IN THE COURT OF APPEALS
FOR THE STATE OF GEORGIA

APPEAL NO. A23A0205

DIANA HUMBLE,

Appellant,

v.

MALCOLM SIDNEY MOORE, JR.,

Appellee.

BRIEF OF APPELLEE

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PART TWO

INTRODUCTION

This case stems from a broken engagement, which engagement was ended by Appellant herself (hereafter "Ms. Humble"), by her own sworn admissions, based upon her belief that Appellee (hereafter "Dr. Moore") had engaged in sexual relations with another person during the parties' engagement. It is undisputed that Ms. Humble terminated the parties' engagement before they could agree upon the terms of a prenuptial agreement, which was a condition precedent to the marriage. Despite these facts, Ms. Humble sued Dr. Moore for breach of promise to marry, fraud, and trover. From the inception of the underlying action, Ms. Humble treated the case as if it was an action for divorce, seeking through her discovery requests carte blanche, unrestricted access to all of Dr. Moore's financial information—both personal and in connection with his professional practice and businesses.

This appeal addresses two discovery orders entered by the trial court. Contrary to Ms. Humble's contention in the appeal, the trial court has not denied all of her requested discovery, only certain requests. The majority of the discovery requests quashed by the trial court pertained to Dr. Moore's assets, income, and worldly circumstances, and they were basically identical to discovery requests by a spouse in a divorce action. However, Ms. Humble's causes of action do not

involve the same elements of proof or type of damages available in a divorce action, such as an equitable division of marital property or an award of alimony, which would be dependent upon the finances of the parties and Dr. Moore's ability to pay. Exercising its broad discretion to control discovery, the trial properly found that the discovery requests related to Dr. Moore's finances and worldly circumstances were not relevant to the subject matter of Ms. Humble's claims for breach of promise to marry, fraud, or trover and were not likely to lead to the discovery of admissible evidence in the action. Such finding was not a clear abuse of discretion.

Ms. Humble has already brought this identical discovery issue before this Court once before by filing an Application for Interlocutory Appeal in Application No. A21I0142, seeking to appeal the trial court's initial discovery order. This Court denied Ms. Humble's application. After her appeal of the discovery matter was denied, Ms. Humble filed a Motion to Reopen Discovery, asking the trial court once again to allow her to seek discovery on the very matters that the court previously determined were not likely to lead to the discovery of admissible evidence. The trial court denied that motion, finding that nothing had changed since its previous order to make such matters discoverable. The court's refusal to

reopen discovery into the identical matters that the court previously ruled were non-discoverable was proper and not a clear abuse of discretion.

Dr. Moore further asserts that this Court's denial of Ms. Humble's previous interlocutory application to appeal the same discovery matters constitutes an adjudication on the merits, prohibiting her from appealing such issues again.

PART THREE

STATEMENT OF JURISDICTION

Dr. Moore agrees with Ms. Humble that a cross-appeal would normally be authorized by O.C.G.A. § 5-6-38(a) and that the Court of Appeals of Georgia would have jurisdiction of any such appeal instead of the Supreme Court since it does not fall under any of the specific categories of cases reserved to the Supreme Court of Georgia. Ga. Const. Art. VI, § VI, ¶ III. However, Dr. Moore asserts that this Court's denial of Ms. Humble's previous application to appeal these same discovery issues in Application No. A21I0142 constituted a decision on the merits on the discovery issues raised therein, and those matters may not be appealed again. See, *Oliver v. Field*, No. A22A0653 (Ga. App. Dec. 20, 2021) ("[W]hen this Court examines a request for a discretionary appeal, it acts in an error-correcting mode such that a denial of the application is on the merits, and the order denying

the application is res judicata with respect to the substance of the requested review.").

