How to Win Without a Lawyer

Compelling Evidence

Force Your Opponent to Obey the Rules!

If you can't get evidence from others, you cannot win!

If your opponent hides evidence (and he *will* hide it) this class shows you how to get him out from behind that tree ... no matter how he drags his feet, screams, and complains.

You have your God-given right to get evidence in support of your case, and this class shows you how to exercise that right!

If your opponent insists on hiding, this class shows you how to force the court to strike his pleadings, dismiss his case, or even throw him in jail until he comes out in the open, obeys the rules, and turns over the evidence he doesn't want you to see.

However! There are certain steps you *must* follow to effectively

compel evidence from your opponent or anyone else who has evidence you need to win your case. You must follow those steps *before* being able to force the court to take action.

This class explains them all the steps - with forms you can use to compel evidence in *your* case when the opponent tries to hide it ...which he *will* do.

Trust me about this!

I've been a lawyer 33 years. In those 33 years I've never seen a case where my opponent didn't try every trick in the book to keep me from getting the evidence I needed to win for my clients!

It will happen in *your* case.

It's remarkably easy to get the evidence you need, but you need my how-to knowledge and the powerful forms I give you in this course once you subscribe.

The first step depends on what kind of discovery process you are using:

1 - Request for Admissions - Motion to Deem Requests Admitted

2 - Request for Production - Motion to Compel Production

3 - Interrogatories - Motion for Better Answers to Interrogatories

4 - Deposition - Motion to Show Cause

5 - Subpoena Violations - Motion to Show Cause

Each of these steps is thoroughly explained in this class, and you will know how to do each step once you complete the class.

Please anticipate your opponent's efforts to hide the evidence you need to win! It *will* happen. It *always* happens.

You may think you already have "all the evidence" you need to win, however if you come to court with "your own evidence", instead of using discovery to make *certain* your evidence will be admitted to the court record as authenticated, your opponent will object, the court will sustain the objections, and you'll be left holding the bag ... an empty bag!

If you cannot get your "evidence" admitted in the court record as "admissible evidence", you don't really have any evidence you can use to win your case!

Learn how to compel your opponent to produce what you need to win!

If you studied the Discovery class *before* this class (as the course directions urged you to do) then you know your written Request for Admissions this is your most powerful evidence discovery tool. You can use it to force your opponent to admit law relevant to your case or facts that can lead you to discover admissible evidence.

Problem: Your opponent will try to avoid admitting *anything!*

Good news: The rules for this discovery tool are on your side.

What you do depends on what your opponent does after you serve him with your Request for Admissions.

If you are clever, most (if not all) of the items in your Request for Admissions will be *or lead to discovery of* "genuine issues for trial".

That's why your opponent will try to hide by:

1. Failing to Respond,
2. Failing to Admit, or
3. Objecting.

Each of these is covered in the following sections.

Failure to Respond

In nearly all jurisdictions, once your request for admissions has been served on the other side, a deadline clock starts ticking. Your opponent has only a certain number of days to respond. In many jurisdictions this is only 30 days, but you need to check your local jurisdiction's rules to make certain how many days are allowed for the response.

If your opponent fails to respond within the number of days allowed by your local jurisdiction's rules, you will file a Motion to Deem Requests Admitted and set your motion for hearing.

IN THE THIRTIETH JUDICIAL CIRCUIT COURT
IN AND FOR SUNSHINE COUNTY, FLORIDA

Case No. 2012-123
Judge Benchpounder

PETER PLAINTIFF,
Plaintiff,

v.

DANNY DEFENDANT,
Defendant.

_____/

MOTION TO DEEM REQUESTS ADMITTED FOR FAILURE TO RESPOND

PLAINTIFF Peter Plaintiff moves this Honorable Court to enter an order deeming all items of his Request for Admissions to be

admitted for all purposes during the pendency of these proceedings and states in support.

1. Plaintiff served defendant with his First Request for Admissions on 3 January 2016.

2. As of 8 February 2016, defendant has failed and refused to file or serve on defendant any response to plaintiff's First Request for Admissions.

3. The time allowed for responding to Requests for Admissions in this jurisdiction has expired.

4. Justice and the Rules of Civil Procedure controlling this Honorable Court require that the facts requested in plaintiff's First Requests for Admissions be deemed admitted for all purposes during the pendency of these proceedings..

WHEREFORE plaintiff moves this Honorable Court to enter an order deeming the facts stated in plaintiff's First Requests for Admissions to be deemed admitted for all purposes during the pendency of these proceedings.

RESPECTFULLY SUBMITTED this ___ day of _____ 2016.

