

IN THE CIRCUIT COURT FOR THE EIGHTEENTH JUDICIAL CIRCUIT
DUPAGE COUNTY, WHEATON, ILLINOIS

THOMAS NEAL,)
Plaintiff,)
vs.) No. 2022 DC 915
Defendant.)

Candice Adams
e-filed in the 18th Judicial Circuit Court
DuPage County
ENVELOPE: 27602475
2022DC000915
FILEDATE: 5/8/2024 11:55 AM
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AP

MOTION TO QUASH CIVIL SUBPOENA TO JAMES R. NEAL

NOW COMES the Plaintiff, THOMAS NEAL (hereinafter "THOMAS"), by his attorneys, Roberts PC, and respectfully moves to quash a certain subpoena, issued by the Defendant, MARIO NEAL (hereinafter "MARIO"), to JAMES R. NEAL, and as his reasons, states as follows:

1. On October 11, 2022, THOMAS filed his Petition for Dissolution of Marriage with Minor Children. On October 14, 2022, MARIO filed his appearance in this matter.
2. Three (3) children were born to the parties via surrogacy during their marriage, namely: J.A.N. born in 2015 and presently eight (8); A.C.N. born in 2018 and presently five (5); and L.C.N. born in 2018 and presently five (5).
3. On October 17, 2023, MARIO'S attorney withdrew his appearance on behalf of MARIO. On November 14, 2023, MARIO filed his *pro se* appearance.
4. On March 8, 2024, THOMAS filed a Petition for Rule to Show Cause due to MARIO'S failure to comply with Dr. Hatcher's 604.10 Evaluation as ordered and failure to comply with Dr. Shapiro's Rule 215 Examination as ordered.
5. On April 8, 2024, following hearing, this Court issued a rule to show cause against MARIO and directed that MARIO appear on May 13, 2024 at 1:30 PM to show cause as to why he should not be held in contempt for his failure to participate in Dr. Hatcher's 604.10

Evaluation and Dr. Shapiro's Rule 215 Examination. A copy of the April 8, 2024 Order – Rule to Show Cause is attached hereto and incorporated herein as **Exhibit A**.

6. Upon information and belief, on April 10, 2024, MARIO caused to be issued a Civil Subpoena to James Neal, THOMAS' father, to appear at the May 13, 2024 hearing. A copy of the Civil Subpoena is attached hereto and incorporated herein as **Exhibit B**.

7. MARIO'S Civil Subpoena indicates that James Neal resides at 641 Bourbon Court, which is THOMAS' current address. MARIO additionally mailed the Civil Subpoena to THOMAS' address and included a "Subpoena Compliance Notice" that was not previously disclosed to THOMAS or THOMAS' counsel. A copy of the Subpoena Compliance Notice is attached hereto and incorporated herein as **Exhibit C**.

8. MARIO'S Subpoena Compliance Notice indicates that James Neal could produce certain documents on or before May 1, 2024 and should those documents be produced, then his appearance at the May 13, 2024 hearing would be excused.

9. However, MARIO'S Civil Subpoena contains no indication as to what documents he is seeking to be produced.

10. MARIO'S Subpoena was mailed to THOMAS' residence; however, James Neal does not reside at THOMAS' residence and James R. Neal is not a resident of the State of Illinois.

11. MARIO'S Subpoena that was mailed to THOMAS' residence does not contain any witness fee and does not contain any mileage fee.

12. 735 ILCS 5/2-1101 provides, "For good cause shown, the court on motion may quash or modify any subpoena . . ."

13. Illinois Supreme Court Rule 201(c) permits the court to make a protective order limiting discovery to “prevent unreasonable annoyance, expense, embarrassment, disadvantage, or oppression.”

14. MARIO’S Subpoena to James Neal must be quashed as it is not relevant to the May 13, 2024 proceeding, seeks the production of documents that are not identified, was improperly served, did not contain a witness fee and did not contain a mileage fee.

15. This case is set for hearing on May 13, 2024 for MARIO to show cause as to why he should not be held in contempt of court for his failure to participate in the 604.10(c) evaluation that is being conducted by Dr. Roger Hatcher, as has been ordered by this Court on multiple occasions, and for his failure to participate in an Illinois Rule 215 mental examination by Dr. Robert Shapiro.