PART FOUR

PROCEEDINGS BELOW

Dr. Moore agrees with Ms. Humble's statement of the Course of Proceedings and Disposition in the Court Below set out in the Brief of Appellant (Brief at 2-4). This cross-appeal was filed by Ms. Humble after this Court granted Dr. Moore's application for interlocutory appeal in connection with the trial court's order denying his two motions for partial summary judgment on Ms. Humble's claims for breach of promise to marry and fraud. Dr. Moore's appeal of the summary judgment order is pending before this Court in Appeal No. A23A02054.

STATEMENT OF MATERIAL FACTS

Dr. Moore shows that the Statement of Material Facts set out in the Brief of Appellant (Brief at 1-2) is not a statement of *facts* but, instead, is only a statement of *unsubstantiated allegations* by Ms. Humble, as set out in her Complaint for breach of promise to marry, fraud, and trover. (V2-4-10)[1]. Dr. Moore has denied under oath in his verified Answer to the Complaint (V2-20-26) the allegations made by Ms. Humble that he breached any promise to marry her or committed

[1] References to the electronic record in this appeal are cited herein as "(Volume number-PDF page number within that volume)." It appears that the Appellant in her Brief cites to the record in the companion appeal, Appeal No. A23A0204, which record is slightly different from the record in this appeal.

fraud. Ms. Humble's statement in her "Statement of Facts" that Dr. Moore "was involved and had been involved during their relationship in a series of lewd and lascivious relationships with various prostitutes and women of ill repute" (Brief at 2) was specifically denied by Dr. Moore in his verified Answer (V2-21). It is nothing more than one of numerous uncorroborated claims made by Ms. Humble in this case, designed to impugn the reputation of Dr. Moore.

Dr. Moore shows the following undisputed facts that are relevant to the issues in this appeal, all of which are taken from the sworn deposition of Ms. Humble (V2-444-648):

Ms. Humble and Dr. Moore began dating in or around April of 2013, having met on Match.com. (V2-508). At the time, both parties were in their fifties, and each had been married before. Ms. Humble had been married three times (V2-483), and Dr. Moore had been married once. (V2-587). After dating for approximately a year, Ms. Humble moved into Dr. Moore's home in 2014, which move she admitted was her idea. (V2-509). Around the time that she moved in with Dr. Moore, Ms. Humble began talking to him about getting engaged. Ms. Humble was the one who initially brought up the subject of engagement, telling Dr. Moore that she would like to get engaged, if they eventually were going to get married. (V2-542).

Dr. Moore had previously been married and divorced and told Ms. Humble from the very beginning of the parties' relationship—when they first began dating—that he would not marry her without the parties first entering into and signing a written prenuptial agreement. (V2-543, 557). Ms. Humble acknowledges that Dr. Moore told her this from the onset, that she agreed to sign a prenuptial agreement before marrying Dr. Moore, and that the signing of a prenuptial agreement was a condition precedent to the parties getting married. (V2-543).

In April of 2015, after dating for two years, Dr. Moore asked Ms. Humble to marry him. Ms. Humble concedes that, when Dr. Moore proposed and gave her the engagement ring, he made it clear to her again that, unless they could agree on a prenuptial agreement, there would be no marriage. (V2-557). Dr. Moore and Ms. Humble had numerous discussions regarding a prenuptial agreement during their engagement. However, the parties were never able to agree to the terms of such an agreement before their relationship ended, by Ms. Humble's own admissions. (V2-546).

On December 22, 2018, Dr. Moore and Ms. Humble were visiting Dr. Moore's adult daughter and her family in Atlanta. The parties still had not agreed on the terms of a prenuptial agreement. On that day, Ms. Humble took Dr. Moore's cell phone, locked herself in the bathroom, and reviewed certain text messages on

the phone. (V2-572). The texts she reviewed led Ms. Humble to believe that Dr. Moore had engaged in sexual relations with a prostitute during the parties' engagement or had at least attempted to do so. (V2-571-572).