_____

Peter Plaintiff, Plaintiff

[Certificate of Service]

Cite the controlling rule in your jurisdiction and include any controlling published appellate court decisions that support your position that everything you requested your opponent to admit *should be deemed admitted for all purposes!*

For example, suppose one of your requests for admissions was, "Admit that the document attached as Exhibit A is an accurate copy of a contract signed by you on 23 May 2016." If your opponent doesn't respond within the time allowed, the court may deem (consider, find, adjudge) that the exhibit *is* an accurate copy of the contract and that your opponent signed it on 23 May 2016, *and your opponent will be stuck with that fact throughout the proceedings!*

Failure to Admit

If your opponent responds by filing some paper with the court and sending you a copy, but the response does not admit or deny the items in your request, you have the rules on your side once again.

The response must *specifically* deny each item in your request or state in detail why the responding party cannot truthfully admit or deny it.

If your opponent denies an item in your request, that denial must fairly respond to the substance of the matter, and when *good faith* requires the responding party to qualify a response or deny only part of an item, the response must *specify* the part admitted and qualify or deny the rest. The responding party may assert lack of knowledge or information as a reason for failing to admit or deny *only* if he states he has made reasonable inquiry and the information he knows or can readily obtain is insufficient to enable him to admit or deny.

If you receive anything less than this, you file a Motion to Deem Requests Admitted and set your motion for hearing.

IN THE THIRTIETH JUDICIAL CIRCUIT COURT
IN AND FOR SUNSHINE COUNTY, FLORIDA

Case No. 2012-123
Judge Benchpounder

PETER PLAINTIFF,
Plaintiff,

v.

DANNY DEFENDANT,
Defendant.

_____/

MOTION TO DEEM REQUESTS ADMITTED OVER OBJECTIONS

PLAINTIFF Peter Plaintiff moves this Honorable Court to enter an order deeming certain items of his Request for Admissions to be admitted for all purposes during the pendency of these proceedings and states in support.

1. Plaintiff served defendant with his First Request for Admissions on 3 January 2016.

2. Paragraph 2 of plaintiff's request stated, "You were allowed to use Plaintiff's grapefruit delivery truck."

3. Paragraph 4 of plaintiff's request stated, "You received $3,000 from plaintiff on 17 May 2012."

4. Defendant objected to both these requests stating, "Objection. Plaintiff's request seeks to discover a fact that presents a genuine issue for trial."

5. Defendant's responses are contrary to the rule that forbids such objections.

6. Justice and the Rules of Civil Procedure controlling this Honorable Court require that the facts requested in plaintiff's

paragraphs 2 and 4 be deemed admitted.

WHEREFORE plaintiff moves this Honorable Court to enter an order deeming the facts stated in paragraphs 2 and 4 to be deemed admitted for all purposes during the pendency of these proceedings.

RESPECTFULLY SUBMITTED this ___ day of _____ 2016.

_____

Peter Plaintiff, Plaintiff

[Certificate of Service]

Responding with Objections

In most jurisdictions objecting to a requested admission by itself isn't good enough.

The responding party must state his grounds for objecting to a request. He cannot object on the ground that the request presents a genuine issue for trial.

In any case, you file your Motion to Deem Requests Admitted, set it for hearing, and insist on your right to either get proper responses pursuant to the rule or to have the judge enter an order deeming your items admitted as true for all purposes in the rest of the proceedings.

Once an item is admitted (or deemed admitted by the court) that item (be it an issue of law or a fact related to your case) is thereafter established and cannot later be withdrawn or amended.

Sharpen your axe!

IN THE THIRTIETH JUDICIAL CIRCUIT COURT

IN AND FOR SUNSHINE COUNTY, FLORIDA

Case No. 2012-123
Judge Benchpounder

PETER PLAINTIFF,
Plaintiff,

v.

DANNY DEFENDANT,
Defendant.

_____/

MOTION TO DEEM REQUESTS ADMITTED OVER OBJECTIONS

PLAINTIFF Peter Plaintiff moves this Honorable Court to enter an order deeming certain items of his Request for Admissions to be admitted for all purposes during the pendency of these proceedings and states in support.

1. Plaintiff served defendant with his First Request for Admissions on 3 January 2016.

2. Paragraph 2 of plaintiff's request stated, "You were allowed to use Plaintiff's grapefruit delivery truck."

3. Paragraph 4 of plaintiff's request stated, "You received $3,000 from plaintiff on 17 May 2012."

4. Defendant objected to both these requests stating, "Objection. Plaintiff's request seeks to discover a fact that presents a genuine issue for trial."

5. Defendant's responses are contrary to the rule that forbids such objections.

6. Justice and the Rules of Civil Procedure controlling this Honorable Court require that the facts requested in plaintiff's paragraphs 2 and 4 be deemed admitted.

