

**IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
IN AND FOR SARASOTA COUNTY, FLORIDA  
CIVIL DIVISION**

**MICHAEL T. FLYNN,**

Plaintiff,

**v.**

**JIM STEWARTSON, et al.,**

Defendants.

Case No.: 2023 CA 004264 NC

Division C Circuit

**PLAINTIFF'S NOTICE OF SERVING  
PROPOSAL FOR SETTLEMENT TO DEFENDANT STEWARTSON**

Plaintiff, Michael T. Flynn, pursuant to Rule 1.442, Florida Rules of Civil Procedure, and Sections 45.061 and 768.79, Florida Statutes, gives notice that on this date, a Proposal for Settlement was served on Defendant, Jim Stewartson.

Dated: November 15, 2024

Respectfully submitted,

/s/ Jared J. Roberts

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail to the parties below, on this 15th day of November, 2024, as well as via electronic filing.

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**PLAINTIFF'S MOTION TO COMPEL DEFENDANT JIM STEWARTSON TO  
ANSWER INTERROGATORIES AND PRODUCE DOCUMENTS**

Plaintiff, Michael T. Flynn ("General Flynn"), by counsel, pursuant to Fla. R. Civ. P. 1.380 hereby files this Motion to Compel Defendant, Jim Stewartson ("Defendant"), to answer Plaintiff's First Set of Interrogatories and produce documents in response to Plaintiff's First Request for Production, and in support thereof states as follows:

**BACKGROUND**

1. On July 15, 2024, General Flynn served Defendant with his First Set of Interrogatories and First Set of Requests for Production.
2. On August 13, 2024, Defense counsel emailed undersigned counsel requesting an extension until August 30, 2024, to respond to the written discovery, which undersigned counsel granted in exchange for an extension of time to comply with initial disclosure requirements set forth in the case management order.
3. Defendant did not provide his responses on August 30, 2024.

4. On September 4, 2024, undersigned counsel emailed Defense counsel inquiring as to the status of Defendant's responses. Defense counsel noted they were working on the responses.

5. As of October 24, 2024, Defendant had not responded, prompting undersigned counsel to inquire with Defense counsel again as to the status of the responses.

6. Finally, on October 28, 2024, nearly two months after the extension General Flynn granted Defendant, Defendant provided his responses to General Flynn's first sets of discovery.

7. These responses, however, are wholly insufficient, prompting this motion, pursuant to Rule 1.380, Florida Rules of Civil Procedure.

8. On November 8, 2024, undersigned counsel discussed these issues over the phone and could not come to an agreement. That same day, General Flynn sent Defendant a letter again explaining these deficiencies; however, Defendant did not respond.

### **INTERROGATORIES**

9. At issue for purposes of this motion are five of General Flynn's Interrogatories.

10. Interrogatory No. 1 asked: "Identify all persons who you believe have knowledge of facts and circumstances related to this matter. Include in your response the subjects of that information upon which you believe they have knowledge." Defendant responded: "Defendant Stewartson objects to this interrogatory on the grounds that it is vague and unduly burdensome. Without

waiving said objection, Defendant has formed his conclusions on his own based on open source information (OSINT) and human sources, as a journalist. No one has any exclusive information that has not been publicly shared.” This answer, “open-source information” and “human sources” is evasive, insufficient, and intended to conceal obviously discoverable information. At a minimum, General Flynn is entitled to know which individuals contain potential evidence that would prove falsity or actual malice. The Florida Rules of Civil Procedure make clear that “evasive or incomplete answer[s] shall be treated as a failure to answer.” Fla. R. Civ. P. 1.380(a)(3). Furthermore, the same rule states that if a party fails to respond to an interrogatory or objects to an interrogatory incorrectly, “the discovering party may move for an order compelling an answer.” Fla. R. Civ. P. 1.380(a)(2). As such, Defendant has failed to answer this Interrogatory, and General Flynn is entitled to an order compelling Defendant to provide a response. And, as discussed in the next paragraph, any objections Defendant has to providing this information is waived.

11. Interrogatory No. 2 asked: “Identify all persons or entities who have a financial or legal interest in this cause of action and describe the basis and extent of said interest.” Defendant responded: “Defendant Stewartson objects to this interrogatory on the grounds that it is vague, ambiguous, irrelevant, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.” Thus, rather than issue any response, Defendant rested on his objections. As an initial matter, by failing to timely raise these objections to General Flynn’s discovery (Defendant issued his objections nearly two months