16. It is entirely unclear how the testimony or documents in James Neal’s possession could possibly have any relevance to MARIO’S ongoing refusal to participate in this case and follow the orders entered by this Court.

17. Not only has MARIO issued a subpoena to THOMAS’ father, but MARIO additionally issued subpoenas to THOMAS’ mother and THOMAS’ sister. In addition to subpoenaing THOMAS’ entire family, on April 10, 2024 and April 11, 2024, MARIO issued sixteen (16) subpoenas to staff at the children’s school, United Airlines, two (2) DCFS employees, T-Mobile, several financial institutions, the children’s pediatrician, and the children’s former counselor.

18. It is clear that MARIO is merely seeking to further harass THOMAS’ family and continue to needlessly prolong this case, rather than advance the case forward by simply participating in the court ordered 604.10(c) evaluation and Rule 215 mental health examination.

19. Pursuant to Illinois Supreme Court Rule 201, this Court should enter a protective order limiting discovery with respect to THOMAS' family to prevent the continued spread of this litigation beyond those directly involved in the case.

20. Not only is MARIO'S Subpoena to James Neal not relevant to the issues before the Court on May 13, 2024, but MARIO'S Subpoena is deficient on its face: the Subpoena was not issued to James R. Neal's residence (which is outside of the State of Illinois) and was instead sent to THOMAS directly, the Subpoena was not accompanied by the statutory fee and mileage fee, and contained no rider for documents despite the fact that it appears to be a records subpoena.

21. Given the numerous deficiencies, MARIO'S Subpoena to James Neal should be quashed pursuant to 735 ILCS 5/2-1101.

WHEREFORE, the Plaintiff, THOMAS NEAL, prays for the entry of an order:

- A. Quashing the subpoena issued against James R. Neal;
- B. Entering a protective order limiting discovery;
- C. Awarding to THOMAS NEAL from MARIO NEAL his attorneys' fees and costs incurred in bringing and prosecuting this Motion to Quash; and
- D. For such other and further relief as to which THOMAS may be entitled.

Respectfully Submitted,



THOMAS NEAL

ROBERTS PC



One of Plaintiff's Attorneys

VERIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes same to be true.



THOMAS NEAL

Chuck Roberts
Rick Roberts
notice@robertspc.com
ROBERTS PC #21500
2100 Manchester Rd.
Building B, Suite 1085
Wheaton, Illinois 60187
(630) 668-4211

STATE OF ILLINOIS

UNITED STATES OF AMERICA

COUNTY OF DU PAGE

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT

Thomas Neal

v.

Mario Neal

CERTIFICATION

I, Candice Adams, Clerk of the 18th Judicial Circuit Court, DuPage County, Illinois, do hereby certify the above correct copy as it appears from the records and files in my office. IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Seal of the said Court.

DATE 04/09/2024 

Candice Adams
CANDICE ADAMS, Clerk
By: MERRINETTE, HEATHER
Deputy Clerk

2022 DC 915

Case Number

FILED

APR 08, 2024 03:45 PM

*Candice Adams*CLERK OF THE
18TH JUDICIAL CIRCUIT
DUPAGE COUNTY, ILLINOIS

File Stamp Here

ORDER - RULE TO SHOW CAUSE

This matter coming before the Court on the petition of Thomas Neal, proper notice having been given, the Court being fully advised in the premises and having jurisdiction of parties and subject matter,

IT IS HEREBY ORDERED that Mario Neal appear ~~remotely, unless~~ scheduled in courtroom ~~2002~~ in Zoom conference or CourtCall telephone conference, before this court in room 3003 located at The DuPage County Judicial Center, 505 N. County Farm Road, Wheaton, Illinois on 5/13/2024 at 1:30 PM and show cause, if any he/she may have, why he/she should not be held in Contempt of Court for his/her failure to obey an order of the Court entered 9/7/2023, requiring him/her to:

- Pay child support
- Pay day-care expenses
- Extracurricular expenses
- Contribute to the cost of medical insurance
- Pay his/her portion of the child's uninsured medical expenses
- Maintenance
- Other: Participate in 604.10(c) Evaluation and Rule 215 Mental Examination

The Court finds that the Respondent is \$ N/A out of compliance with the above order(s) and

SERVICE ON MARIO NEAL OF THIS RULE IS EFFECTUATED
UPON HIM AND APPEAL COURT THIS DATE * WILL NEED TO BE

Except for courtroom ~~2002~~, no "in person" appearances are permitted. Visit www.dupageco.org/courts for more information.

