

IN THE CIRCUIT COURT OF THE ELEVENTH
JUDICIAL CIRCUIT IN AND FOR MIAMI-
DADE COUNTY, FLORIDA

CASE NO.: 2021-026707 CA-01

SHIRLEY LOUISE SEARS, as Personal
Representative of the Estate of Willie
Jean Heath Coleman,

Plaintiff,

vs.

ALONA A. NAYLOR and ALL OTHERS
IN POSSESSION,

Defendant(s).

MOTION FOR REHEARING

Plaintiff SHIRLEY LOUISE SEARS, as Personal Representative of the Estate of Willie Jean Heath Coleman, through her undersigned counsel, moves this Court for Rehearing in connection with the Final Judgment entered on July 16, 2024 and, as grounds therefor, would state as follows:

1. On July 1 and 2, 2024, this Court held a non-jury trial.
2. A pivotal witness, Caridad Blanco, did not appear for the trial. Counsel for Defendant ALONA A. NAYLOR represented to the Court at trial that the witness, Caridad Blanco, was out of the country from or before May 31, 2024 through October 2, 2024 and that Defendant would, instead, be presenting Caridad Blanco's testimony at trial via her deposition taken on July 28, 2022.
3. In support of Defendant's representation as to Caridad Blanco's purported unavailability, Defendant presented to the Court a Verified Return of Service dated May 31, 2024 by a process server named Jose Espino. In that return of service, the process server stated that when he went to Caridad Blanco's home on May 28, 2024 to serve her with a trial subpoena for the previous trial period commencing June 3, 2024,¹ he was told by an unidentified woman speaking through a Ring doorbell camera that Caridad Blanco was out of the country until October 2, 2024. A true and correct copy of the return of service is attached hereto as Exhibit "1".
4. The process server Mr. Espino did not appear or testify at trial and Plaintiff's counsel had no opportunity to question him regarding his return of service.

¹Importantly, Defendant has presented no evidence that a process server ever went back to Caridad Blanco's home or to her business at any time after May 28, 2024 to confirm that she was still purportedly out of the country and not available for the current trial period commencing on July 1, 2024.

5. Plaintiff was first notified on July 1, 2024 – the first day of trial – that Caridad Blanco was not appearing in person for trial. Plaintiff’s undersigned counsel had spoken to Defendant’s counsel, Jamar Jordan, prior to July 1, 2024 and was informed that Caridad Blanco did not want to attend the trial, but Mr. Jordan made no mention of the fact that Caridad Blanco was supposedly out of the country for a period of four (4) plus months and would not return to the U.S. until after October 2, 2024.

6. The Court gave Plaintiff’s counsel the evening of July 1, 2024 to prove that Caridad Blanco was not out of the country as represented by Defendant’s counsel and the aforementioned process server’s affidavit. In accordance with the Court’s direction, Plaintiff’s counsel obtained and filed a Declaration on July 1, 2024 by licensed private investigator (and retired homicide detective) Edward Hill indicating that, based upon his discussions with Caridad Blanco’s neighbors, Caridad Blanco was, in fact, not out of the country as represented by Defendant’s counsel and the process server’s affidavit. A true and correct copy of Edward Hill’s Declaration is attached hereto as Exhibit “2”.

7. The admissibility of deposition testimony is governed by Florida Rule of Civil Procedure 1.330, which provides two (2) avenues to admit the deposition of Caridad Blanco in lieu of her live in-person testimony: Rule 1.330(a)(3)(B), which provides for admissibility where the witness is out of state and the absence was not procured by the offering party [in this case, Defendant]; and Rule 1.330(a)(3)(D), which permits the use of the deposition where the party offering the deposition [Defendant] has been unable to procure the attendance of the witness by subpoena. *Crowe v. Lowe*, 942 So. 2d 903, 905 (Fla. 4th DCA 2006).