According to Ms. Humble, she only saw one text chain in which Dr. Moore purportedly offered a woman $500 per hour to come to Macon and meet him at a hotel. (V2-571). In another text chain on the phone, Ms. Humble saw what she described as pornographic videos, albeit not involving Dr. Moore. (V2-573). These text chains led Ms. Humble to believe that Dr. Moore was "actively seeing prostitutes" and was "addicted to porn." (V2-572). Once Ms. Humble saw the texts on December 22, she immediately broke off her engagement to and relationship with Dr. Moore. She made Dr. Moore drive back to Macon that night, and they never spent another night together, at her insistence. (V2-577, 587). Ms. Humble then filed the action below against Dr. Moore for breach of promise to marry, fraud, and trover. (V2-4-10).

Early in this action, Ms. Humble served discovery requests directly upon Dr. Moore and upon some 15 third parties, seeking extensive information pertaining to Dr. Moore's worldly circumstances and the finances of his professional medical partnerships. These discovery requests were substantial. For example, as to Dr. Moore's worldly circumstances, Ms. Humble filed discovery requests seeking

records of all of Dr. Moore's checking accounts, savings accounts, money market accounts, certificates of deposit, personal net worth statements, income tax returns, reimbursed business expenses, notes and obligations, credit card accounts, partnership and corporate tax returns for his businesses, documents pertaining to his ownership interests in Central Georgia Eye Designs and the Eye Center of Central Georgia, and copies of any employment agreements and compensation agreements with such businesses for the time period from July of 2013 through December of 2018.[2]

Dr. Moore filed objections to the various third-party discovery requests made by Ms. Humble (V2-50-190) and filed a Motion for Protective Order (192-216), asking the trial court to quash certain discovery requests directed to him individually on the grounds that the requests were not reasonably calculated to lead to the discovery of admissible evidence and that they sought information outside of the scope of legitimate discovery in connection with the pending action. Ms. Humble filed a Motion to Compel Discovery (V2-225-356), in connection with both her third-party discovery requests and her discovery requests directed to Dr.

[2] These extensive discovery requests are documented and discussed in detail in the various pleadings referenced hereafter and filed by both parties in connection with the discovery issues below.

Moore. Both parties briefed the discovery issues comprehensively in their respective filings with the court[3], and a hearing was held on the discovery issues.

After due consideration, the trial court entered its Order on Discovery Issues, on February 8, 2021, granting Dr. Moore's Motion for Protective Order, granting Dr. Moore's objections to Ms. Humble's third-party discovery requests, and denying Ms. Humble's Motion to Compel Discovery. (V2-410-412). The court concluded that the discovery requests made by Ms. Humble at issue in the case were not reasonably calculated to lead to the discovery of admissible evidence in her actions for breach of promise to marry, fraud, and trover and that the requests sought information outside of the scope of legitimate discovery. The court did not quash all of Ms. Humble's discovery requests, only certain ones.[4]

Ms. Humble sought and received from the trial court a Certificate of Immediate Review so that she could try to appeal the ruling on the discovery issues. (V2-413-414). Ms. Humble thereafter filed an Application for Interlocutory Review with this Court in Application Number A21I0142, setting forth all of her arguments as to why the trial court purportedly had erred in its discovery ruling. Dr. Moore responded to the interlocutory application, asking the Court to deny the

[3] (V2-362-375, 376-385, 392-396, 397-406)

[4] The Order quashed Plaintiff's Request for Inspection No. 1, Plaintiff's Requests for Production of Documents Nos. 1-11 and 19-20, Plaintiff's Interrogatories Nos. 3, 4, 7-9, 11-14, and 16-19, and Plaintiff's third party discovery requests to which the Defendant had filed objections in the case. (V2-410-412).

application. Ultimately, after consideration of the matter, this Court denied Ms. Humble's application for interlocutory appeal of the trial court's discovery ruling by Order dated March 15, 2021.

