

**COPY**  
ORIGINAL RECEIVED FOR FILING  
**MAR 10 2006**  
SHARON R. BOCK  
CLERK & COMPTROLLER  
FAMILY DIVISION

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

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

and

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

---

**Former Husband's Amended Motion For Rehearing  
And Motion To Vacate Orders**

**COMES NOW WILLIAM A. CABANA, pro se**, pursuant to F. R. Civ. P Rule 1.530 respectfully moves the Court vacate its orders of January 6, 2006 and February 16, 2006 by the Honorable Martin Colin and to grant a rehearing on the basis that there is an error in the calculation of the attorney fee amount, an error in amount of attorney fees awarded and an error in determining former wife's need for and present ability of Former Husband to pay a purge and attorney fees. In support he offers:

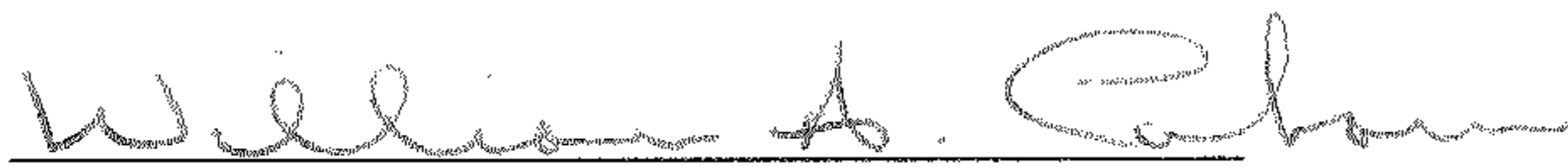
1. In the order filed February 16, 2006, this Court has granted opposing counsel an hourly rate of \$300.00, which is in excess of the hourly rate opposing counsel testified to in the hearing, i.e. \$275.00.
2. This Court in basing its calculation of attorney fees on \$300.00 per hour has erred in the amount of attorney fees owing.

3. In the order filed January 6, 2006, this Court has based its determination of Former Husband's ability to pay on a misrepresentation of evidence supplied by opposing counsel. Contrary to representation by opposing counsel, no specific bank accounts nor current balances were positively identified to show that Former Husband had a present ability to pay as required for Civil Contempt proceedings.
4. Affidavit from Florence Cabana, Mother of Former Husband, swearing and affirming that she was not sheltering any monies for him as alleged by opposing counsel nor did he have any access to the funds in her accounts. (Exhibit 1)
5. The Former Wife has the far superior ability to pay attorney fees. She has not demonstrated a need for fees. She is in a far better position to pay her own fees as the Former Husband cannot afford an attorney, has income below the poverty level and contrary to the "appearance" of evidence provided at trial, the "fact" of evidence is that the court record fails to show specific assets to which the husband has access to pay the fees, because the fact is he does not have assets or access to assets as misrepresented by opposing counsel at trial.
6. The court order of January 15, 2006 adjudicating Former Husband in contempt is in error in indicating that child support is in arrears and still owing. Child support arrears were revoked and rescinded with a "Rescission of Judgment/Certificate of Delinquency filed by the Clerk of Circuit Court, February 5, 2004 (DE 78).

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

1. Vacate the Court Orders of January 6, 2006 and February 16, 2006 and enter a new order reflecting the lack of Former Husband's present ability to pay for contempt purges or attorney's fees.
2. In regard to Ms. Mayo's request for attorney's fees in these proceedings, Former Husband would like to make reference to Rubin v. Rubin, 204 Conn. 224, 527 A.2d 1184 (1987). In order to do so, he would need to have the ability to pay. He does not have the ability to pay. Therefore, he submits that her request be denied.
3. Require that Former Wife refund to Former Husband all the monies paid for the \$4,700 purge amount and \$250 monthly payments since February 1, 2006.
4. Award Former Husband compensation and costs incurred by Former Husband associated with his incarceration over this order.
5. Awarding Former Husband all costs pursuant to Fla. Sta. §86.011, §57.041, §57.105 and other applicable law for the defense of this motion.
6. For such and other relief that may be proper.