8. The party seeking to offer the deposition testimony of a witness at trial – in this case, Defendant – had the burden of making the Rule 1.330(a)(3)(B) showing that the deponent was out of the state and unavailable to attend trial. *Haverley v. Clann*, 196 So. 2d 38, 43 (Fla. 2d DCA 1967). And, to make that showing, “Evidence of the witness's unavailability is required.” *Crowe*, 942 So. 2d at 905. A proffer of counsel that the witness is out of state is not sufficient. *Id.*; *Haverly v. Clann*, 196 So. 2d at 43 (“[S]uch proof and such evidence can only be of a sworn character. Certainly it could not encompass the mere unsworn statement of the attorney for one of the litigants.”).

9. The foregoing makes clear that Defendant, as the party seeking to use the deposition

testimony of Caridad Blanco at trial, woefully failed to meet its required burden because (a) the unsworn representations of Defendant's counsel Jamar Jordan as to the whereabouts and availability of the witness are, as the foregoing case authority shows, insufficient as a matter of law; and (b) the return of service by the process server Javier Espino who, again, did not appear at trial to testify, containing what he was purportedly told by an unidentified woman through a Ring doorbell as to Caridad Blanco's whereabouts and availability was being offered for the truth of the matters asserted and is, thus, inadmissible double hearsay.

10. Furthermore, Defendant also did not make *any* showing (much less a sufficient showing) per Rule 1.330(a)(3)(D) that it was unable to procure the attendance of Caridad Blanco by subpoena *for the trial period starting on July 1, 2024*. To that end, the Jose Espino return of service dated May 31, 2024 and referencing his appearance at Caridad Blanco's home on May 28, 2024 did *not* pertain to any efforts to serve a trial subpoena for the trial period starting July 1, 2024 but, instead, for an earlier trial period commencing June 3, 2024. Defendant has offered *no* evidence that Mr. Espino (or any other process server) made any effort to serve a trial subpoena on Caridad Blanco for the subject trial period commencing July 1, 2024 or that they made any effort to serve Caridad Blanco or ascertain her whereabouts at any time during the five (5) week period between last visiting her home on May 28, 2024 and the commencement of trial on July 1, 2024.

11. Plainly and simply, Defendant has failed to meet its burden of proving with admissible *evidence* that it was entitled to use the deposition of testimony of Caridad Blanco at trial in lieu of her live testimony because she was out of the state and unavailable during the subject trial period.

12. Plaintiff's was severely prejudiced by not having Caridad Blanco testify in person as her deposition was taken early on in the case and Plaintiff was never able to question her on the inconsistencies between her testimony and that of Alona Naylor and James Goosby. The Court found James Goosby's testimony to be unreliable.

13. The legal insufficiency of Defendant's representations as to the whereabouts and availability of Caridad Blanco are even more glaring since it has been discovered that Caridad Blanco is or was not out of the country as represented by Defendant's counsel. As set forth in the supplemental Declaration of private investigator Edward Hill (attached hereto as Exhibit "3"), Caridad Blanco is in Miami (and not out of the country through October 2, 2024 as represented by Defendant's

counsel and Jose Espino's return of service). A fraud has been perpetrated on this Court which severely prejudiced Plaintiff.

14. It appears the Court relied heavily on Caridad Blanco's deposition in reaching its decision. Without considering Caridad Blanco's testimony there was no one credible to refute the testimony of Diane Flores the handwriting expert. This Court respectfully should vacate the Final Judgment and enter a Final Judgment in favor of the Plaintiff or alternatively order a new trial where Caridad Blanco testifies live subject to cross examination or her testimony is excluded.

15. Plaintiff has retained the undersigned law firm and agreed to pay the firm a reasonable fee for its services.

WHEREFORE, Plaintiff SHIRLEY SEARS, as Personal Representative of the Estate of Willie Jean Heath Coleman, respectfully moves this Honorable Court for rehearing and to set aside the Final Judgment and enter a Final Judgment in favor of the Plaintiff or alternatively order a new trial where Caridad Blanco testifies live subject to cross examination or her testimony is excluded, and for such other relief as the Court deems just and proper under the circumstances.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of July, 2024 a true and correct copy of the foregoing has been electronically filed via the Court's E-filing portal to all parties and counsel registered therein for electronic service of documents.