WHEREFORE plaintiff moves this Honorable Court to enter an order deeming the facts stated in paragraphs 2 and 4 to be deemed admitted for all purposes during the pendency of these proceedings.

RESPECTFULLY SUBMITTED this ___ day of _____ 2016.

_____

Peter Plaintiff, Plaintiff

[Certificate of Service]

Then, if your opponent gets particularly out of control, you might find yourself filing a motion something like the following that was involved in a real case where I was attorney in a case involving several millions of dollars.

FIFTEENTH JUDICIAL CIRCUIT COURT

PALM BEACH COUNTY, FLORIDA

CIVIL DIVISION

Case No. 12345

PETER PLAINTIFF,

Plaintiff,

v.

DANNY DEFENDANT and

DOROTHY DIRTBAG,

Defendants.

_____/

MOTION TO DEEM REQUEST ADMITTED FOR DEVIOUS RESPONSES

PLAINTIFF Peter Plaintiff, pursuant to Rule 1.370 Florida Rules of Civil Procedure, moves this Honorable Court to enter an Order determining insufficient a response of defendant Dorothy Dirtbag (hereinafter Dirtbag) to plaintiff's request for admissions and deeming same admitted for all purposes, stating in support:

1. This court is not a forum for cute tricks nor a stage for clever use of smoke and mirrors word magic to evade responding to lawful discovery requests pursuant to the rules that control this court.

2. Dirtbag's response to plaintiff's request for admissions is nothing short of a word game.

3. Paragraph 1 of plaintiff's request for admissions sought to establish that a contract forming the basis for this lawsuit "contemplated" there would be a limit on Dirtbag's ability to trade her stock.

4. Dirtbag evaded answering by claiming contracts cannot "contemplate" because (as Dirtbag asserts with the transparent guile of a pre-schooler) contracts are "inanimate objects".

5. Use of the verb "contemplates" in reference to contracts is well known and widely recognized.

6. The Florida Supreme Court and Fourth District Court of Appeals use this term routinely in written opinions describing what contracts "contemplate". Pandya v. Israel, 761 So.2d 454 (Fla. 4th DCA 2000); Petracca v. Petracca, 706 So.2d 904 (Fla. 4th DCA 1998); Baker v.

Baker, 394 So.2d 465 (Fla. 4th DCA 1981); Potter v. Collin, 321 So.2d 128 (Fla. 4th DCA 1975); Belcher v. Belcher, 271 So.2d 7 (Fla. 1972); Bergman v. Bergman, 199 So. 920 (Fla. 1940); Bowers v. Dr. Phillips, 129 So. 850 (Fla. 1930).

7. Dirtbag's resort to word games is in contempt of this Court's lawful authority and should be sanctioned by entry of an Order deeming the requested admission *admitted for all purposes*.

WHEREFORE plaintiff Peter Plaintiff moves this Honorable Court to enter an Order deeming the request referenced herein admitted for all purposes during the pendency of these proceedings..

I CERTIFY that a copy of the foregoing was provided by regular U.S. Mail to the law offices of Dewey, Cheatham & Howe at 38 Liar Lane, Hogwash, Florida 33333 this 19 April 2005.

_____

Peter Plaintiff, Plaintiff

Yes, it *is* permissible to use *italics* (as in the foregoing) and sometimes even **bold type** to emphasize points of your arguments in motions as well as in pleadings and other papers, so long as you don't over-use them and that their use is done with respect to the court.

Remember: You are writing to the court record to be read by the trial judge and, possibly, appellate court justices in the event you must appeal. You are *not* writing to impress or ridicule your opponent. Use restraint, but ***make your points clear!***

Compelling production is a bit different.

It requires a few more steps.

Each step should be taken in sequence.

The process may require considerable time, however when the dust settles you *will* get to see the documents and/or things you sought with your Request for Production (if they are "reasonably calculated to lead to the discovery of admissible evidence" pursuant to the general rule controlling discovery.)

Anticipate this response: "Objection, vague, ambiguous, seeks to inquire into the attorney-client privilege, work product, and overly burdensome."

Yep!

When you request documents or things that will *help you win*, do not expect your opponent to turn them over with a smile. He will drag his feet, obfuscate, make up stuff, and do whatever he can to prevent you from getting your hands on anything that will cause him to lose!

So!

We have a fix for that.

There are three (3) steps.

1. Motion to Compel Production
2. Motion to Show Cause
3. Motion for Contempt Order

You may not need to use all four, but each is explained below along with suggested forms.

Motion to Compel Production

Remember this *and never, ever forget it!*

You are entitled to obtain discovery of *anything* (and I do mean "anything") that is "reasonably calculated to lead to the discovery of admissible evidence. What you seek with your discovery efforts *need not be admissible at trial* ... so long as it is "reasonably calculated to lead to the discovery of admissible evidence".