After the depositions of the parties were taken, Dr. Moore filed his two motions for partial summary judgment on Ms. Humble's claims for breach of promise to marry and fraud, (V2-649-694). Ms. Humble then filed a Motion to Reopen Discovery (V2-733-740), asking the trial court to reopen discovery and to allow her to seek discovery on the very matters that the court previously ruled were non-discoverable. Dr. Moore filed a Response in Opposition to the Motion to Reopen Discovery, asserting that the discovery issues had already been thoroughly litigated and decided by the court and that nothing had changed since such ruling to warrant reconsideration. (V2-765-774).

After a hearing on the matter, the court entered its Order on Motion to Reopen Discovery on February 8, 2022, denying Ms. Humble's motion. (V2-800-806). The trial court concluded in its Order denying the Motion to Reopen Discovery that nothing in the case has changed since the entry of the court's previous Order on Discovery Issues to make such non-discoverable matters now discoverable (V2-804-805), that Ms. Humble had not asserted any new material information that reopening discovery could yield (V2-805), and that this Court's

denial of Ms. Humble's interlocutory, discretionary application constituted a decision on the merits on the discovery issues raised therein (V2-805). Ms. Humble now seeks to appeal the two discovery orders entered by the trial court in 2021 and 2022 respectively.

PART FIVE

ARGUMENTS AND CITATIONS OF AUTHORITY

Appellant asserts two enumerations of error herein, which Appellee will address individually below:

ENUMERATION ONE

> **Enumeration No. 1:** Ms. Humble claims that the trial court erred in its February 8, 2021 Order on Discovery Issues, which denied her Motion to Compel Discovery and granted Dr. Moore's Motion for Protective Order.

Dr. Moore initially asserts that the validity of the trial court's February 8, 2021 Order on Discovery Issues has already been litigated and appealed, and Ms. Humble is precluded from bringing this identical issue before this Court again. In Application to Appeal No. A21I0142, Ms. Humble made the same arguments that that she makes in the Brief of Appellant in the instant appeal as to why the trial court purportedly erred in entering its February 8, 2021 Order on Discovery. This Court denied Ms. Humble's application to appeal such Order. Dr. Moore maintains that this Court's denial of Ms. Humble's interlocutory, discretionary application to

appeal constituted a decision on the merits on the discovery issues raised therein, and that Ms. Humble is prohibited from appealing such discovery issues again. In *Oliver v. Field*, No. A22A0653 (Ga. App. Dec. 20, 2021), this Court of Appeals found as follows: "[W]hen this Court examines a request for a discretionary appeal, it acts in an error-correcting mode such that a denial of the application is on the merits, and the order denying the application is res judicata with respect to the substance of the requested review." See also, *Elrod v. Sunflower Meadows Dev., LLC*, 322 Ga. App. 666 (2013) (finding that the denial of an application for discretionary appeal is an adjudication on the merits of the underlying order and acts as res judicata in subsequent proceedings).

However, in the event this enumeration of error is properly before the Court in the instant appeal, then Dr. Moore shows that the February 8, 2021 Order on Discovery was not erroneous and that the trial court did not clearly abuse its discretion in its ruling on discovery. Pursuant to O.C.G.A. § 9-11-26(b)(1), a party "may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party." Upon motion by a person from whom discovery is sought and for good cause shown, the court may make any order which justice requires to protect a

party or person from annoyance, embarrassment, oppression, or undue burden or expense. O.C.G.A. § 9-11-26(c).