Respectfully submitted,



William A. Cabana, pro se  
1050 Capri Isles Blvd., Apt F-105  
Venice, FL 34292  
Telephone/Fax: 941-480-1395  
Email: bcabana2@comcast.net

March 6, 2006

Certificate of Service

I certify that a copy of this Amended Motion for Rehearing and Motion to Vacate Orders mailed to Cathy L. Kamber, P.A., Attorneys for former wife., 1675 Palm Beach Lakes Boulevard, The Forum, Tower A, Suite 700, West Palm Beach, FL 33401 this 6th day of March, 2006



William A. Cabana, pro se  
1050 Capri Isles Blvd., Apt F-105  
Venice, FL 34292

Telephone/Fax: 941-480-1395  
Email: bcabana2@comcast.net

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

Family Division  
Case No. 501971DR004137XXDIFD

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

and

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

---

AFFIDAVIT OF FLORENCE CABANA

I, FLORENCE CABANA, do certify that the following statements are true and accurate:

1. I am over the age of eighteen, mentally sound, and never been declared mentally incapacitated.
2. Former Husband, William A. Cabana, is my son.
3. William A. Cabana along with my sister, Jeannette Picard, were asked by me to be joint tenants with me on Wachovia Bank checking account # XX5064 (formerly know as XX2506) for the sole purpose of handling the account in the event of my incapacity or death.
4. The funds in this account represented money for use in my retirement were derived primarily from Social Security, Pension Funds, CD's and dividends on investments.
5. William A. Cabana did not have use of the funds in this account for his own personal purposes. If he needed to borrow money, I wrote checks from it as needed.

EXHIBIT 1

6. Because of the legal proceedings of Former Wife, which threatened the security of my retirement funds due to the name of William A. Cabana being on it, I have terminated this account and transferred the remaining funds to an account where William A. Cabana has no access, control or use of any of the funds.
7. The Wachovia Securities account is now and always has been for the sole purpose of investing the funds left to me by my deceased husband to provide for me in my retirement years.
8. William A. Cabana, does not now nor ever has had access to these funds. He has never contributed any funds to this account nor is it being used to shelter any of his monies.
9. Periodically, I have loaned money to William A. Cabana for various purposes. When I have been repaid, these funds were deposited in accounts that preceded the establishment of the Wachovia Securities account. Upon establishing the Securities account, those funds were transferred over to fund it.
10. Former Wife has previously stated in a conversation with me early in my son's divorce proceedings where she stated that she would ruin him financially. Now her attempts to do this have involved my retirement accounts and the security of my future. In anticipation of this occurrence, my deceased husband had given me instructions as to how to protect my retirement funds. On advice of counsel, unbeknownst to my son, I had implemented steps to make the appropriate provision. Now all of my retirement monies, securities, etc. are out of the reach of my son and under my sole control. As a result of all the loans to William A. Cabana for legal proceedings in this case and other matters, my retirement funds have been depleted to the point where my future financial security is being compromised. After having recently loaned him \$4,700 to pay the

purge amount from the January 6, 2006 order to get him out of jail, I am unable to further help him out as it appears that these loans will never be able to be repaid and there is no apparent end in sight to the future demands of Former Wife and opposing counsel.

11. The residence at 962 Jolanda Circle is presently owned and has always been owned by my deceased husband and myself since May 29, 1981. William A. Cabana has never had a property interest in the residence. It solely represents a permanent mailing address for him.

FURTHER AFFIANT SAYETH NAUGHT.