Your opponents do *not* want you to see the documents and things they have in their possession or those that are obtainable by them through the exercise of reasonable diligence *if those documents and things will help you win!*

So, file a Motion to Compel Production, set it for hearing, and make it crystal clear to the judge (with a court reporter writing everything down to make a record in case you have to appeal the judge's denial of your motion) why the documents and things you request are either already admissible evidence or "reasonably calculated to lead to the discovery of admissible evidence".

If all goes well, the judge will *order* your opponent to produce the documents and things you request ... and then your opponent is not only subject to your request but under a court order to do what you requested!

IN THE THIRTIETH JUDICIAL CIRCUIT COURT
IN AND FOR SUNSHINE COUNTY, FLORIDA

Case No. 2012-123
Judge Benchpounder

PETER PLAINTIFF,
Plaintiff,

v.

DANNY DEFENDANT,

Defendant.

_____/

MOTION TO COMPEL PRODUCTION

PLAINTIFF Peter Plaintiff moves this Honorable Court for an Order compelling Defendant Danny Defendant to produce for inspection and copying the originals of the following documents and things at the offices of Plaintiff or such other place as the parties may hereafter agree, stating in support:

1. On or about 13 December 2012 plaintiff served defendant with a Request for Production..

2. In paragraph 1, plaintiff requested "All corporate records of Grapefruit Delivery Corporation".

3. In paragraph 2, plaintiff requested "All records of money or other consideration received by you for sale or delivery of grapefruit from 17 May 2012 to the present, including but not limited to invoices and bank statements."

4. Defendant failed and refused to respond with any of the requested production within the time limit set by the Rules of Civil Procedure that control this Honorable Court.

5. Each of the items requested are reasonably calculated to lead to the discovery of admissible evidence in accordance with the general rule governing discovery in this court.

6. Justice and the rules controlling this Honorable Court require that the requested items be produced forthwith.

WHEREFORE plaintiff moves this Honorable Court to enter an ORDER compelling defendant to produce in accordance with the

rules.

RESPECTFULLY SUBMITTED this ___ day of _____ 2016.

_____

Peter Plaintiff, Plaintiff

[Certificate of Service]

Now, suppose your opponent fails and refuses to respond as ordered.

What then?

Motion to Show Cause

The next step (and you really shouldn't skip this step unless there is some *bona fide* reason, e.g., likelihood evidence will disappear or be destroyed) is a Motion to Show Cause.

Of course, you try to work things out ahead of time by phoning your opponent (or his attorney) so you can include a certificate of good faith. But, if your opponent fails and refuses to produce *as now ordered by the judge,* you go ahead and file your motion and set it for hearing.

For this motion and its notice of hearing, you do something a bit different, however. You have the motion and notice of hearing *served* on your opponent (by a U.S. Marshal if federal court or the Sheriff or other authorized process server if state court).

When the time comes for your hearing, you go to court prepared to demand the production you requested and that the court has ordered!

If your opponent shows up, the judge will usually give your opponent more time to produce, but now the extra time may be as short as a few hours and seldom more than a few days.

If your opponent does not show up, call the court's attention to the Return of Service (the affidavit filed by the Marshal, Sheriff, or process server) showing that your opponent was *served* with the motion and notice of hearing, in which case the judge may issue a Bench Warrant directing a law enforcement officer to take your opponent into custody until such time as he can be forced to appear and respond to your motion.

IN THE THIRTIETH JUDICIAL CIRCUIT COURT
IN AND FOR SUNSHINE COUNTY, FLORIDA

Case No. 2012-123
Judge Benchpounder

PETER PLAINTIFF,
Plaintiff,

v.

DANNY DEFENDANT,
Defendant.

_____/

MOTION TO SHOW CAUSE
WHY DEFENDANT SHOULD NOT BE HELD IN CONTEMPT
FOR FAILURE TO PRODUCE

PLAINTIFF Peter Plaintiff moves this Honorable Court for an Order requiring Defendant Danny Defendant to show cause why he should not be held in contempt for failing and refusing to abide by this Court's order to produce, stating in support:

1. On or about 13 December 2012 plaintiff served defendant with a Request for Production.

2. Defendant failed and refused to comply with plaintiff's request.

3. Plaintiff subsequently file a Motion to Compel Production that was heard on 19 January 2013.

4. At the 19 January 2013 hearing this Court entered an Order compelling defendant to produce the requested documents within 10 days of entry of that Order..

5. As of the date of this motion, defendant has failed and refused to comply with this Court's Order.

6. Justice and the rules controlling this Honorable Court require that the requested items be produced forthwith.

WHEREFORE plaintiff moves this Honorable Court to enter an ORDER requiring defendant to show cause why he should not be held in contempt for failure to produce as ordered.