KEITH D. DIAMOND, P.A.
Attorneys for Plaintiff
3440 Hollywood Blvd. Suite 415
Hollywood, FL 33021
Telephone: (954) 618-1007
Facsimile: (954) 306-0811
Primary Email: keithdiamond2@aol.com
Secondary Email: Admin@keithdiamondlaw.com
K.diamondpa@gmail.com

By: /s/ Keith D. Diamond
Keith D. Diamond
Fla. Bar No. 708615

VERIFIED RETURN OF NON-SERVICE

State of Florida

County of Miami-Dade

The 11th Judicial Circuit Court

Case Number: 21-26707 CA01 Court Date: 6/3/2024 8:00 am

Plaintiff:

SHIRLEY LOUISE SEARS, As Personal Representative of the Estate of Willie Jean Heath Coleman

vs.

Defendant:

ALONA A. NAYLOR AND ALL OTHERS IN POSSESSION,

For:

Jamar D. Jordan, Esq.
JAMAR D. JORDAN, LAW OFFICE
11900 Biscayne Blvd.
#511
Miami, FL 33181

Received by Metro Process Service, Inc. on the 22nd day of May, 2024 at 9:00 am to be served on **CARIDAD BLANCO, 18400 SOUTHWEST 86TH COURT, MIAMI, FL 33157.**

I, JOSE I. ESPINO, do hereby affirm that on the **31st day of May, 2024 at 12:00 pm, I:**

NON-SERVED: After due search, careful inquiry and diligent attempts I was unable to serve the **Civil Subpoena (For Personal Appearance at Trial)** for the reason that I failed to find **CARIDAD BLANCO** or any information to allow further search. Read the comments below for further details.

Additional Information pertaining to this Service:

5/28/2024 9:55 am Attempted Service at 18400 SOUTHWEST 86TH COURT, MIAMI, FL 33157; no response at door. Spoke to a woman through the ring doorbell camera that stated she is out of the country until October 2. One car in driveway Audi tag #KPP-K12.

I certify that I am over the age of 18, have no interest in the above action, and am authorized, in good standing, in the judicial circuit in which the process was served.

Under penalties of perjury, I declare that I have read the forgoing document and that the facts stated in it are true.



JOSE I. ESPINO
Process Server - CPS #303

Metro Process Service, Inc.
7105 S.W. 8 Street
Suite #302
Miami, FL 33144
(305) 374-7387

Our Job Serial Number: MPS-2024001502



5/22 1502

IN THE CIRCUIT OF THE 11TH
JUDICIAL CIRCUIT OF FLORIDA
IN AND FOR MIAMI DADE COUNTY

SHIRLEY LOUISE SEARS,
As Personal Representative of the
Estate of Willie Jean Heath Coleman
Plaintiff,

CASE NO.:2021-026707 CA 01

GENERAL JURISDICTION

Vs.

ALONA A. NAYLOR AND ALL
OTHERS IN POSSESSION.,

Defendant(s)

_____ /

METRO PROCESS SERVICE
REC'D _____
SERVED _____
DATE _____ TIME _____
PS _____ ID _____

CIVIL SUBPOENA
(For Personal Appearance at Trial)

SUBPOENA THE STATE OF FLORIDA:

TO: Caridad Blanco, 18400 Southwest 86th Court, Miami, Florida 33157

YOU ARE ORDERED TO APPEAR AS A WITNESS in trial or hearing in the above styled
action at the date, time, and place as follows:

THIS CAUSE is set for Non-Jury Trial before the undersigned Judge Reemberto Diaz in his
Courtroom, 1202 in the Dade County Courthouse, 73 West Flagler Street, Miami, Florida 33130,
for the 3 week period commencing **June 3, 2024**. You are commanded to be at , 73 West Flagler
Street, Miami, Florida 33130 on June 3, 2024 at 8:00am unless instructed otherwise by the
undersigned.