IT IS FURTHER ORDERED that the respondent is personally served with a copy of this order.

NOTICE TO JUDGMENT DEBTOR IF YOU FAIL TO APPEAR BEFORE THE COURT AT THE TIME AND PLACE SET FORTH, YOU MAY BE TAKEN INTO CUSTODY AND HELD IN JAIL

Roberts PC

ON CHARGES OF CONTEMPT OF COURT

Name: Roberts PC Pro SeDuPage Attorney Number: 21500Attorney for: Thomas NealAddress: 2100 Manchester, 1085City/State/Zip: Wheaton, IL 60187Telephone Number: 630-668-4211Email: nth2e@robertspc.com

JUDGE

Date:

4/8/2024

-SEE REVERSE SIDE-

EXHIBIT

A

STATE OF ILLINOIS

UNITED STATES OF AMERICA

COUNTY OF DU PAGE

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT

IMPORTANT NOTICE REGARDING CONTEMPT

Civil contempt proceedings have been filed against you for not paying your court ordered obligation(s). Your ability to pay these obligations is a critical issue in determining whether you will be held in contempt or not.

It is important that you provide the court with information about your financial ability to pay the support ordered. Your information will enable the court to accurately decide whether you are in contempt or not. If you do not provide the court with this information, you may be found in contempt and placed in jail until you pay a specific sum of money to purge your contempt. If the court determines you are in contempt, the court then will decide what actions or sum of money you should pay to purge or remove the contempt finding. During these contempt proceedings, **YOU MUST:**

- 1) Appear for all hearings. If you fail to appear, the court has the power to issue a body attachment or warrant for your arrest.
- 2) Complete and bring to Court an approved disclosure statement. During these contempt proceedings, **YOU HAVE THE RIGHT TO:**
 - A) Hire an attorney to represent you.
 - B) Testify about your ability to pay child support.
 - C) Show the court evidence about your past and current financial ability to pay child support, including:
 - Your last 6 paycheck stubs
 - Your last 2 federal income tax returns with all schedules, exhibits, and forms attached
 - Proof of any and all income
 - Proof of government benefits, such as
 - Unemployment insurance benefits
 - Social security income
 - Social security disability veteran's benefits
 - Food stamps
 - Any other type of payments
 - If you have applied for any type of benefit, assistance, or government payment, and have not received a decision yet, bring a copy of the application.
 - If you are searching for employment, bring a list of the employers that you have contacted in the last 2 months. **For each employer, include the name and phone number of the person you spoke to.**

STATE OF ILLINOIS

UNITED STATES OF AMERICA
IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT

COUNTY OF DU PAGE

Thomas Neal

PLAINTIFF

vs

Mario Cruz Neal

DEFENDANT

2022 DC 915

CASE NUMBER

CIVIL
SUBPOENA

File Stamp Here

TO: James R Neal

641 Bourbon Ct, IL 60565

GREETINGS:

YOU ARE HEREBY COMMANDED to personally appear before the Eighteenth Judicial Circuit Court of DuPage County at the DuPage Judicial Center, 505 North County Farm Road, Wheaton, Illinois

before Judge Louis Aranda in Room 3003 on May 13, 2024 at 1:30

to testify and the truth to speak in behalf of Mario Cruz Neal
in the above captioned case now pending in said Circuit Court, and this you will in no wise omit.

**YOUR FAILURE TO COMPLY WITH THIS SUBPOENA MAY SUBJECT YOU
TO PUNISHMENT FOR CONTEMPT OF COURT**

NOTICE TO WITNESS

The attorney who has requested this subpoena is listed herein. Any questions regarding your knowledge of the subject matter or testimony in the case should be directed to your attorney.