RESPECTFULLY SUBMITTED this ___ day of _____ 2014.

_____

Peter Plaintiff, Plaintiff

[Certificate of Service]

In unusual cases after being *twice* ordered to produce what you originally requested, your opponent may stupidly fail and refuse to obey the court's order.

So, here's what you do.

Motion for Contempt

File the following motion, set it for hearing, and again have your opponent personally served with both documents.

IN THE THIRTIETH JUDICIAL CIRCUIT COURT
IN AND FOR SUNSHINE COUNTY, FLORIDA

Case No. 2012-123
Judge Benchpounder

PETER PLAINTIFF,
Plaintiff,

v.

DANNY DEFENDANT,
Defendant.

_____/

MOTION TO FIND DEFENDANT IN CONTEMPT
FOR FAILURE TO PRODUCE

PLAINTIFF Peter Plaintiff moves this Honorable Court for an Order finding Defendant Danny Defendant in contempt of this Court for failing and refusing to abide by two (2) of this Court's orders to produce, stating in support:

1. On or about 13 December 2012 plaintiff served defendant with a Request for Production.

2. Defendant failed and refused to comply with plaintiff's request.

3. Plaintiff subsequently file a Motion to Compel Production that was heard on 19 January 2013.

4. At the 19 January 2013 hearing this Court entered an Order compelling defendant to produce the requested documents within 10 days of entry of that Order.

5. Defendant failed and refused to obey this Court's 19 January 2013 Order.

6. On 31 January 2013 plaintiff filed his Motion to Show Cause and had defendant personally served with same and a Notice of Hearing set for 15 Februrary 2013..

7. At the 15 February hearing defendant failed and refused to appear.

8. Defendant is now in violation of two (2) of this Court's orders to produce.

9. Justice and the rules controlling this Honorable Court require that the defendant be found in contempt of this Honorable Court and incarcerated until such time as he complies with this Court's lawful orders.

WHEREFORE plaintiff moves this Honorable Court to enter an Order finding defendant in contempt of this Court and directing a law enforcement officer to take him into custody until such time as he complies with the prior two (2) orders of the Court.

RESPECTFULLY SUBMITTED this ___ day of _____ 2014.

_____

Peter Plaintiff, Plaintiff

[Certificate of Service]

If your opponent is stupid enough to fail to show up for *this* hearing, the Court will not hesitate to enter an Order directing a law enforcement officer to take him into custody and hold him until he is prepared to obey the Court's orders.

If he shows up, the judge *may* give him a few hours to bring the requested document directly to the judge or, in some cases, order him to bring the requested documents to you but allowing you to file an affidavit of non-compliance that will immediately result in issuance of a Bench Warrant directing law enforcement to take your opponent into custody until he decides to obey the Court's orders, or take other actions such as striking your opponent's pleadings or dismissing your opponent's case.

This is *your power!*

Use it vigorously when your opponent tries to hide from your requests to produce.

The solution here is a Motion for Better Answers to Interrogatories.

Suppose you serve your opponent with a set of interrogatories that includes a paragraph, "How much money did you report as earned income to the IRS in 2015?"

Now, further suppose the response to that paragraph was, "Objection, vague, ambiguous, seeks to inquire into the attorney-client privilege, violates the work product rule, overly broad, and unduly burdensome."

Obviously your opponent doesn't want to answer.

However!

If you follow these steps, you *will* get the answers justice and the rules demand:

1. Motion to Compel Better Answers

2. Motion to Show Cause

3. Motion for Contempt

If how much money your opponent reported to the IRS as earned income in 2015 is either admissible evidence in your case because relevant to some material issue or is "reasonably calculated to lead to the discovery of admissible evidence", then you are entitled to an answer.

"Objection, vague, ambiguous, seeks to inquire into the attorney-client privilege, violates the work product rule, overly broad, and unduly burdensome," is not the answer to which you are entitled pursuant to the rules. It is an all-too frequent bogus, foot-dragging, ball-hiding response to discovery requests, so you need to know how to deal with it when it comes (as it will).

The following motion shows you how to start the process. Set it for hearing. Serve your opponent with a copy of the motion and the notice of hearing. Attend the hearing prepared to argue that the information sought is either admissible at trial or "reasonably calculated to lead to the discovery of admissible evidence."

FIFTEENTH JUDICIAL CIRCUIT COURT

PALM BEACH COUNTY, FLORIDA

CIVIL DIVISION

Case No. 12345

PETER PLAINTIFF,

Plaintiff,

v.

DANNY DEFENDANT and

DOROTHY DIRTBAG,

Defendants.

