191,101,852
Fund Balance - Ending	\$ 224,363,249		\$ 191,101,852	\$ 152,904,571
Fund Balance Minimum Reserve			\$ 144,420,913	\$ 152,904,367

**IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA**

NATHAN WADE,
Petitioner,

vs.

JOYCELYN WADE
Respondent

Civil Action File Number
21108166

**Affidavit For Use In Connection With Support Orders Draft Submitted By Affiant Prior
To Completing Any Discovery And Subject To Revision**

BEFORE ME this day, personally appeared Nathan Wade who being first duly sworn, deposes and says that the following information is true and correct to the best of his/her knowledge and belief:

1. IDENTIFICATION

Affiant's Name:	NATHAN WADE	Age:	48
Opposing Party:	JOYCELYN WADE	Age:	47
Date of Marriage:	June 21, 1997		
Date of Divorce:	N/A		

Names and birth dates of children for whom support is to be determined in this action:

<u>Name</u>	<u>Date of Birth</u>	<u>Resides With</u>
N/A		

Names and birth dates of affiant's other children:

<u>Name</u>	<u>Date of Birth</u>	<u>Resides With</u>

Exhibit 5



N/A		

2. SUMMARY OF AFFIANT'S INCOME AND NEEDS:

(a)	Gross monthly income (from Item 3A)	14,000
(b)	Net monthly income (from Item 3B)	
(c)	Average monthly expenses (from Item 5A)	
	Monthly payments to creditors	
+		
	Total monthly expenses and payments to creditors (from Item 5C)	

3. A. AFFIANT'S GROSS MONTHLY INCOME: (complete this section or attach Child Support Schedule A) (All income must be entered based on monthly average regardless of date of receipt.)

Salary \$14,000

ATTACH COPIES OF 2 MOST RECENT WAGE STATEMENTS

Commissions, Fees, Tips \$0

Income from self-employment, partnership, close corporations, and independent contracts (gross receipts minus ordinary and necessary expenses required to produce income) \$0

ATTACH SHEET ITEMIZING YOUR CALCULATIONS

Bonuses \$0

Overtime Payments \$0

Severance Pay \$0

Recurring Income from Pensions or Retirement Plans \$0

Interest and Dividends \$0

Trust Income \$0

Income from Annuities \$0

Capital Gains \$0

Social Security Disability or Retirement Benefits \$0

Worker's Compensation Benefits \$0

Unemployment Benefits \$0

Judgments from Personal Injury or Other Civil Cases \$0

Gifts (cash or other gifts that can be converted to cash) \$0

Prizes/Lottery Winnings\$0
Alimony and maintenance from persons not in this case\$0
Assets which are used for support of family\$0
Fringe Benefits (if significantly reduce living expenses)\$0
Any other income (do NOT include means-tested
Public assistance, such as TANF or food stamps)\$0
GROSS MONTHLY INCOME\$14,000

3. B. AFFIANT'S NET MONTHLY INCOME FROM EMPLOYMENT.....
(deducting only state and federal taxes and FICA)

Affiant's Pay Period (weekly, monthly, biweekly, twice monthly)

Number of Exemptions Claimed

4. ASSETS

(If you claim or agree that all or part of an asset is non-marital, indicate the non-marital portion under the appropriate spouse's column and state the amount and the basis: premarital, gift, inheritance, source of funds, etc.)

Asset Description	Total Value	Asset of Plaintiff	Asset of Defendant	Basis of the Claim
Cash	5,000			
Stocks/Bonds/Investment Accts (list accounts - designate Jt., P or D)	0			
CD's/Money Market Accounts (list accounts - designate Jt., P or D)	0			
Bank Accounts: (list each account - Designate Jt., P or D)	2000			
Retirement/IRA Accounts, etc. (list accounts - designate Jt, P or D)	0			
Money owed to you	0			
Tax Refund owed you	0			
Real Estate Home Debt Owed \$				
Real Estate Other \$0 Debt Owed \$	600,000			
Motor Vehicles Vehicle 1 \$0 Debt Owed \$ Vehicle 2 \$ Debt Owed \$				
Life Insurance (net cash value)	500,000			
Furniture/Furnishings				
Jewelry	0			
Art/Collectibles	0			

