

IN THE SUPERIOR COURT OF GWINNETT COUNTY
STATE OF GEORGIA

FILED IN OFFICE
CLERK SUPERIOR COURT
GWINNETT COUNTY, GA

2016 NOV 30 PM 1:54

RICHARD ALEXANDER, CLERK

Caulette Green,)	
Plaintiff,)	
v.)	CIVIL ACTION
)	FILE NO. 15-A-04898-9
Tywona Daniels, individual and)	
official capacity, and Access Realty)	
Atlanta, LLC,)	
Defendant.)	

ORDER ON DISCOVERY MOTIONS

The Plaintiff's Motion to Dismiss Defendants Access Realty Atlanta and Tywona Daniels' Answer and Enter Default Judgment in Favor of Plaintiff (filed July 14, 2016); the Defendants' Motion for Extension of Time to Complete Discovery (filed August 8, 2016); and the Plaintiff's Motion to Quash the August 19, 2016 Deposition Testimony of Tywona Daniels and Request for Attorney's Fees (filed August 23, 2016) came before the Court for hearing on September 27, 2016. All Parties appeared represented by Counsel. Upon a consideration of the Pleadings, Evidence, and Argument presented, the Court finds as follows:

The Plaintiff filed a Complaint for Declaratory Judgment and Injunctive Relief on April 30, 2015. The Plaintiff filed an Amended Complaint on August 7, 2015. After numerous attempts for service by the Gwinnett County Sheriff's Department, the Plaintiff filed a Motion for Service by Publication on October 29, 2015. The Defendants, Tywona Daniels and Access Realty Atlanta, LLC filed an objection to service by publication on November 12, 2015. Defendant Access Realty Atlanta, LLC was served by special process server on November 25, 2015. Access Realty Atlanta, LLC filed an Answer and Counterclaim on December 15, 2015. The Court granted the Motion for service by publication as to Defendant Tywona Daniels on December 23, 2015 finding that the Defendant, Tywona Daniels could not be found after due diligence within the state, had departed the state or concealed herself to avoid service. The Publisher's Affidavit of Service was filed on February 29, 2016. Defendant Tywona Daniels filed an Answer and Counterclaim on February 22, 2016. The Plaintiff filed a Second Amended Complaint on May 5, 2016. Defendants Tywona Daniels Access Realty Atlanta, LLC

filed an Answer and Counterclaim to the Second Amended Complaint on July 20, 2016.

The Court entered an Order for Case Management Dates & Deadlines on March 8, 2016. Per the Court's Order, all Discovery was to be completed by August 22, 2016.

The Plaintiff filed a Motion to Dismiss Defendants' Answers and to Enter a Default Judgment on July 14, 2016. Plaintiff served Discovery requests on the Defendants May 2, 2016 and agreed to one extension to respond requested by the Defendant to the end of June. The Defendant still sent no responses so the Plaintiff filed the Motion to Dismiss on July 14, 2016. Counsel for the Defendants contends that the failure to respond to discovery was an oversight and that responses were sent on July 19, 2016. Counsel for Plaintiff agrees that discovery was finally sent after the filing of the Motion.

The Defendant having complied with Discovery within days of being served with the Motion, the Court declines to grant the extreme remedy of dismissing the Defendants' Pleadings. However, the Court finds that the Plaintiff is entitled to an award of attorney's fees in the amount of \$360.00 per the evidence provided by Plaintiff's counsel as to said fees. **Defendants Shall pay the award of \$360.00 in attorney's fees to Plaintiff's counsel within thirty days of the entry of this Order.**

Defendants' Counsel announced that the Defendants' wished to withdraw their Motion for Extension of Time to Complete Discovery in open Court. The Court notes that the Motion would have been denied if it had not been withdrawn but allows the Defendants to withdraw said Motion.

The Plaintiff's Motion to Quash the August 19, 2016 Deposition Testimony of Tywona Daniels and Request for Attorney's Fees was filed on August 23, 2016. The Court notes that the Deposition of the Plaintiff was taken on August 19, 2016. At the conclusion of the deposition, Defendant's Counsel appears to turn to Defendant, Tywona Daniels (who was present for the Plaintiff's deposition but had not been noticed for deposition herself), swears her in and asks her questions over Plaintiff's counsels objection. Defendants' counsel then tells Plaintiff's counsel that he is not allowed to ask any questions and directs Defendant Tywona Daniels to leave. After some argument between the attorneys, Defendants' counsel states "This is craziness. I'm out of here." The Court would agree with

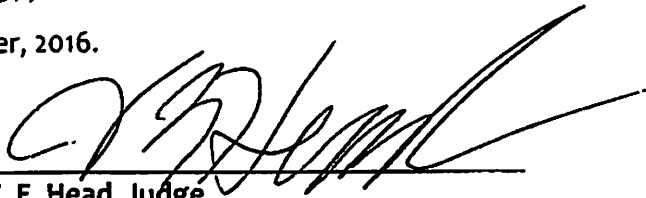
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Defendants' Counsel's statement but only as to his own actions. Plaintiff is seeking to quash any "testimony" given by Defendant Tywona Daniels at the Plaintiff's Deposition. Defendant's counsel argued that Plaintiff's Motion is now moot in that the Defendant Tywona Daniels has provided the same testimony by way of an affidavit.

The Court grants the Plaintiff's Motion to Quash any testimony provided by Defendant Tywona Daniels at the Plaintiff's Deposition. The Court further awards attorney's fees to the Plaintiff in the amount of \$350.00 based on the evidence presented by Counsel as to said fees. Defendants Shall pay the additional award of \$350.00 in attorney's fees to Plaintiff's counsel within thirty days of the entry of this Order for a total of \$710.00 in attorney's fees. (Pursuant to O.C.G.A. §9-11-37).

So Ordered, this 29th day of November, 2016.



V. E. Head, Judge
Gwinnett County Superior Court
By designation

cc: All Parties