

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

BETH E. SPIEGEL,

Plaintiff,

GENERAL JURISDICTION DIVISION

CASE NO. 13-013466 CA 20

v.

YVENOLINE DARGENSON a/k/a
YVE DARGENSON, PENELOPE
TOWNSLEY and PAMELA L.
LATIMORE,

Defendants.

**EMERGENCY MOTION FOR CONTEMPT RE: DEFENDANT DARGENSON'S
RESPONSE (OR LACK THEREOF) TO SUBPOENA DEUCES TECUM, AND
MOTION TO COMPEL**
Florida Bar No. 292771

COMES NOW the Plaintiff, BETH E. SPIEGEL, by and through her undersigned counsel, and moves this Court to hold YVENOLINE DARGENSON in contempt of Court, and for other appropriate relief, including an Order Compelling Production, and as grounds therefor would state:

1. Defendant YVENOLINE DARGENSON was served with a Subpoena Deuces Tecum for Deposition on April 30, 2013. A copy of that Subpoena is attached hereto as Exhibit 1 and incorporated by reference herein.

2. After service of the Subpoena Deuces Tecum, Defendant moved for a Protective Order, stating that she should not have to stop her campaigning during early voting. The Court ordered that the deposition was not to proceed prior to the scheduled hearing on May 3, 2013. At the conclusion of the May 3, 2013, hearing, the Court ordered that there be a status conference on May 8, 2013, and that it was requiring the

Defendant, DARGENSON, to appear for deposition the following week, the week of May 6, 2013.

3. On May 8, 2013, during the status conference, the Court ordered that the Defendant DARGENSON was to produce the documents responsive to the Subpoena Deuces Tecum by Friday morning, May 10, 2013. The deposition was to proceed on Monday, May 13, 2013, to accommodate the travel plans of Defendant DARGENSON's attorney.

4. On Friday, May 10, 2013, Defendant DARGENSON produced the documents which she claimed were responsive to the Subpoena Deuces Tecum.

5. On examination by undersigned counsel, it appears that the totality of the documents produced are nothing more or less than the exact package of documents brought by Defendant to the May 3 hearing. Although it is difficult to say with certainty, given that no copies of the May 3 production were given to Plaintiff's counsel, it appears that in the entire ensuing week, not a single page has been added.

6. Further, there was no attempt by Defendant DARGENSON to categorize the documents which she was producing – that is, to respond to the individually numbered paragraphs in the Subpoena. In fact, it appears that Defendant DARGENSON wholly failed to respond to Paragraphs Nos. 3, 4, 5, 7, 10 and 11 of the Subpoena Deuces Tecum.

7. Defendant DARGENSON failed to produce her tax returns for the years 2010, 2011, and 2012. (Paragraph 5 of the Subpoena Deuces Tecum.)

8. As has been made clear by the Plaintiff, there is no desire to know Defendant DARGENSON's personal finances, but it is very relevant as to what address was used by Defendant DARGENSON in filing her income tax returns.

9. Further, given the testimony of DARGENSON at the May 3, 2013, hearing, whether she filed a joint tax return with her husband Frannix Jean-Mary is relevant to the issue of whether she has been a *bona fide* resident of North Miami Beach for the required period.

10. Defendant DARGENSON failed to produce all titles and registrations for motor vehicles for the period of March 31, 2010 through March 30, 2013. (Paragraph 10 of the Subpoena Deuces Tecum.)

11. Where the Defendant chose to title and register vehicles during the covered period, which includes the one year prior to the date of qualifying, is very relevant to the issue of whether she has been a *bona fide* resident of North Miami Beach for the required period.

12. Defendant DARGENSON failed to produce any policies of insurance as requested in Paragraph 11 of the Subpoena Deuces Tecum.

13. Surely Defendant DARGENSON has policies of automobile insurance, as per her testimony on May 3, 2013, she drives to Miramar to pick her children up from school, and the State of Florida requires automobile insurance.

