

Tiki Brown
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 Clerk of State Court
 Clayton County, Georgia
 Hannah Lowery

IN THE STATE COURT OF CLAYTON COUNTY
 STATE OF GEORGIA

TRACY WILLIAMS,

Plaintiff,

v.

SANDOR MARTINEZ AND INAYAH
 MARTIN,

Defendants.

Civil Action No.: 2024CV02229

**PLAINTIFF'S REPLY TO DEFENDANT SANDOR MARTINEZ'S RESPONSE TO
 PLAINTIFF'S MOTION TO COMPEL AND FOR ATTORNEY FEES AGAINST
 DEFENDANT SANDOR MARTINEZ**

COMES NOW, Plaintiff Tracy Williams ("Plaintiff") and files this *Reply to Defendant Sandor Martinez's Response to Plaintiff's Motion to Compel and for Attorney Fees Against Defendant Sandor Martinez*, and shows the Court as follows:

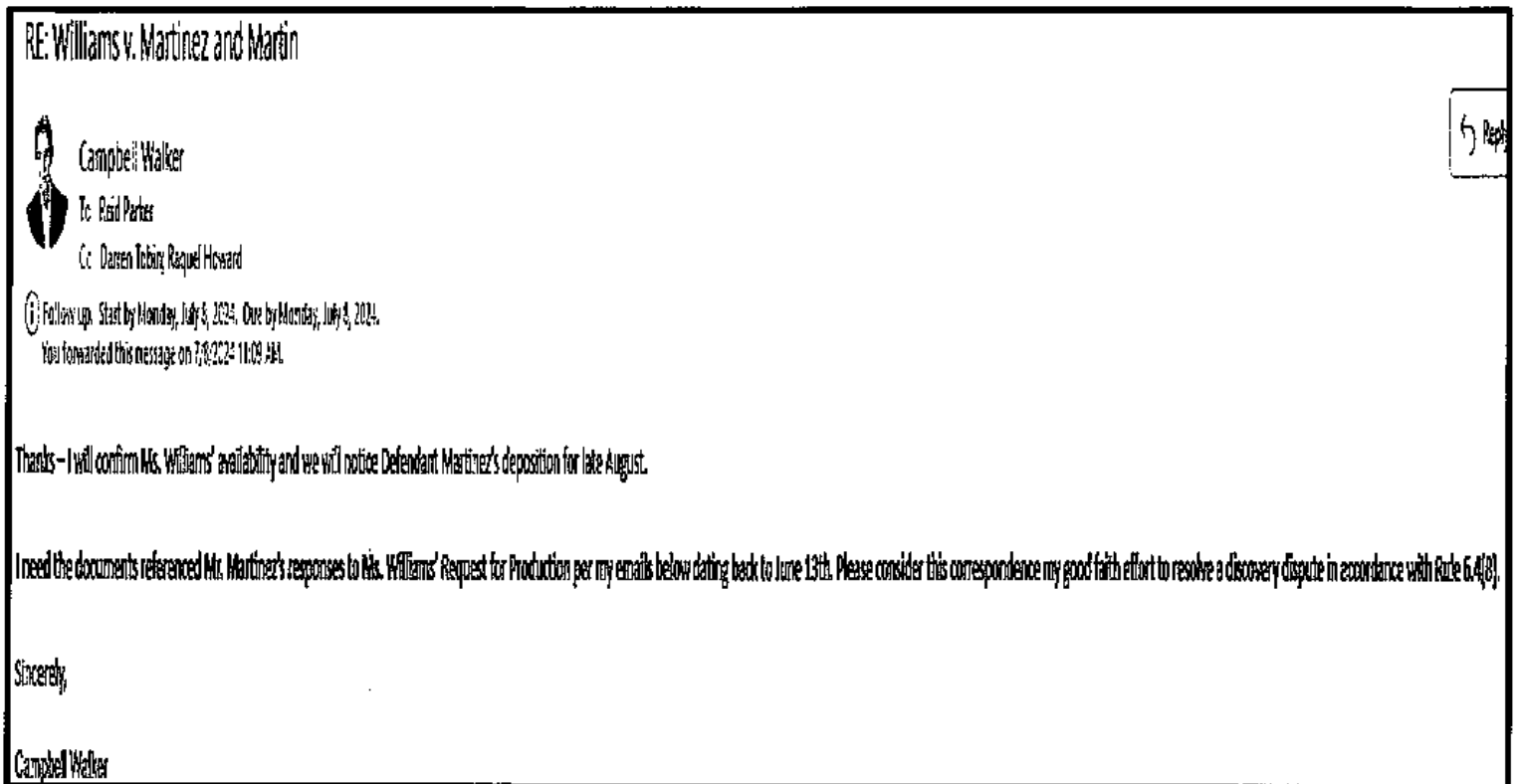
FACT SUMMARY

This case arises from a collision that took place August 12, 2023 on I-285 in DeKalb County, Georgia. Defendant Martinez provided the documents referenced in his responses to Plaintiff's First Request for Production of Documents ("Defendant Martinez's RPD Responses") on August 23, 2024, **77 days after serving Defendant Martinez's RPD Responses to Plaintiff and 30 days after Plaintiff's Motion to Compel and for Attorneys' Fees ("Plaintiff's Motion to Compel")**.

Plaintiff inadvertently omitted Plaintiff's Counsel's emails to Defendant Martinez's Counsel referenced as Exhibit B in Plaintiff's Motion to Compel. However, that oversight in zero way affects this dispute, because the truth is that Defendant Martinez's counsel failed to comply

with the Georgia Civil Practice Act. Plaintiff is attaching the email that shows Plaintiff's Counsel's multiple attempts to obtain documents referenced in Defendant Martinez's RPD Responses to this Motion as Exhibit B.

Defendant Martinez alleged in his Response to Plaintiff's Motion to Compel ("Defendant's Response") that Plaintiff, "has failed to send Defendant a single 6.4(b) (sic) correspondence via mail, email, or fax." **Defendant Martinez's representation to this Court is false** as is evidenced by Plaintiff's email correspondence dated Monday, July 8th, 2024, sent pursuant to 6.4(B), at 11:07 A.M. See Exhibit B and the screenshot below.