DO NOT CALL THE CIRCUIT COURT CLERK

CONTROL NUMBER

WITNESS:

Name: Mario Cruz Neal Pro Se

CANDICE ADAMS, Clerk of the Eighteenth Judicial Circuit Court, and the seal thereof, Wheaton, Illinois

4/10/2024 7:25 AM

Date

DuPage Attorney Number: _____

Attorney for: _____

Address: 929 Spindletree AveCity/State/Zip: NapervilleTelephone Number: 630-631-2190Email: marionNeal628@gmail.com

Candice Adams VW
Clerk of the Eighteenth Judicial Circuit

CANDICE ADAMS, CLERK OF THE 18th JUDICIAL CIRCUIT COURT
WHEATON, ILLINOIS 60187-0707

EXHIBIT

B

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SHERIFF'S FEES

Service and return \$ _____

Miles \$ _____

Total \$ _____

Sheriff of _____ County _____

SHERIFF'S RETURN

I certify that I served this subpoena on defendant as follows:

(a) (Individual - personal):
By leaving a copy and a copy of the subpoena with each individual as follows:

(b) (Individual - abode):
By leaving a copy and a copy of the subpoena at the usual place of abode of each individual with a person of his family, of the age of 13 years or upwards, informing that person of the contents of the subpoena, and also by sending a copy of the subpoena and the interrogatories in a sealed envelope with postage fully prepaid, addressed to each individual at the usual place of abode, as follows:

(c) (Corporation):
By leaving a copy and a copy of the subpoena with the registered agent, officer, or agent of each corporation as follows:

(d) (Other service):

(e) (Unable to Serve):
By _____, Deputy Badge Number: _____

Name of Defendant _____

Name of Defendant _____

Name of Person summons given to _____

Name of Person summons given to _____

Sex _____ Race _____ Approximate age _____

Sex _____ Race _____ Approximate age _____

Place of service _____

Place of service _____

City, State _____

City, State _____

Date of service _____ Time _____

Date of service _____ Time _____

Date of Mailing _____

Date of Mailing _____

Special Process Server of _____

Sheriff of _____ County _____

County Illinois License # _____

By _____

I served this subpoena by delivering a copy to _____

and I paid the witness \$ _____ for witness and mileage fees.

Signature _____

Subscribed and Sworn before me _____ Date _____ Notary Public

AFTER SERVICE, THE ORIGINAL MUST BE FILED WITH THE CIRCUIT COURT CLERK ALONG WITH THE ENDORSEMENT OF SERVICE

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT

SUBPOENA COMPLIANCE NOTICE

JAMES R NEAL

Thomas Neal, Plaintiff,
v. Case No: 2022DC000915
Mario Neal, Defendant.

Court Location: DuPage Judicial Center
Court Room 3003
505 North County Farm Road
Wheaton, Illinois

Under the presiding tenets of the Illinois Compiled Statutes (ILCS), particularly 735 ILCS 5/2-1101, relating to subpoenas, as well as the contents enscribed within the attached Subpoena, obligatory action is required from you, or an appropriately commissioned representative of your organization.

In accordance with Illinois State law and the stipulations of the enclosed Subpoena, it is incumbent upon you, or a duly appointed representative of your organization, to execute the delivery of the requested records no later than May 1, 2024, addressed to: Mario Neal, 929 Spindletree Ave, Naperville, IL 60565.

Your presence at the court hearing, scheduled for May 13th at 1:30 PM, becomes unnecessary should you submit the requested documents via registered or certified mail, ensuring their delivery no later than three days prior to the specified date. In the event that the documents in question are not available, it is imperative that you provide a written declaration confirming their absence.

Non-compliance within the stipulated timeframe obligates your attendance at the court hearing. Therefore, expedited submission of these documents is not merely a procedural formality but a crucial measure to exempt you from appearing in court.

JAMES R NEAL, your immediate attention is solicited in this matter. We advise you to affirm the provided declarations by appending your signature and correctly dating this form. This corroborated form, together with the requested records and a duplicate of this Subpoena, should then be prepared for return.

NON-COMPLIANCE: Be warned that any avoidance or inability to adhere to this subpoena might result in punitive measures being enforced by the court. Furthermore, you are reminded, and expected in no uncertain terms, to uphold your obligation to conserve all relevant and potentially responsive documents.

CAUTION: Non-compliance with this subpoena is liable to **judicial sanction**. You are hereby reminded of your professional duty to retain, preserve, and protect all documents which are potentially responsive to this subpoena. Keep note that subpoenas are concurrently being served to **multiple parties**, and any **omissions or discrepancies in document production** will be duly challenged in the court of law.

EXHIBIT

C

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