_____/

MOTION FOR BETTER ANSWERS TO INTERROGATORIES

PLAINTIFF Peter Plaintiff moves this Honorable Court to Order defendant Danny Defendant to file a better answer to plaintiff's interrogatories, stating in support:

1. On 12 January 2015, plainfff served defendant with his First Set of Interrogatories including in paragraph 7 the following: "How much money did you report as earned income to the IRS in 2015?"

2. Also served with plaintiff's First Set of Interrogatories was paragraph 9, "Identify all persons having any knowledge of your using insecticide to spray plaintiff's strawberry plants."

2. Both interrogatories are reasonably calculated to lead to discovery of admissible evidence, since a material issue in this case is how much money defendant was paid by plaintiff to spray plaintiff's strawberry plants with insecticide and whether defendant did in fact spray any of plaintiff's strawberries.

3. Defendant's contumelious responses to both interrogatories were, "Objection, vague, ambiguous, seeks to inquire into the attorney-client privilege, violates the work product rule, overly broad, and unduly burdensome."

4. Defendant's responses are not in good faith, are in violation of the general rules governing discovery by interrogatories that control this Honorable Court, and defendant should be ordered to provide better answers to the said interrogatories forthwith..

WHEREFORE plaintiff Peter Plaintiff moves this Honorable Court to enter an Order directing defendant to respond with a better answers to paragraphs 7 and 0 of plaintiff's First Set of Interrogatories.

I CERTIFY that a copy of the foregoing was provided by regular U.S. Mail to the law offices of Dewey, Cheatham & Howe at 38 Liar Lane, Hogwash, Florida 33333 this 19 February 2015.

_____

Peter Plaintiff, Plaintiff

If all goes well, the judge will order a better answer.

But, suppose your opponent fails and refuses to file a better answer as ordered.

What then?

Motion to Show Cause

The next step (as when your opponent fails to produce, you should not skip this step) is a Motion to Show Cause.

Try to work things out ahead of time by phoning your opponent (or his attorney) so you can include a certificate of good faith. But, if your opponent fails and refuses to provide a better answer to your interrogatory *as now ordered by the judge,* you go ahead and file your motion and set it for hearing.

For this motion and its notice of hearing, you do as you should *always* do with a motion to show cause. You have the motion and notice of hearing *served* on your opponent (by a U.S. Marshal if federal court or the Sheriff or other authorized process server if state court).

When the time comes for your hearing, you go to court prepared to demand the better answer to your interrogatory that the court already ordered!

If your opponent shows up, the judge will usually give your opponent

more time to file his better answer, but (as with production) the extra time may be as short as a few hours and seldom more than a few days.

If your opponent does not show up, call the court's attention to the Return of Service (the affidavit filed by the Marshal, Sheriff, or process server) showing your opponent was *served* with the motion and notice of hearing, in which case the judge may issue a Bench Warrant directing a law enforcement officer to take your opponent into custody until such time as he can be forced to appear and provide the better answer he has been ordered to provide.

IN THE THIRTIETH JUDICIAL CIRCUIT COURT
IN AND FOR SUNSHINE COUNTY, FLORIDA

Case No. 2012-123
Judge Benchpounder

PETER PLAINTIFF,
Plaintiff,

v.

DANNY DEFENDANT,
Defendant.

_____/

MOTION TO SHOW CAUSE
WHY DEFENDANT SHOULD NOT BE HELD IN CONTEMPT
FOR FAILURE TO GIVE BETTER ANSWER TO
INTERROGATORY

PLAINTIFF Peter Plaintiff moves this Honorable Court for an Order requiring Defendant Danny Defendant to show cause why he should not be held in contempt for failing and refusing to abide by this

Court's order to give a better answer to one of plaintiff's interrogatories, stating in support:

1. On or about 13 December 2012 plaintiff served defendant with his First Set of Interrogatories.

2. Defendant failed and refused to answer paragraph 7 of plaintiff's interrogatories.

3. Plaintiff subsequently file a Motion to Compel Better Answers that was heard on 19 January 2013.

4. At the 19 January 2013 hearing this Court entered an Order compelling defendant to provide a better answer to paragraph 7 of plaintiff's interrogatories within 10 days of entry of that Order..

5. As of the date of this motion, defendant has failed and refused to comply with this Court's Order.

6. Justice and the rules controlling this Honorable Court require that the better answer be produced forthwith.

WHEREFORE plaintiff moves this Honorable Court to enter an Order requiring defendant to show cause why he should not be held in contempt for failure to provide a better answer as ordered.

RESPECTFULLY SUBMITTED this ___ day of _____ 2013.

_____

Peter Plaintiff, Plaintiff

[Certificate of Service]

In unusual cases after being *twice* ordered to produce what you originally requested, your opponent may stupidly fail and refuse to obey the court's order.