Plaintiff's Counsel also sent several emails before the July 8th, 2024 correspondence that were not pursuant to 6.4(B), as an attempt to resolve this discovery issue amicably. *Id.* Those emails were sent as follows:

Thursday, June 13, 2024 at 9:45 A.M.:

From: Campbell Walker

Sent: Thursday, June 13, 2024 9:45 AM

To: 'reid@reiparlaw.com' <reid@reiparlaw.com>

Cc: Darren Tobin <darren@tobininjurylaw.com>; Raquel Howard <Raquel@tobininjurylaw.com>

Subject: Williams v. Martinez and Martin

Good morning, Reid,

Thank you for speaking with me Tuesday. As we discussed, Ms. Williams is settling with Defendant Isayah Martin. Our plan is to dismiss the case and re-file against Mr. Sandoz Martinez. Ms. Martin has agreed to appear for her deposition in the event that we refile against Mr. Martinez. I believe that Ms. Martin's testimony will truthfully and accurately establish liability and damages.

Ms. Williams is willing to settle with Mr. Martinez for \$15,000.00 at this time. Please let us know if Verve Insurance would like to make an offer. If Verve Insurance does not make an offer, then I would ask for dates that Mr. Martinez is available for his in-person deposition.

Finally, please send us the documents referenced in Mr. Martinez's responses to Ms. Williams' Request for Production.

I look forward to hearing back from you.

Sincerely,

Campbell Walker
TOBIN INJURY LAW

Thursday, June 20, 2024 at 11:23 A.M.:

From: Campbell Walker

Sent: Thursday, June 20, 2024 11:23 AM

To: reid@reiparlaw.com

Cc: Darren Tobin <darren@tobininjurylaw.com>; Raquel Howard <Raquel@tobininjurylaw.com>

Subject: RE: Williams v. Martinez and Martin

Hi, Reid,

Following up on my email below. Any update from the carrier?