"A trial court has broad discretion to control discovery." *Pres. Mgmt., Inc. v. Herrera*, 352 Ga. App. 710, 712 (2019). This includes "wide discretion in the entering of orders to prevent the use of interrogatories for discovery which is oppressive, unreasonable, unduly burdensome or expensive, harassing, harsh, insulting, annoying, embarrassing, incriminating, or directed to wholly irrelevant and immaterial or privileged matter, or as to matter concerning which full information is already at hand." *Snead v. Pay-Less Rentals, Inc.*, 134 Ga. App. 325, 327 (1975). A trial court's ruling on discovery matters will not be reversed "absent a clear abuse of discretion." *Ford Motor Co. v. Gibson*, 283 Ga. 398,401-402 (2008). Dr. Moore shows that the trial court in the instant appeal did not clearly abuse its discretion in determining that certain discovery requests made by Ms. Humble were not reasonably calculated to lead to the discovery of admissible evidence, pursuant to O.C.G.A. § 9-11-26(b)(1). Accordingly, the trial court did not err by entering its February 8, 2021 discovery Order.

As set out in the Statement of Facts with citations to the record, Ms. Humble filed voluminous discovery requests to Dr. Moore and to multiple third parties seeking extensive discovery pertaining to Dr. Moore's "worldly circumstances,"

including his income, assets, expenses, and net worth over the period of the parties' relationship. She also sought information pertaining to the finances of Dr. Moore's professional medical partnerships, his cellular phone records, and his health insurance information, and sought inspection of his personal and business electronic devices. Dr. Moore opposed such discovery requests on numerous grounds, but primarily on the ground that the requested information was not relevant to the pending actions for breach of promise to marry, fraud, and trover.

Specifically, Dr. Moore asserted that the information sought was not pertinent to the elements Ms. Humble had to prove in her claims or to the potential damages available to her in the actions and, thus, should not be discoverable. As to Ms. Humble's action for breach of promise to marry, she only had to prove a contract to marry, a breach of that contract by Dr. Moore, and resulting damages. *Phillips v. Blankenship*, 251 Ga. App. 235 (2001). To prove her action for fraud, Ms. Humble had to prove misrepresentation of a material fact, intent to deceive, intent to induce her to act or refrain from acting, reliance on the misrepresentation, and resulting damages to her from the purported fraudulent conduct. See O.C.G.A. §23-2-52. In her action for trover, Ms. Humble merely sought the return of various items of personal property, including furniture, which items she claims Dr. Moore gifted to her and were her sole and separate property. Since Dr. Moore's income,

assets, and expenses simply were not relevant to prove any of the elements for breach of promise, fraud, or trover, and were not pertinent to any award of compensable damages for those causes of action, he asserted the matters were not discoverable.

After multiple briefings by the parties and a hearing on the discovery dispute, the trial court exercised its wide discretion in discovery matters and properly quashed those discovery requests of Ms. Humble that the court found were not reasonably calculated to lead to the discovery of admissible evidence in the pending actions for breach of promise to marry, fraud, and trover and that sought information outside of the scope of legitimate discovery. Such finding was not a clear abuse of discretion.[5]

From the inception of this case, Ms. Humble has treated it as an action for divorce, including her discovery requests. Just as in the underlying action, Ms. Humble treats this appeal as an appeal of discovery issues in a **divorce** action, rather than an appeal of discovery issues in an action for breach of promise to marry. Ms. Humble cites in her Brief of Appellant (Brief at 10) this Court's opinion in *Ewing v. Ewing*, 333 Ga. App. 766 (2015), in which this Court upheld

[5] Again, contrary to Ms. Humble's contention, the court did not quash all of Ms. Humble's discovery request in the action, only the following ones: Plaintiff's Request for Inspection No. 1, Plaintiff's Requests for Production of Documents Nos. 1-11 and 19-20, Plaintiff's Interrogatories Nos. 3, 4, 7-9, 11-14, and 16-19, and Plaintiff's third party discovery requests to which the Defendant had filed objections in the case. (V2-410-412).

the trial court's denial of a motion for protective order as to certain discovery matters in a divorce action. The wife had filed for divorce on the ground of adultery and was asking for an equitable division of property. The wife sought discovery pertaining to the husband's alleged adultery, including private emails on the husband's cell phone, as well as information pertaining to the husband's worldly circumstances. This Court held as follows: "Moreover, in divorce cases, such as this case, in which the equitable division of property is at issue, the conduct of the parties, including evidence of a spouse's alleged adultery, is relevant and admissible. . . Accordingly, the wife is entitled to engage in discovery which might lead to admissible evidence of the husband's alleged adultery." *Ewing*, 333 Ga. App. at 768.