So, here's what you do.

Motion for Contempt

File the following motion, set it for hearing, and again have your opponent personally served with copies of the motion and notice of hearing.

IN THE THIRTIETH JUDICIAL CIRCUIT COURT
IN AND FOR SUNSHINE COUNTY, FLORIDA

Case No. 2012-123
Judge Benchpounder

PETER PLAINTIFF,
Plaintiff,

v.

DANNY DEFENDANT,
Defendant.

_____/

MOTION TO FIND DEFENDANT IN CONTEMPT FOR FAILURE TO PROVIDE BETTER ANSWER TO INTERROGATORY

PLAINTIFF Peter Plaintiff moves this Honorable Court for an Order finding Defendant Danny Defendant in contempt of this Court for failing and refusing to abide by two (2) of this Court's orders to provide a better answer to one of plaintiff's interrogatories, stating in support:

1. On or about 13 December 2012 plaintiff served defendant with plaintiff's First Set of Interrogatories.

2. Defendant failed and refused to answer one of plaintiff's interrogatories..

3. Plaintiff subsequently file a Motion to Compel Better Answers that was heard on 19 January 2013.

4. At the 19 January 2013 hearing this Court entered an Order compelling defendant to provide a better answer to plaintiff's interrogatory within 10 days of entry of that Order.

5. Defendant failed and refused to obey this Court's 19 January 2013 Order.

6. On 31 January 2013 plaintiff filed his Motion to Show Cause and had defendant personally served with same and a Notice of Hearing set for 15 Februrary 2013..

7. At the 15 February hearing defendant failed and refused to appear.

8. Defendant is now in violation of two (2) of this Court's orders to produce.

9. Justice and the rules controlling this Honorable Court require that the defendant be found in contempt of this Honorable Court and incarcerated until such time as he complies with this Court's lawful orders.

WHEREFORE plaintiff moves this Honorable Court to enter an Order finding defendant in contempt of this Court and directing a law enforcement officer to take him into custody until such time as he complies with the prior two (2) orders of the Court.

RESPECTFULLY SUBMITTED this ___ day of _____ 2014.

_____

Peter Plaintiff, Plaintiff

[Certificate of Service]

Some people are actually stupid enough to fail to show up for *this* hearing, in which case the Court will not hesitate to enter an Order directing a law enforcement officer to take such person into custody and hold him until he is prepared to obey the Court's orders.

If he shows up, the judge *may* give him a few hours to bring his better answer directly to the judge or, in some cases, order him to bring the answer to you but allow you to file an affidavit of non-compliance that will immediately result in issuance of a Bench Warrant directing law enforcement to take your opponent into custody until he decides to obey the Court's orders, or something less drastic such as striking his pleadingsd or dismissing his case.

This is *your power!*

This is the part of *your* court power that everyone should know about ... power very few lawyers are willing to use (or don't know how to use).

Depositions are handled differently.

Problems arise when:

1. The deponent (witness or opposing party) fails to show up,

2. Deponent fails and refuses to candidly and honestly answer questions, or

3. You ask improper questions.

Don't worry. There's a court reporter at *every* deposition, writing down every word that gets said (unless you allow an argument to

begin so the reporter cannot sort out who is saying what). Just be sure only one person is speaking at any one time so the court reporter can make an accurate record.

You Ask Improper Questions

If you try to ask *your own* witness "leading questions" or questions protected by privilege or otherwise disallowed by the rules (This is covered in the class on Evidence in my course.) your opponent (or his lawyer) will object, and at a deposition there is no judge to rule on those objections.

What do you do?

The best thing is to re-phrase your question.

If you believe your question is allowed by the rules, ask it again and demand an answer! Your opponent can take it up with the judge at a later hearing on his motion to strike the deponent's answer from the record. Or, if the deponent refuses to answer a question you believe is permitted by the rules, *you* can take it up with the judge at a later hearing on your Motion to Show Cause. (See suggested forms below.)

Don't be pushed around by the other side during depositions. There are only a few things that are "out of bounds" at depositions. Don't be bamboozled by intimidating lawyers. In most jurisdictions, protocols for examining and cross-examining deponents at depositions are looser than at trial where rules of evidence are strictly enforced. If the other side begins to object to every question you ask, request a conference with the other side outside the room, away from the deponent's hearing. Ask what the point of the objections is. If your opponent remains obstreperously unruly, direct

the court reporter to record you saying, "We are terminating this deposition until further notice due to the opponent's refusal to abide by the rules of evidence, and we will be filing a Motion to Show Cause." Make absolutely *certain* this statement terminating the deposition and giving the cause therefor is in the court reporter's record.