Sincerely,

Campbell Walker

and **Friday, June 28, 2024 at 1:47 P.M.:**

From: Campbell Walker <Campbell@tobininjurylaw.com>

Sent: Friday, June 28, 2024 1:47:11 PM

To: Reid Parker <reid@reiparlaw.com>

Cc: Darren Tobin <darren@tobininjurylaw.com>; Raquel Howard <Raquel@tobininjurylaw.com>

Subject: RE: Williams v. Martinez and Martin

Hi, Reid,

Please send us dates that Mr. Martinez is available for his in-person deposition. We can coordinate a date that Ms. Williams and Mr. Martinez are both available for their depositions.

Can you also please send us the documents referenced in Mr. Martinez's responses to Ms. Williams' Request for Production.

Sincerely,

Campbell Walker

Defendant's Counsel did respond to the June 28th email in which Plaintiff's Counsel asked for deposition dates AND made another request for missing document production, but Defendant's Counsel chose only to respond to with deposition scheduling and to ignore (again) Plaintiff's Counsel's request for document production. *See* Exhibit B.

From: Reid Parker <reid@reiparlaw.com>
Sent: Monday, July 8, 2024 10:47 AM
To: Campbell Walker <Campbell@tobininjurylaw.com>
Cc: Darren Tobin <darren@tobininjurylaw.com>; Raquel Howard <Raquel@tobininjurylaw.com>
Subject: RE: Williams v. Martinez and Martin

Campbell,

My next available dates are the week of August 19. I am on a jury trial calendar that week, but obviously this far out I have no idea if I will get called.

Thanks,

Reid R. Parker, Esq.

The Parker Law Office, LLC

Defendant further alleged that, "Plaintiff has even failed to simply pick up the phone to address this alleged discovery dispute." **That assertion is also untrue.** In Plaintiff's Counsel's email to Defendant's Counsel dated Thursday, June 13, 2024, Plaintiff's Counsel begins his email with, "Good morning, Reid, **Thank you for speaking with me Tuesday.**" (emphasis added). *See* Exhibit B. In that sentence, Plaintiff's Counsel is referring to a phone conversation that took place Tuesday, June 11, 2024 in which Plaintiff's Counsel called and spoke with Defendant Martinez's Counsel not only to ask after the documents referenced in Defendant Martinez's RPD Responses, but also to try and resolve this lawsuit without protracted litigation. Plaintiff's Counsel asked

Defendant Martinez's attorney about getting settlement authority from the insurance carrier to make an offer to settle with Plaintiff just as Defendant Inayah Martin's counsel did shortly after Plaintiff filed suit. *Id.* In his June 13, 2024 email, Plaintiff's Counsel goes on to say, "Ms. Williams is willing to settle with Mr. Martinez for \$15,000.00 at this time. Please let us know if Verve Insurance would like to make an offer." *Id.* During their phone call, Plaintiff's Counsel also brought up the issue of the missing document production to Defendant's Counsel.

Plaintiff's Counsel then sent a follow-up email regarding an early offer one week later on Thursday, June 20 in which Plaintiff's Counsel states, "Hi, Reid, Following up on my email below. Any update from the carrier?" to which Plaintiff's Counsel received no response.

After Defendant Martenez's Counsel made no acknowledgment of Plaintiff's Counsel's numerous requests for document production, Plaintiff's Counsel finally sent an email pursuant to 6.4(B) on Monday, July 8th, 2024 which Defendant Martinez's Counsel also ignored. Defendant Martinez's failure to respond left Plaintiff no choice but to file her Motion to Compel and For Attorney's Fees Against Defendant Sandor Martinez on July 24, 2024, more than two weeks after Plaintiff's Counsel's formal 6.4(B) correspondence. *See* Exhibit B.

LEGAL STANDARD AND ARGUMENT

Georgia Uniform Superior Court Rule 6.4 states, "Prior to filing a motion seeking resolution of a discovery dispute, **counsel for the moving party shall confer with counsel for the opposing party and any objecting person or entity in a good faith effort to resolve the matters involved.**" (emphasis added). *See* GA U.S.C.R 6.4(B). Plaintiff's Counsel **did** confer with counsel for the opposing party in accordance with that requirement. *See* Exhibit B.

