

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.

COPY
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SEP 23 2005
SHARON R. BOCK
CLERK & COMPTROLLER
FAMILY DIVISION

Former Husband's Motion To Compel Wachovia Deposition Records

COMES NOW WILLIAM A. CABANA, pro se, respectfully objecting to Former Wife's Response to Former Husband's Request to Produce bearing a certificate of service dated September 6, 2005. Former Wife has not complied with the Request to produce and has misrepresented her response. In support he offers,

1. On August 5, 2005, Former Husband filed a Notice to Produce requesting Wachovia (f/k/a SouthTrust Bank) Deposition Duces Tecum information. (DE 207)
2. In paragraph 1 of her Response, Former Wife claims to have submitted a copy of the subpoena to Wachovia Bank. In reality, it is a document titled a RE-NOTICE OF TAKING DEPOSITION DUCES TECUM (Exhibit A) and not the copy of the subpoena requested.

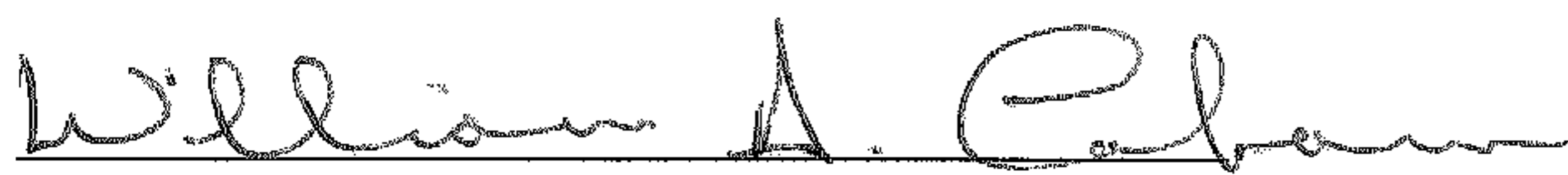
3. Former Husband alleges that no subpoena was ever generated in compliance with F. R. Civ. P. Rule 1.351(b) for the deposition taken at the date and time indicated on the RE-NOTICE OF TAKING DEPOSITION DUCES TECUM. Therefore any records so obtained by Former Wife were acquired without proper authorization and are not admissible in any proceedings of the instant case.
4. Former Husband disagrees with Former Wife's claim in paragraph 2 that "no such listing exists." A letter from opposing counsel dated August 1, 2005 (Exhibit B) lists the Wachovia accounts from which data was disclosed. Former Husband's request #2 was for a list of records disclosed.
5. The listing of 16 accounts and a request for \$275.00 is evidence that there are documents in opposing counsel's possession from which a list could be generated as to the account numbers, type of items contained in the account and other such data as indicative of the material disclosed. Former Husband does not need all the documents generated and if he is to pay for documents, the request is reasonable for him to be able to select the items desired for copying.
6. To date, Former Husband's has not received copies of any proposed evidence to be used in court, as requested in the Notice to Produce.

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

1. Compelling Former Wife to produce the copy of the subpoena, list of documents and proposed evidence to be used in court as indicated in above paragraphs.

2. Deny Former Wife the admissibility of any Wachovia documents, disclosed at the deposition, into any of the proceedings of the instant case.
3. Imposing sanctions on opposing counsel for violation of F. R. Civ. P. 1.410, § 92.605 (2)(a) and (b), Fla. Stat. in using unauthorized procedures to have Former Husbands financial records disclosed.
4. Awarding WILLIAM A. CABANA all costs pursuant to F.S. §86.011 and F.S. §57.041, for the defense of this motion.
5. For such and other relief that may be proper.

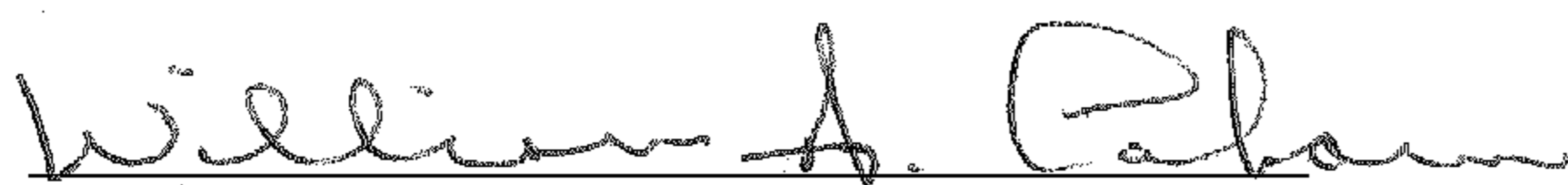
Respectfully submitted,



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

Certificate of Service

I certify that a copy of this Motion To Compel Wachovia Deposition Records was faxed and 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 19th day of September, 2005