However, the instant action is not an action for divorce, as much as Ms. Humble would like for it be. These parties were never married. There is no claim for equitable division of property, in which Dr. Moore's income, expenses, and assets would be relevant. There is no claim for a divorce based upon the ground of adultery, in which evidence of adultery would be relevant. This is an action for breach of promise to marry, fraud, and trover—period. The discovery requests quashed by the court were not relevant to Ms. Humble's claims, and the trial court's February 8, 2021 Order on Discovery was not a clear abuse of discretion.

ENUMERATION TWO

Enumeration No. 2: Ms. Humble claims that, in the event this Court finds an insufficient evidentiary basis for the trial court's denial of summary judgment, then the trial court erred in its February 8 2022 Order on Motion to Reopen Discovery.

Dr. Moore shows that the trial court did not err in its February 8, 2022 Order on Discovery. As stated previously, a trial court has "wide discretion" in the control of discovery. This includes "wide discretion to shorten, extend, or reopen the time for discovery, and its [the trial court's] decision will not be reversed unless a clear abuse of that discretion is shown." *Quarterman v. Cullum,* 311 Ga. App. 800, 804 (2012). The court's denial of Ms. Humble's Motion to Reopen Discovery was not a clear abuse of the court's wide discretion in discovery matters.[6] The trial court appropriately found that nothing in the case had changed since the entry of the 2021 discovery Order to make the matters previously ruled non-discoverable now discoverable and that Ms. Humble had not asserted any new material information that reopening discovery could yield.[7] (V2-800-806).

[6] As with Enumeration No. 1, Dr. Moore similarly asserts that Ms. Humble may not reappeal the discovery issues that she sought to appeal in her previously denied interlocutory application. Ms. Humble's Motion to Reopen Discovery merely asked the Court to reconsider its earlier ruling on discovery, from its 2021 discovery Order, and to allow her to seek discovery on the exact matters the court previously ruled were undiscoverable. However, since Ms. Humble alleged a change of circumstances since the entry of the 2021 Order, Dr. Moore will address that allegation herein.

[7] The court also found that this Court's denial of Ms. Humble's previous application to appeal constituted a decision on the merits and was res judicata as to the discovery issues.

In her Motion to Reopen Discovery (V2-733-740), Ms. Humble argued that the trial court should reverse its previous ruling on discovery on the basis that Dr. Moore had asserted his privilege against self-incrimination in response to various questions asked of him during his deposition and on the basis that counsel for Dr. Moore had objected to certain questions during the deposition on the grounds that the trial court had previously ruled such matters non-discoverable.[8] According to Ms. Humble, Dr. Moore's assertion of the privilege, or refusal to answer the questions previously deemed non-discoverable, now makes "the matters Plaintiff sought to discover highly relevant." The trial court did not find this argument compelling.

In its 2022 discovery Order denying the Motion to Reopen Discovery, the trial court found as follows:

> This Court previously concluded that the discovery requests in issue were not reasonably calculated to lead to the discovery of admissible evidence, pursuant to O.C.G.A. § 9-11-26(b)(1). Nothing in the case has changed since the entry of the Court's Order on Discovery Issues to make such non-discoverable matters now discoverable. The fact that Dr. Moore may have claimed the privilege on various questions asked of him during his deposition in May of 2021 does not affect this Court's analysis. Dr. Moore previously claimed his privilege against self-incrimination to similar questions in his Answers to Plaintiff's

[8] In the Brief of Appellant, Ms. Humble cites to Dr. Moore's deposition several times. (Brief at 13). In a footnote, Ms. Humble states that Dr. Moore's deposition was omitted from the initial record on appeal and that the record has since been supplemented to include his deposition. (Brief at 13, FN 7). While it is true that the record in Dr. Moore's appeal, **No A23A0204**, has been supplemented to include Dr. Moore's deposition (designated by this Court as "**Record 2**"), the record in the instant appeal, No. A23A0205, has not been supplemented to include Dr. Moore's deposition.