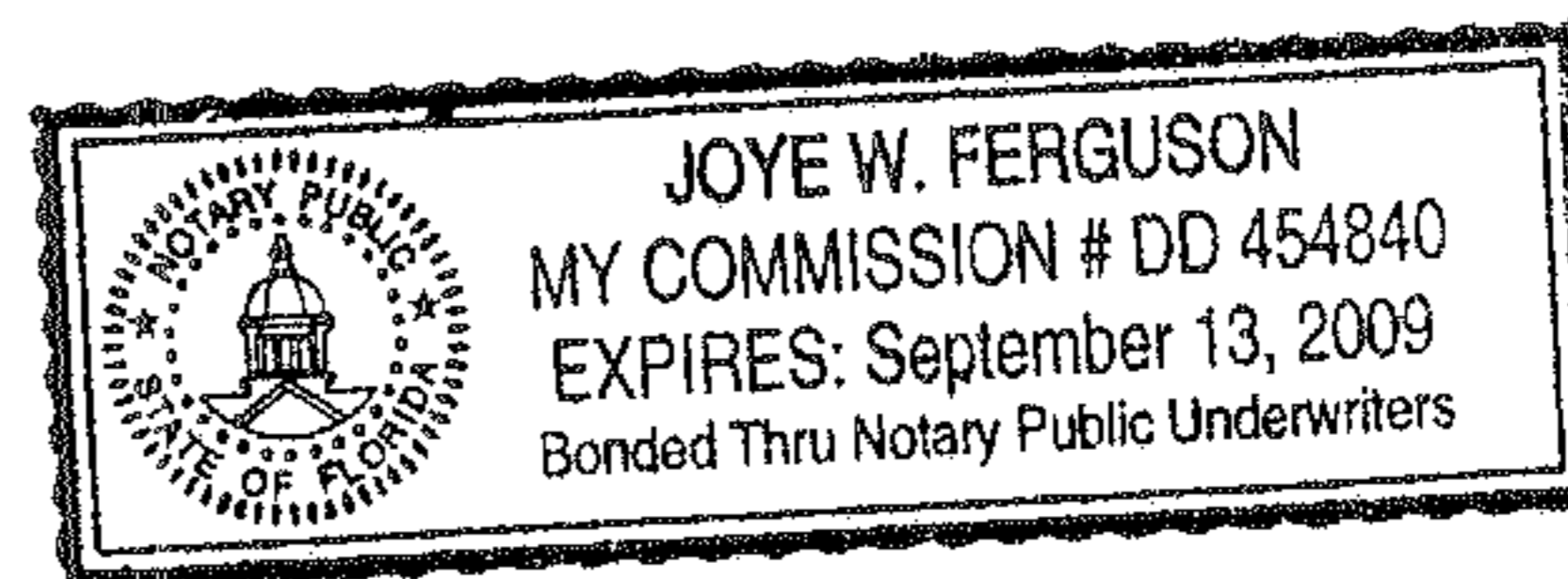
Dated: March 2, 2006

Florence Cabana  
Florence Cabana  
962 Jolanda Circle  
Venice, FL 34285  
Telephone: 941-485-4228

STATE OF FLORIDA  
COUNTY OF SARASOTA

Sworn to or affirmed and signed before me on 3-2-2006 by Florence Cabana.

Joye W. Ferguson  
NOTARY PUBLIC

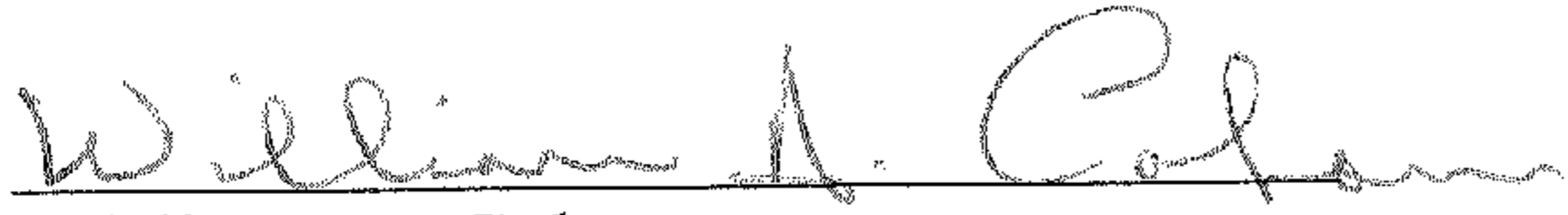


[Print, type, or stamp commissioned name of notary or deputy clerk.]

Personally known  
 Produced identification  
Type of identification produced

Certificate of Service

I certify that a copy of this Affidavit of Florence Cabana was mailed to Cathy L. Kamber, P.A., Attorneys for former wife., 1675 Palm Beach Lakes Boulevard, The Forum, Tower A, Suite 700, West Palm Beach, FL 33401 this 6th day of March, 2006



William A. Cabana, pro se  
1050 Capri Isles Blvd., Apt F-105  
Venice, FL 34292  
Telephone/Fax: 941-480-1395  
Email: bcabana2@comcast.net