after the only agreed upon extension), Defendant has waived these objections. See *American Funding, Ltd. v. Hill*, 402 So. 2d 1369, 1371 (Fla. 1st DCA 1981) (granting a motion to compel where “no timely objections to the request for production had been made.”). Further, Florida has expressly acknowledged that Rule 1.340 of the Florida Rules of Civil Procedure is “essentially an embodiment of Rule 33 of the Federal Rules of Civil Procedure and as such, federal case law is highly persuasive in this area.” *Stanick v. Leadership Housing Sys. of Fla., Inc.*, 368 So. 2d 78, 80 (Fla. 4th DCA 1979). Accordingly, the result under the federal rules is the same. See Fed. R. Civ. P. 33(b)-34(b); *Dollar v. Long Mfg.*, 561 F.2d 613 (5th Cir. 1977) (failure to object to discovery requests within the judicially mandated time frame results in the waiver of those objections).<sup>1</sup> Thus, Defendant cannot merely rest on waived objections. Still, even if these objections were not waived, Defendant is currently claiming attorneys’ fees in this action. Therefore, the source of his funding for said attorneys’ fees is relevant for that reason alone. Defendant also continues to double down on his defamatory statements. It is highly relevant to know if Defendant is emboldened by an outside party’s involvement in the funding of this litigation. Accordingly, either way, whether the objections are waived, General Flynn is entitled to an order compelling Defendant to provide a response.

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<sup>1</sup> All former Fifth Circuit cases decided prior to the close of business on September 30, 1981, are binding precedent in the Eleventh Circuit. *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc).

12. Interrogatory No. 3 asked: “Identify and describe the nature of your employment you have or had from January 2020 to present, including, but not limited to, when you began and/or concluded the employment, your title or position name, and what services you provide[d] or perform[ed].” Defendant responded: “Defendant Stewartson objects to this interrogatory on the grounds that it is irrelevant, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. It seeks detailed information about employment unrelated to the lawsuit which is neither relevant nor necessary to resolve the central issues in this defamation case, particularly where no allegations or claims regarding employment are at issue. Defendant further objects to the extent that this request violates Defendant's right to privacy, including but not limited to privacy rights under state and federal law, and seeks information beyond what is proportional to the needs of the case. Defendant also objects to the extent this interrogatory could reveal proprietary or confidential business information from past or current employers. Without waiving these objections, Defendant has been employed as an Independent Contractor working as a software developer since January 2020 and was briefly employed by a game design company in 2022.” Notably, Defendant did not name the companies that employed him. By failing to name who has employed Defendant, this answer is incomplete, and General Flynn is entitled to an order compelling Defendant to provide a complete response. Again, any objections Defendant may have to providing this information is waived.

13. Interrogatory No. 4 asked: “Identify and describe whether you have ever received payment for any podcast episodes, media appearances, YouTube shows, or other social media posts in which you have discussed General Flynn. Include in your response the amount you were paid and by whom.” Defendant responded: “Defendant Stewartson objects to this interrogatory on the basis that is irrelevant, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Payment by a third party has no bearing on a cause of action for defamation.” Thus, again, Defendant rested on his objections. As discussed, these objections are waived. Even if the objections are not waived, Courts in this state have held “that a plaintiff may prove the defendant's state of mind through circumstantial evidence, such as evidence of motive.” *Don King Productions, Inc. v. Walt Disney Co.*, 40 So.3d 40, 44 (Fla. Dist. Ct. App. 2010) (citing *Perk v. Reader’s Digest Ass’n*, 931 F.2d 408, 411 (6th Cir. 1991)). General Flynn is entitled to this course of action. It is wholly relevant to this case whether Defendant was paid for his statements. If so, that would go directly to his motive, which would weigh heavily in the actual malice analysis. Accordingly, either way, whether the objections are waived, General Flynn is entitled to an order compelling Defendant to provide a response.

14. Interrogatory No. 12 asked: “Identify and describe any and all communications from January 1, 2020, to present between you and any other individuals regarding General Flynn.” General Flynn later offered to limit this Interrogatory to those communications involving the subject matter of the Complaint; however, Defendant did not respond. Instead, Defendant was once

again evasive, responding: “Defendant objects to this interrogatory on the grounds that it is irrelevant, overly broad, unduly burdensome, and unlikely to lead to the discovery of admissible evidence. Defendant objects to this interrogatory to the extent such statements were made in privileged and confidential settings, including under the attorney-client privilege. Defendant also objects on the grounds that statements are publicly available on social media. Without waiving said objection, Defendant has had ongoing communications about General Flynn with his legal counsel. Such communications are privileged attorney-client communications. Defendant has also discussed these matters with a handful of close personal friends.” General Flynn is entitled to know of these communications and with whom, in addition to the third parties that may possess further discoverable information. Merely stating he had conversations with “close personal friends” is insufficient. As such, Defendant has failed to answer this Interrogatory, and General Flynn is entitled to an order compelling Defendant to provide a response. And, as discussed, any objections Defendant has to providing this information is waived.

### **REQUESTS FOR PRODUCTION**

15. At issue for purposes of this motion are eight of General Flynn’s Requests for Production. General Flynn also notes at the outset that Defendant has failed to produce a *single* document.