If the other side abuses the rules by interrupting with objections you believe are improper under the rules, terminate the deposition, file a Motion to Show Cause, set it for hearing, and get a ruling from the Court before again attempting to re-notice the deponent for continuing deposition.

If you continue a deposition deprived of your right to get what you want because of the other side's unruly and unlawful objections, you may not get another bite at the apple and forever lose your chance to get facts you need *before* trial!

If you are represented by a lawyer, make certain your lawyer does not allow the other side to interrupt without good cause.

Allow no weasel room for a deponent to give half-answers or evasive responses. If a deponent begins to weasel, pin him down. If you can catch him in a lie, you may gain valuable ground in your lawsuit that otherwise would be missed.

Motion to Show Cause

If your deponent refuses to answer questions, terminate the deposition *on the record* (i.e., with the court reporter writing everything down) stating that you are terminating the deposition due to the deponent's failure to answer questions allowable under the rules and that you will be filing a Motion to Show Cause why the

deponent should not be held in contempt for failing to answer. Set your motion for hearing, and serve the deponent using the Sheriff (if state court) or U.S. Marshal (if federal court) so there can be no complaining on the part of the deponent that he did not know when the hearing was scheduled.

Follow the same procedures and modify the above forms accordingly.

If the deponent shows up, be prepared to argue why the deponent should answer the questions you were asking *and have an excerpt from the court reporter that includes those questions and the deponent's refusal to answer so it is not your word against his!*

In all likelihood, if the deponent shows up for the hearing he will be ordered to appear for deposition at a later time and at that time to answer your questions.

If the deponent does not show up for the hearing, make an *ore tenus* motion (spoken motion) then and there for him to be held in contempt and for a bench warrant to be issued for his arrest. Remember, you used the Sheriff or U.S. Marshal to serve him with the motion and notice of hearing, and there will be in the court file a copy of the Return of Service affidavit attesting to his having been served at such and such place at such and such time, and he is without excuse.

Motion for Contempt

If your *ore tenue* Motion for Contempt does not elicit a bench warrant from the judge, file a Motion for Contempt (follow the format of forms shown above) and set it for hearing. And, of course, have the deponent served by the Sheriff or U.S. Marshal so there is a

Return of Service affidavit in the file.

At the contempt hearing the judge should issue a bench warrant for the deponent's immediate arrest and incarceration until such time as he or she is prepare to answer your questions, or the court may strike or dismiss your opponent's case at the court's discretion.

This is *your* power ... paid for by the blood of too many who gave their lives so you could have liberty through the exercise of judicial power.

Use your power!

Subpoenas *are* orders of the court compelling a witness to appear (either at trial, at a hearing, or for deposition) and, in some cases, to bring certain designated documents and/or things with them.

Failure to abide a subpoena or any other court order *is* contempt of court *per se!*

The process for you to follow is as explained above.

1. Motion to Show Cause

2. Motion for Contempt

Once a judge (or the Court Clerk or other officer of the corut acting upon judicial authority) orders a thing to be done, failure to comply comprises contempt of court *per se* and may be punished by severe fines and jail terms.

File your motions, set them for hearing, have them *served* on the offending persons by Sheriff or U.S. Marshal so there is a Return of Service affidavit in the court file apprising the trial judge that the offending party is without excuse if he or she fails to appear for hearing.

Get what the law promises!

Do it for yourself and for those you love!

Take no prisoners!

Bring your axe!

Of all the classes in this course, this class on compelling evidence is perhaps the most important (though, of course, you won't know what evidence is nor understand the tools available to get at it, if you don't study the other classes.

Discovery is how you win in court.

But, getting your opponent or reluctant non-party to comply is essential, or all your efforts at discovery are a waste of time.

Discovery is the hardest part of winning in court, because your opponent *will* resist every effort you make to get evidence into the record where that evidence is likely to weaken your opponent's case.

Fortunately, using the foregoing methods *to-the-letter* and without hesitation or apology, you *will* get you the evidence you need.

You have the rules of court *and this course* on your side!

Be prepared to fight every step of the way.

Never give up.

Never give in.

Litigation is an axe fight!

The foregoing methods to compel evidence are your axe!

Don't be afraid to use them!

If you don't *demand* justice, don't be surprised if you don't get any!

You cannot win without *all* the evidence you need to win!

Use what's taught in this class to *compel* evidence!

MICHELLE GOMEZ: Your subscription expires October 26, 2020

Take this quiz to see how much you still need to learn.

Some items may seem like "trick questions", but there is only *one* correct answer to each.

Remember: Reading *carefully* is essential to success in court.

Take this and all quizzes as many times as you wish.

However, to be properly prepared for your battles in court, go back over the classes until you get at least a "B" on every quiz.

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