You **MUST** appear as detailed above **UNLESS** you are excused by the court or make an
agreement with the attorney who issued this subpoena. If you have any questions about the
subpoena contact the attorney identified below **BEFORE** the date you are required to appear at
the following:

Name of Attorney: Jamar D. Jordan, Esq
Address: 11900 Biscayne Boulevard, Suite 511, North Miami, Florida 33181
Telephone No.(s): 305-527-5835
Fax No.:305-895-5588
E-mail Address(es): jordanlawtitle@gmail.com
Florida Bar Number:554979

**DISOBEDIENCE OF THIS SUBPOENA / FAILURE TO APPEAR MAY BE PUNISHED
AS CONTEMPT BY THIS COURT**

DATED on

EXECUTED ON BEHALF OF THE 11th JUDICIAL CIRCUIT COURT IN AND FOR MIAMI-
DADE COUNTY

Dated: May 21, 2024



Jamar D. Jordan, Esq
11900 Biscayne Boulevard,
Suite 511
North Miami, Florida 33181
T(305) 895-5588
F(305) 428-9471
Fla. Bar. No. 554979

IN THE CIRCUIT COURT OF THE
11TH JUDICIAL CIRCUIT IN AND
FOR MIAMI-DADE COUNTY, FLORIDA

CASE NO: 2021-026707 CA 01

SHIRLEY LOUISE SEARS, as Personal
Representative of the Estate of Willie Jean
Heath Coleman,

Plaintiff,

v.

ALONA A. NAYLOR and ALL OTHERS
IN POSSESSION,

Defendants.

NOTICE OF FILING

COMES NOW, Plaintiff, SHIRLEY LOUISE SEARS, by and through undersigned
counsel hereby gives notice of filing of Declaration of Edward Hill.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed via the
Florida Electronic Filing Portal to all parties registered therein for service on this 2nd day of July,
2024.

KEITH D. DIAMOND, P.A.
Attorneys for Plaintiff
3440 Hollywood Blvd., Suite 415
Telephone: (954) 618-1007
Facsimile: (954) 306-0811
Primary Email: keithdiamond2@aol.com
Secondary Email: admin@keithdiamondlaw.com
K.diamondpa@gmail.com

By: /s/ Keith D. Diamond

KEITH D. DIAMOND
Florida Bar No. 708615

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN AND
FOR MIAMI-DADE COUNTY, FLORIDA

CASE NO.: 2021-026707-CA-01

**SHIRLEY LOUISE SEARS, as Personal
Representative of the Estate of
Willie Jean Heath Coleman,**

Plaintiff,

v.

**ALONA NAYLOR and ALL OTHERS
IN POSSESSION,**

Defendant.

DECLARATION OF EDWARD HILL

**STATE OF FLORIDA)
COUNTY OF BROWARD)**

BEFORE ME, the undersigned authority, personally appeared Edward Hill who, after being by me first duly sworn, deposes and says as follows:

1. I am over the age of twenty-one (21) and otherwise competent to make this declaration. This Declaration is made upon my personal knowledge.

2. I am retired homicide detective. I am now a private investigator licensed by the State of Florida. A copy of my license is attached hereto as Exhibit "1".

3. On Monday, July 1, 2024 at approximately 8:00 pm I went to the hone of Caridad Blanco located at 18400 SW 86th Court, Miami, Florida. There was Mercedes vehicle tag number KPK12 located at the property which is registered to Caridad Blanco's daughter. I knocked on the door and no one answered. There were lights on in the house and I believe the home was occupied.

4. I then went to the next door neighbor's home located at 18421 SW 86th Court, Miami, Florida. The neighbors name is John Bar. Mr. and Mrs. Bar informed me that they saw Caridad Blanco three weeks ago.

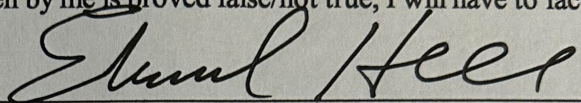
5. I then went to the neighbor's home located 18420 SW 86th Court, Miami, Florida. This home is next door to Caridad Blanco's home. The owner Kenya Snowden told me that she saw

Page -2-

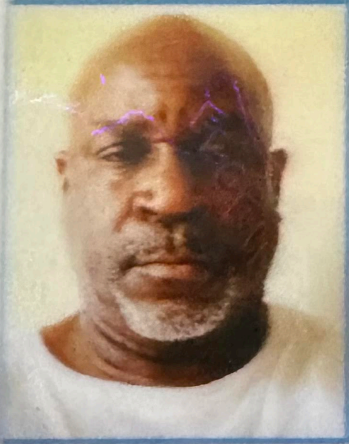
Caridad Blanco on June 24, 2024. Thereafter on June 25, 2024 Kenya Snowden traveled to Tennessee and she just returned.

