

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

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

Candice Adams
e-filed in the 18th Judicial Circuit Court
DuPage County
ENVELOPE: 27602475
2022DC000915
FILEDATE: 5/8/2024 11:55 AM
Date Submitted: 5/8/2024 11:55 AM
Date Accepted: 5/8/2024 2:49 PM
AP

MOTION TO QUASH CIVIL SUBPOENA TO WHITNEY MCDANIEL

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 Whitney McDaniel, 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. On April 19, 2023, MARIO filed his Motion for the Appointment of Whitney McDaniel as the children's therapist.

7. Upon information and belief, due to her service on the board of directors at the children's school, Ms. McDaniel declined the appointment and on May 3, 2023, MARIO withdrew his Motion.

8. On April 11, 2024, without notice to THOMAS or THOMAS' counsel, MARIO caused to be issued a Civil Subpoena to Whitney McDaniel. A copy of MARIO'S Civil Subpoena is attached hereto and incorporated herein as **Exhibit B**.

9. On page 2 of his Subpoena, MARIO failed to attest to the service of the subpoena or to the payment of the witness fees and mileage to the witness.

10. Upon information and belief, MARIO failed to pay Whitney McDaniel the statutory witness fee and failed to pay Whitney McDaniel the required mileage fee.

11. 735 ILCS 5/2-1101 provides, "For good cause shown, the court on motion may quash or modify any subpoena . . ."

12. Whitney McDaniel has had no involvement in this case and has provided no therapeutic services to the minor children.

13. It is unclear whether MARIO included a rider to his Civil Subpoena, as no notice was provided to THOMAS.

14. 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."

15. MARIO'S Subpoena to Whitney McDaniel serves no purpose other than to harass and embarrass THOMAS, as Ms. McDaniel's only relation to this case is that she serves on the board of directors for the children's school with THOMAS and that MARIO requested that she provide mental health services for the children.

16. Whitney McDaniel's testimony will have no relevance to MARIO'S efforts to avoid participating in Dr. Hatcher's 604.10 evaluation and Dr. Shapiro's Rule 215 examination.

17. Not only is Whitney McDaniel's testimony not relevant to the case, but MARIO'S Civil Subpoena failed to include any of the statutorily required fees.

18. As MARIO'S Subpoena is insufficient at law and serves no purpose other than to continue to harass Whitney McDaniel, MARIO'S Subpoena should be quashed.

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

A. Quashing the subpoena served upon Whitney McDaniel by the Defendant, MARIO NEAL;

B. Awarding to THOMAS from MARIO the attorney fees and court costs incurred in bringing and prosecuting this motion; and,

C. For such other and further relief as to which THOMAS may be entitled.

Respectfully Submitted,

Thomas Neal

THOMAS NEAL

ROBERTS PC

[Signature]

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

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



Case Number

2022 DC 915

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

10/16/2023, 11/22/2023, 12/7/2023; and 2/13/2024

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 IN OPEN 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 has been

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 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: notize@roberts-pc.com

JUDGE

Date: 4/8/2024

-SEE REVERSE SIDE-

EXHIBIT

A

CANDICE ADAMS, CLERK OF THE 18TH JUDICIAL CIRCUIT COURT

WHEATON, ILLINOIS 60187-0707

Request received on 4/9/24 1:30 PM Document supplied on 04/09/2024 14:28:01 # 4725111/170431425613

STATE OF ILLINOIS

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

COUNTY OF DU PAGE

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 COUNTY OF DU PAGE
IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT

Thomas Neal

PLAINTIFF

vs

Mario Cruz Neal

DEFENDANT

2022 DC 915

CASE NUMBER

CIVIL
SUBPOENA

File Stamp Here

TO: WHITENEY MCDANIEL
1979 N. MILL ST., NAPERVILLE, IL 60563

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

Name: Mario Cruz Neal ☒ Pro Se

DuPage Attorney Number: _____

Attorney for: _____

Address: 929 Spindletree Ave

City/State/Zip: Naperville

Telephone Number: 630-631-2190

Email: marioneal628@gmail.com

WITNESS:

CANDICE ADAMS, Clerk of the Eighteenth
Judicial Circuit Court, and the seal thereof, Wheaton,
Illinois 4/11/2024 11:31 PM

Date



Candice Adams
Clerk of the Eighteenth Judicial Circuit

GK

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



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 Person
summons given to _____

Sex _____ Race _____ Approximate age _____

Place of service _____

City, State _____

Date of service _____ Time _____

Date of Mailing _____

Special Process Server of _____

Name of Defendant _____

Name of Person
summons given to _____

Sex _____ Race _____ Approximate age _____

Place of service _____

City, State _____

Date of service _____ Time _____

Date of Mailing _____

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.

SignatureSubscribed 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