> Interrogatories and Responses to Notice to Produce, which discovery responses were served on the plaintiff prior to the Court's determination that Ms. Humble's discovery requests were not relevant and therefore not discoverable.

(V2-804-805). Given the wide discretion vested in the court as to discovery matters, the trial court's findings above were not a "clear abuse" of such discretion. See, *Ford Motor Co. v. Gibson*, *supra*.

The trial court also properly found that Ms. Humble had not asserted in her Motion to Reopen Discovery any new material information that reopening discovery could yield. (V2-805). As this Court held in *Zywiciel v. Historic Westside Village Partners LLC*, 313 Ga. App. 397 (2011), a trial court does not abuse its discretion in denying a motion to reopen discovery if the movant fails to show how further discovery would produce new evidence material to his or her claims. Ms. Humble claimed below that she needed the responses to her quashed discovery requests to assist her in defending against the pending summary judgment motions. However, the quashed discovery requests were not relevant to the pending motions for partial summary judgment. There were no material facts in dispute for the purpose of Dr. Moore's motions for partial summary judgment on Ms. Humble's claims for breach of promise to marry and fraud. Those motions hinged upon the legal effect of (1) Ms. Humble's admitted termination of the parties' engagement and (2) the parties' failure to sign a prenuptial agreement,

which agreement was a valid condition precedent to the oral contract to marry. The disallowed discovery "would add nothing of substance" to Ms. Humble's claims or to her defense of Dr. Moore's summary judgment motions. See, *915 Indian Trial, LLC v. State Bank and Trust Co.*, 328 Ga. App. 524 (2014); *Parks v. Hyundai Motor America*, 258 Ga. App. 876 (2002).

In its Order denying the Motion to Reopen the Discovery, the trial court properly concluded as follows: "Ms. Humble merely seeks leave to discover the same matters this Court previously found to be irrelevant and non-discoverable. The period for discovery in this action has passed, and the Court sees no basis to reopen it. This Court's refusal to reopen discovery will not impede the Plaintiff's ability to bring this case to trial, to subpoena witnesses, or to present evidence in support of her case." (V2-805). Again, this finding by the court was not a clear abuse of discretion, and the court did not err in denying Ms. Humble's Motion to Reopen Discovery.

CONCLUSION

The discovery issues in this case have been litigated ad nauseam. After extensive briefing, the trial court made a sound ruling on the discovery issues in its 2021 Order, which ruling was not an abuse of discretion—much less a "clear abuse" of discretion. This Court thereafter denied Ms. Humble's petition to appeal

that discovery ruling. Dr. Moore then had to defend against the Motion to Reopen Discovery—yet another attempt by Ms. Humble to re-litigate the very same discovery issues already decided by the trial court and which this Court refused to hear. After more briefing by the parties and a hearing on the motion, the trial court properly found in its 2022 Order that the quashed discovery requests were not reasonably calculated to lead to the discovery of admissible evidence in 2021, nor were they in 2022. Such ruling did not amount to a clear abuse of the court's wide discretion to control discovery. For all of the reasons asserted herein, Appellee Malcolm Sidney Moore, Jr. respectfully moves this Court to affirm the trial court's rulings as to discovery in its 2021 and 2022 orders.

This 5th day of October, 2022.

Attorney Certification:

This submission does not exceed the word count limit imposed by Rule 24.

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CERTIFICATE OF SERVICE

I certify that I have this day served a copy of the Brief of Appellee upon the following counsel of record through the United States mail with sufficient postage to ensure delivery:

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