6. There is no question that Caridad Blanco did not leave the Country on or before May 31, 2024 and has been out of the Country continuously through July 1, 2024. It is my professional opinion that Caridad Blanco is merely avoided service of process.

I hereby declare that the information given above and in the enclosed document is true and correct. I understand that if the information given by me is proved false/not true, I will have to face the punishment as per the law.


EDWARD HILL

PRIVATE INVESTIGATOR LICENSE
STATE OF FLORIDA



LICENSE NUMBER
C 3000048

HILL, EDWARD J

BIRTH DATE: **01/08/1959** SEX: **M** RACE: **B**

EXPIRES: **04/09/2026**

The above named individual is licensed by the Department of Agriculture and Consumer Services, Division of Licensing in accordance with Section 493, Florida Statutes.

WILTON SIMPSON
COMMISSIONER

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN AND
FOR MIAMI-DADE COUNTY, FLORIDA

CASE NO.: 2021-026707-CA-01

**SHIRLEY LOUISE SEARS, as Personal
Representative of the Estate of
Willie Jean Heath Coleman,**

Plaintiff,

v.

**ALONA NAYLOR and ALL OTHERS
IN POSSESSION,**

Defendant.

_____ /

DECLARATION OF EDWARD HILL

STATE OF FLORIDA)
COUNTY OF BROWARD)

BEFORE ME, the undersigned authority, personally appeared Edward Hill who, after being by me first duly sworn, deposes and says as follows:

1. I am over the age of twenty-one (21) and otherwise competent to make this declaration. This Declaration is made upon my personal knowledge.
2. I am a private investigator licensed by the State of Florida. A copy of my license is attached hereto as Exhibit "1".
3. On Saturday, July 13, 2024 I responded to the home of Caridad Blanco located at 18400 SW 86th Court, Miami, Florida. On arrival I observed Caridad Blanco walking her dog west bound on 86th Court. I took photographs and video of Caridad Blanco. Upon conclusion of Caridad Blanco walking her dog she went into her residence and shortly thereafter came out with

another female (who I believe is her daughter). Caridad Blanco and the other woman got into a Mercedes vehicle tag number KGFF11. She backed out her driveway and proceeded to go east bound on SW 86th Court. Copies of photographs I took are attached hereto as Composite Exhibit "2".

5. I was able to identify Caridad Blanco by previously obtaining a photocopy of her Florida driver's license. A copy of the photograph of the Florida driver's license is attached hereto as Exhibit "3".

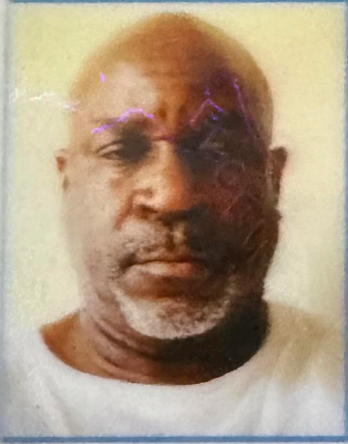
6. Based upon my communication with the two neighbors confirming that they saw Caridad Blanco after May 31, 2024 and my observing Caridad Blanco on July 13, 2024, it is my professional opinion that Caridad Blanco was not out of the Country and was available to appear at the trial on July 1, 2024 and July 2, 2024.

I hereby declare that the information given above and in the enclosed document is true and correct. I understand that if the information given by me is proved false/not true, I will have to face the punishment as per the law.


EDWARD HILL

7-16-24

PRIVATE INVESTIGATOR LICENSE
STATE OF FLORIDA



LICENSE NUMBER
C 3000048

HILL, EDWARD J

BIRTH DATE **01/08/1959** SEX **M** RACE **B**

EXPIRES **04/09/2026**

The above named individual is licensed by the Department of Agriculture and Consumer Services, Division of Licensing in accordance with Section 493, Florida Statutes.

WILTON SIMPSON
COMMISSIONER







9:55



Palmetto Bay
Saturday 9:16 AM

Edit



HDR



EXHIBIT 3