Under O.C.G.A § 9-15-14, "In any civil action in any Court of record of this state, reasonable and necessary attorney's fees and expenses of litigation **shall** be awarded to any party

against whom another party has asserted a **claim, defense, or other position with respect to which there existed such a complete absence of any justiciable issue of law or fact that it could not be reasonably believed that a Court would accept the asserted claim, defense, or other position.**" See also *Slone v. Myers*, 288 Ga. App. 8 (2007); *Shiv Aban, Inc. v. Georgia Dept. of Transp.*, 336 Ga. App. 804, 814-15 (2016).

Georgia Rules of Professional Conduct Rule 3.3 Candor Toward the Tribunal state that, "a lawyer shall not knowingly 1. make a false statement of material fact or law to a tribunal." G.R.P.C 3.3(1). Defendant's Response contains blatant falsehoods regarding Plaintiff's communications to Defendant Martinez in an effort to resolve this matter. Defendant's false statements substantiate an award of attorney's fees against Defendant Martinez at the very least. As shown above, Plaintiff's counsel sent many emails, and called at least once, specifically regarding this discovery dispute and resolution of this lawsuit.

Plaintiff's Counsel never had an opportunity to confer with Defendant Martinez's counsel regarding the discovery dispute, because Defendant Martinez's counsel chose to ignore Plaintiff's Counsel regarding the issue. See Exhibit B. Defendant Martinez states in his Response that, "In the instant case Plaintiff has failed to reach out to Defendant in the form of a 6.4(b) (sic) correspondence in any format. Plaintiff sent an email covering several topics that raised the lack of production of documents, but as this email was not labeled in the subject line or body as a 6.4(b) (sic) correspondence Defendant was unaware Plaintiff had not received the supplied documents." (emphasis added).

As shown in Plaintiff's Counsel's Monday July 8, 2024 email, Plaintiff's Counsel very clearly sent correspondence pursuant to 6.4(B) which was referenced in the body of Plaintiff's Counsel's email contrary to Defendant's Counsel's assertion above. See Exhibit B. The last *bolded*

sentence of Plaintiff's Counsel's July 8 email states, "Please consider this correspondence my good faith effort to resolve a discovery dispute in accordance with Rule 6.4(B)." *Id.* It defies logic that Defendant, in the same sentence, acknowledged that Plaintiff's Counsel, "sent an email covering several topics that raised the lack of production of documents" and then goes on to say that Defendant was, "unaware Plaintiff had not received the supplied documents" because Plaintiff's Counsel's emails did not reference 6.4(B).


CONCLUSION

Plaintiff respectfully requests that the Court order Defendant Martinez to pay \$2,500.00 in attorney's fees to Plaintiff in addition to the \$2,500.00 in fees requested in Plaintiff's Motion to Compel and for Attorney's Fees Against Defendant Sandor Martinez for a total of \$5,000.00 in fees in accordance with O.C.G.A. § 9-11-37(d)(1) and O.C.G.A §9-15-14. Additionally, Plaintiff's Counsel requests an award of attorney's fees based on Plaintiff's Counsel's hourly rate of \$450.00 per hour for the time Plaintiff's Counsel will spend preparing for and attending the oral argument Defendant Martinez requested for this matter in accordance with O.C.G.A §9-15-14.

Respectfully submitted this 26th day of August, 2024.

TOBIN INJURY LAW

BY: /s/


 DARREN M. TOBIN
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MARTIN,

Defendants.

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was served on all parties via Odyssey EFileGA and statutory service addressed to the following attorneys of record:

Reid R. Parker
The Parker Law Office, LLC
1776 Rosalind Drive NE
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Sakeena.lebenyearwood@allstate.com
Attorney for Unnamed Uninsured Motorist Carrier

Respectfully submitted this 26th day of August 2024.

TOBIN INJURY LAW

BY: /s/ 

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Georgia Bar No. 160963

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