William A. Cabana, pro se
1050 Capri Isles Blvd., Apt F-105
Venice, FL 34292
Telephone/Fax: 941-480-1395
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IN THE CIRCUIT COURT OF THE 15TH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

IN RE: THE MARRIAGE OF

CASE NO: 501971DR004137XXDIFD

WILLIAM A. CABANA,
Petitioner/Former Husband,

FAMILY DIVISION

and

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

RE-NOTICE OF TAKING DEPOSITION DUCES TECUM

(See Attached List of Documents for Production)

Reset at request of Records Custodian, Judy Sawyer, (previously set for June 22, 2005)
(per Ms. Sawyer, no subpoena is necessary)

Please take notice that pursuant to the Florida Rules of Civil Procedure, the undersigned attorneys will, upon oral examination, before Everman and Associates, Notaries Public, State of Florida at Large, or any other officer authorized by law to take depositions in the State of Florida, take the following deposition:

NAME: SouthTrust Bank, N.A.
Attn: Carol Nicholson (via facsimile 321/235-2259)
1700 Palm Beach Lakes Blvd.
West Palm Beach, FL

DATE: July 8, 2005

TIME: 1:00 p.m.

PLACE: Cathy L. Kamber, P.A., 1675 Palm Beach Lakes Blvd., Suite 700, West Palm Beach, FL 33401

Such oral examination will continue from day to day until completed. You are hereby notified to appear and take part in said examination as you may be advised, and as shall be fit and proper.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via facsimile and U.S. Mail to William A. Cabana, 1050 Capri Isles Blvd., #F105, Venice, FL 34292 this 17 day of June, 2005.

CATHY L. KAMBER, P.A.
Attorneys for Former Wife
1675 Palm Beach Lakes Blvd.
The Forum, Tower A
Suite 700
West Palm Beach, FL 33401
Telephone: 561/868-1602
Facsimile: 561/868-1544

By: 

CATHY L. KAMBER
Florida Bar No.: 312819

cc: Everman & Associates
Judy Sawyer

EXHIBIT A

EXHIBIT "A"

As to any and all accounts maintained by, on behalf of, in the name, or for the benefit of: Bill Cabana, social security number 261-54-4143 and/or William A. Cabana and/or the Prudent Peddler:

- a. All monthly statements from 01/01/02 to the time of compliance with this subpoena;
- b. All canceled checks from 01/01/02 to the time of compliance with this subpoena;
- c. Copies of all deposits from 01/01/02 to the time of compliance with this subpoena;

Please Note: If your cost of compliance with this subpoena will exceed \$200.00, please contact us for further instructions, prior to compliance.

CATHY L. KAMBER, P.A.

ATTORNEYS AT LAW
1675 PALM BEACH LAKES BOULEVARD
THE FORUM, TOWER A
SUITE 700
WEST PALM BEACH, FLORIDA 33401

CATHY L. KAMBER
ADMITTED TO PRACTICE IN FLORIDA AND NEW YORK
KENNETH H. RENICK
RETIRED

TELEPHONE
(561) 868-1602
FAX NO.
(561) 868-1544

August 1, 2005

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

Re: The Former Marriage of Cabana
Case No.: CD 71-C-4137-FD

Dear Mr. Cabana:

We have received your request for copies of the records subpoenaed from SouthTrust Bank, account # x2506, x0298, x9213, x5239, x5240, x7931, x7932, x3190, x1424, x5446, x5619, x5648, x5781, x8037, x8847, x9202, during the deposition duces tecum of July 8, 2005

We have obtained a quote from a local vendor who advises that the cost to complete your request will be \$275.00. Please forward a check made payable to Cathy L. Kamber, P.A. in this amount and upon receipt, we will have the records copied and sent to you.

Yours very truly,

CATHY L. KAMBER, P.A.

By: _____


Cathy L. Kamber

CLK/bas

EXHIBIT B