16. Requests Nos. 2, 5, 6, 7, 8 requested: “All documents and communications relating to” “your statements in ¶¶ 58, 65, 83, and 84 of the Complaint,” “your statement General Flynn is a ‘Nazi,’” “your statement that

General Flynn ‘wants a second Holocaust,’” “your statement that General Flynn ‘employed Jack Posobiec to torture prisoners,’” and “your statement that General Flynn ‘literally tried to murder Mike Pence.’” Each of these Requests also asked: “Include in your response any documents you may have referenced in paragraph [corresponding paragraph] of your answer to Plaintiff’s first set of interrogatories.” Rather than producing any documents, Defendant issued the same reply to each, stating: “Defendant objects to this Request as it is vague and ambiguous, seeks communications protected under the attorney-client privilege, is unlimited in scope, and seeks documents and communications outside of the Defendant’s possession. Additionally, all such non-privileged documents and non-privileged, non-private communications are publicly available. Without waiving said communications, all documents and communications that Defendant specifically relied upon in making the referenced statements are available on his Social media accounts, Substack, and website.” For Request No. 7, Defendant added: “Additionally, Defendant provided links to two articles he relied upon in response to an interrogatory regarding this statement.” This is insufficient. First, Defendant is incredibly active on social media, making it an undue burden on General Flynn to determine which social media posts specifically address these specific statements. Simply put, directing General Flynn to his social media page without any other production is evasive and insufficient. Second, Defendant directed Plaintiff to his Substack, a platform that can only be accessed through a subscription. This is discoverable information that General Flynn is entitled to, and his only access is through the discovery

process. Third, these requests also encompass communications Defendant had in private, which General Flynn obviously cannot find publicly. As such, Defendant has failed to respond to these Requests, and General Flynn is entitled to an order compelling Defendant to provide the requested documents and communications. And, as discussed, any objections Defendant has to providing these documents and communications is waived.

17. Request No. 3 requested: “All documents and communications regarding any payments you have received for any podcast episodes, media appearances, YouTube shows, or other social media posts in which you have discussed General Flynn.” Defendant responded: “Defendant objects to this Request as it seeks confidential and private information. Defendant further objects to this Request to the extent that it seeks information irrelevant to the subject matter of this lawsuit.” Thus, Defendant again rested on his objections. As discussed, Defendant has waived these objections by failing to timely provide them. Even if Defendant did not waive these objections, as discussed above, such information is plainly relevant to an actual malice analysis. Furthermore, to the extent that the relevant information is confidential or private, General Flynn indicated that he is more than willing to agree to a protective order along with the production of these documents. Despite this, no production has occurred. Accordingly, either way, whether the objections are waived, General Flynn is entitled to an order compelling Defendant to provide responsive documents and communications.

18. Request No. 4 requested: “All documents and communications between you and any other individual regarding General Flynn from January 1, 2020, to present.” General Flynn then proposed limiting the Request to those documents and communications relating to the subject matter of the case; however, Defendant did not respond. Defendant responded to the Request: “Defendant objects to this Request on the grounds that it is vague, overly broad, ambiguous, and unduly burdensome. This Request is very broad and seeks information outside the scope of this lawsuit concerning anything a private individual (Defendant) may have said about a prominent national political figure (Plaintiff). Defendant further objects to the extent such communications are publicly available.” Again, Defendant improperly rested on objections that have been waived. Even if the objections are not waived, General Flynn attempted to limit the Request. And this Request includes those communications Defendant had in private, which are obviously not publicly available. Accordingly, either way, whether the objections are waived, General Flynn is entitled to an order compelling Defendant to provide responsive documents and communications.

19. Request No. 9 requested: “All documents and communications relating to your ‘fact-check’ of the statements referenced in ¶¶ 58, 65, 83, and 84 of the Complaint.” Defendant responded: “Defendant objects to this Request as it is unclear what the term ‘fact-check’ means in the context of this Request for Production. Without waiving said objection, any materials that Defendant relied upon in making the statements in ¶¶ 58, 65, 83, and 84 of the Complaint are publicly available and all documents and communications that Defendant

specifically relied upon in making the referenced statements are available on his social media accounts, Substack, and website.” Defendant’s response again merely refers General Flynn to Defendant’s social media, Substack, and website. For the reasons discussed above, this is insufficient. Further, this Request also includes any private endeavors Defendant took to fact-check his statements, which is not publicly available. As such, Defendant has failed to respond to these Requests, and General Flynn is entitled to an order compelling Defendant to provide the requested documents and communications. And, as discussed, any objections Defendant has to providing these documents and communications is waived.

#### **CERTIFICATION OF GOOD FAITH**

The undersigned hereby certifies that he has conferred in good faith with defense counsel regarding the relief requested herein, and the parties were unable to agree on the issues.

WHEREFORE Plaintiff Michael T. Flynn respectfully requests the entry of an Order: (1) striking all of Defendant’s objections; (2) ordering Defendant to answer the aforementioned Interrogatories and produce all documents and communications responsive to the aforementioned Requests; (3) award General Flynn his fees and costs in bringing this Motion pursuant to Rule 1.380(a)(4), Florida Rules of Civil Procedure; and (4) for such other and further relief as this Court deems reasonable and just.

Dated: November 19, 2024

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 19, 2024, I have caused a true and accurate copy of the foregoing to be delivered to counsel of record via e-filing and by email to the following counsel:

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