14. Defendant DARGENSON has testified that she owns the house in Miramar with her husband Frannix Jean-Mary, and that she/they refinanced the mortgage. The refinance documents have not been produced.

15. It is very likely that there are homeowners' insurance policies and other insurance policies for the requested period.

16. It is also likely that there are policies of health insurance, life insurance and the like, as the Defendant and her husband are the parents of three minor children.

17. The addresses for the owners and/or insureds on those policies are very relevant to the issue of whether the Defendant has been a *bona fide* resident of North Miami Beach for the covered period.

18. Defendant DARGENSON failed to produce her passport, per Paragraph 3 of the Subpoena Deuces Tecum.

19. Defendant DARGENSON's filings to run for office indicate that she owns two pieces of property outside of the United States of America. It is reasonable to expect that she has or has had a passport during the covered period.

20. U.S. Passports are issued to persons at their residence address. As such, this item is very relevant to the issue of whether Defendant DARGENSON is a *bona fide* resident of the City of North Miami Beach.

21. Defendant DARGENSON largely ignored the list of items requested. Of the forty-six (46) pages which she produced, twelve pages were printed from the public records of the State of Florida or Broward County.

22. Defendant DARGENSON produced utility bills for the rental property which she owns, but did not produce utility bills for the Miramar residence which she owns with her husband.

23. Defendant DARGENSON was asked to produce checking account statements for the covered period. She failed to do so.

24. Defendant produced eight (8) pages of statements from what appear to be savings accounts at two different credit unions. The Defendant blacked out in their entirety the account numbers, so that it cannot be determined whether these are different accounts.

25. The Defendant failed to produce the checking account statements from which she pays bills. The testimony and evidence on May 3, 2013, clearly establish that

the Defendant has at least one checking account, as she paid the Homeowners Association Maintenance with a check.

26. The Defendant should be required to produce checking account statements for the purpose of establishing at what residence address her checking account is maintained and at what residence address she receives that banking information. It is also undisputed that at least one checking account shows a Miramar address.

27. Defendant DARGENSON failed to produce periodic statements for charge cards and credit cards. She did produce one page of a 2008 statement, and seemingly one other page from a credit card statement.

28. Where Defendant DARGENSON receives credit card statements is clearly relevant to the issue of whether she is a *bona fide* resident of the City of North Miami Beach.

29. Defendant DARGENSON failed to respond as to whether other items requested, such as safe deposit boxes, even exist.

30. Defendant DARGENSON has had the Subpoena Deuces Tecum for ten days, and yet has wholly failed to make a good faith attempt to respond to that Subpoena Deuces Tecum.

31. Defendant DARGENSON is, in essence, stonewalling discovery as to commonplace indicia of where she maintains residence and has for the one year period prior to qualifying to run for office. Apparently, she is trying to “run out the clock” by avoiding discovery.

WHEREFORE, Plaintiff respectfully requests an Order finding Defendant DARGENSON in contempt of Court for willfully failing to produce the requested

documents, or to make a good faith effort to do so, and ordering that the documents be produced forthwith, and for such other relief as the Court deems just and appropriate.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via electronic mail and facsimile this 10th day of May, 2013, to: Darcee S. Siegel, Esquire, (courtdocs@citynmb.com), Attorney for Pamela L. Latimore, City Attorney, City of North Miami Beach, 17011 Northeast 19th Avenue, North Miami Beach, Florida; Oren Rosenthal, Esquire, (orosent@miamidade.gov), Attorney for Penelope Townsley, Miami-Dade County Attorney's Office, Stephen P. Clarke Center, 111 Northwest 1st Street, Suite 2810, Miami, Florida 33128; and via facsimile and United States mail to: Frank Wolland, Esquire, (fwolland@wolland.com) Attorney for Yvenoline Dargenson, 12865 West Dixie Highway, 2nd Floor, North Miami, Florida 33161.

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BY: /s/Joseph S. Geller

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C: Beth E. Spiegel, Esquire
Co-Counsel for Plaintiff