Other Assets				
Total Assets	1.1 million			

5. A. AVERAGE MONTHLY EXPENSES:

HOUSEHOLD	
Rent/Mortgage payment	1500
Property Taxes	escrow
Homeowner's/Renter's Insurance	Escrow
Electricity	100
Water	80
Garbage and/or sewer	51
Telephone:	
Residential Line	0
Cellular Phone	See cable
Gas	120
Repairs & Maintenance (painting, gutters cleaned, HVAC, etc.)	250
Lawn Care	150
Pest Control	85
Cable Television	330
Misc. Household (stamps, p.o. box, alarm, etc.) and grocery items	300
Meals outside Home	0
Other (HOA Fees, Internet etc.)	750 year
Subtotal	1600

AUTOMOBILE	
Gasoline/Oil	0
Car Note	500

Auto Tag/License	0
Auto Insurance	4,600 (6 months)
OTHER VEHICLES (boats, trailers, RVs, etc.)	
Gasoline/Oil	0
Repairs	0
Tag/License	0
Insurance	0
Subtotal	0

CHILD'S EXPENSES	
Child Care (total monthly cost)	
School Tuition	0
Tutoring	0
Private Lessons (e.g., music, dance)	0
School Supplies/expenses	0
Lunch Money	0
Other Educational Expenses (list)	0
Allowance	0
Clothing	
Diapers	
Medical / Dental / Prescription (out of pocket/uncovered expenses)	
Grooming, hygiene	0
Gifts from children to others	0
Entertainment	0
Activities (karate, ballet, baseball, football, girl/boy scouts, including extra-curricular, school, religious, cultural etc.)	0
Summer Camps	0

Subtotal

1180

OTHER INSURANCE		Paid By
Health Child(ren)'s Portion		
Dental Child(ren)'s Portion		
Vision Child(ren)'s Portion	\$	
Life Insurance Relationship of Beneficiary	\$	
Disability Insurance		
Other Insurance (specify)		

Subtotal

180.00

AFFIANT'S OTHER EXPENSES	
Dry Cleaning / Laundry	0
Clothing	0
Medical / Dental / Prescription (co-pays and uncovered expenses)	0
Affiant's gifts (special holidays)	0
Entertainment	0
Recreational Expenses (e.g. fitness)	0
Vacations	0
Travel Expenses for Visitation	0
Publications (newspapers, magazines, TV guide, etc.)	0
Dues/Clubs (Sam's, Costco, AAA...)	0
Religious and Charities	0
Pet Expenses	
Alimony paid to former spouse	0

Child Support paid for other children Date of initial order:	0
Other (attach sheet)	0
Subtotal for column	50
TOTAL ABOVE EXPENSES	

5. B. PAYMENTS TO CREDITORS

To Whom	Jt/Pltf/Def	Balance Due	Monthly Payment
Bank of America		11,000	300
Capital One		8,000	350
Wells Fargo		27,000	500
AES		8,000	300
American Exp		4,000	500
Home Depot			157


TOTAL MONTHLY PAYMENTS TO CREDITORS

2,107

5. C. TOTAL MONTHLY EXPENSE:

6K

This 18 day of January


Notary Public



IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

NATHAN WADE

Petitioner.

vs.

JOYCELYN WADE

Respondent.

CIVIL ACTION FILE NUMBER

21108166

STATE OF Georgia
COUNTY OF Cobb

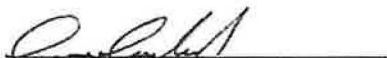
VERIFICATION

PERSONALLY APPEARED before the undersigned attesting officer authorized by law to administer oaths, NATHAN WADE who, after first being duly sworn, on oath deposes and says that the facts alleged in the above and foregoing AFFIDAVIT FOR USE IN CONNECTION WITH SUPPORT ODERS-DRAFT SUBMITTED BY AFFIANT PRIOR TO COMPLETING DISCOVERY AND SUBJECT TO REVISION are true and correct, to the best of his knowledge and belief.



NATHAN WADE, Petitioner

Sworn to and subscribed before
me this the 18 day, January, 2022.


Notary Public