

IN THE CIRCUIT COURT OF THE
SEVENTH JUDICIAL DISTRICT, IN AND
FOR ST. JOHN'S COUNTY, FLORIDA

BRADLEY BYRD, an individual, and
ANNA BYRD, an individual,

Plaintiffs,

v.

CASE NO.: 55-2025-CA-1320
DIV.: 59

COSTCO WHOLESALE CORPORATION, a
foreign for profit corporation, COSTCO-
INNOVEL SOLUTIONS, LLC, d/b/a
COSTCO WHOLESALE LOGISTICS, a
foreign limited liability company, and RXO
LAST MILE, INC., a foreign for profit
corporation,

Defendants.

**PLAINTIFF'S MOTION COMPEL COSTCO'S RESPONSE TO PRODUCTION OF
DOCUMENTS PURSUANT TO PLAINTIFF'S FIRST REQUEST TO PRODUCE**

Plaintiffs, BRADLEY BYRD and ANNA BYRD (collectively "Plaintiffs" or the
"Byrds"), by and through their undersigned counsel, hereby file this Motion to Compel, pursuant
to Florida Rules of Civil Procedure 1.380, and move for an order compelling Defendants
COSTCO WHOLESALE CORPORATION and COSTCO-INNOVEL SOLUTIONS, LLC
d/b/a COSTCO WHOLESALE LOGISTICS ("Costco") to serve amended responses and
produce documents responsive to Landmark's First Request to Produce ("RFPs").

I. Procedural Background

1. On September 19, 2025, the Byrds filed their Complaint [Doc. 5] in this matter,
alleging negligence and breach of implied warranty for the faulty delivery and installation of a
refrigerator, which caused extensive flooding in the Byrd's home.

2. On December 15, 2025, Costco filed its Answer to the Complaint. [Doc. 24].
3. On December 15, 2025 Costco filed its initial disclosures. [Doc. 25].
4. On January 5, 2026, the Byrds filed their initial disclosures. [Doc. 37].
5. On December 16, 2025, the Byrds served their First Request for Production of Documents, First Set of Interrogatories, and First Request for Admissions on Costco. [Docs. 32, 35, 36].
6. On January 15, 2025, Costco served its written responses to the Byrds' Discovery Demands. [Docs. 40, 41, 42].
7. Costco's Response to the Byrds' First Request for Production of Documents (the "RFPs") asserted multiple improper objections, but attached documents as Exhibits A, B and C. Exhibits A and B were stamped "Confidential."
8. That same day, January 15, 2025, Costco filed a "Notice of Inadvertent Disclosure of Confidential Materials", withdrawing its production of documents it produced. [Doc. 44]. The specific documents to be withdrawn were not identified by Costco. By this notice, Costco effectively withdrew the production of the documents attached as Exhibit A and B to its Response to the Byrds' RFPs.
9. On March 3, 2026, the Byrds served a meet and confer letter on Costco, seeking to resolve outstanding discovery deficiencies in Costco's Response to Plaintiffs' RFPs without motion practice. *The Meet and Confer Letter is attached hereto as **Exhibit A**.*
10. On March 13, 2026, Costco filed a Supplemental Response to the Byrds' RFPs, which ignored its prior withdrawal of the documents attached to their original response, and stated that additional responsive documents were attached, but no additional documents were attached. [Doc. 64].

11. It is currently unclear which documents Costco deems to have been produced.

12. In addition, Costco's Responses to the Byrds' RFPs were evasive and incomplete and constitute a failure to answer pursuant to Fla. Rule 1.280(b).

II. Memorandum of Law and Analysis

Under Fla. R. Civ. P. 1.280, discovery is broad. Florida Rule of Civil Procedure 1.280(c)(1) states

[p]arties may obtain discovery regarding any nonprivileged matter *that is relevant to any party's claim or defense* and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable.

Emphasis added.

Fla. R. Civ. P. 1.380(a) provides that a party may make a "motion for order compelling discovery" when "a party in response to a request for inspection submitted under rule 1.350 fails to respond that inspection will be permitted as requested or fails to permit inspection as requested[.]" Defendant Costco has failed and refused to produce relevant documents in this action.

A. Costco is not entitled to a blanket Confidentiality Agreement Before Producing Responsive Documents (Fla. R. Civ. P. 1.280(6))

In correspondence with the undersigned, Costco has demanded that Plaintiffs execute a blanket confidentiality agreement before Costco will produce any documents responsive to Plaintiffs' RFPs. This demand is contrary to Fla. R. Civ. P. 1.280(c)(6). Under the Rule, Costco must "describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will

enable other parties to assess the applicability of the privilege or protection.” If Costco asserts that certain documents are confidential or proprietary, it may make a motion for a protective order pursuant to Fla. R. Civ. P. 1.280(d) and file the alleged protected documents with the Court in a sealed envelope. Otherwise, all responsive documents must be produced.

B. “Overbroad, Ambiguous and Vague” Objections are Improper as They do Not Specify the Specific Reason for the Objections

Rule 1.280(c)(1) specifically states that “[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense ... Information within this scope of discovery need not be admissible in evidence to be discoverable.” Therefore, Costco’s objections to RFPs Nos. 1 and 2, 12, 17, and 18 do not comply with this requirement, as the requests ask specifically for documents and communications related to Plaintiffs’ claims in the Complaint.

C. Failure to State Whether Documents Are Being Withheld (Rule 1.350(b)(6))

Under Rule 1.350(b)(6), a responding party must state whether responsive materials are being withheld on the basis of an objection. Costco’s responses to Requests Nos. 1, 2, 3, and 17 do not comply with this requirement. Each response must be amended to state clearly:

- (a) whether responsive documents exist, and
- (b) whether any responsive documents are being withheld due to an objection.

D. Improper “Possession, Custody, or Control” Responses (Rule 1.350(a))

Costco states that documents are held by RXO and therefore are not produced. Rule 1.350(a) requires production of all documents within a party’s “possession, custody, or control,” which includes documents a party has the right or ability to obtain. Costco’s responses to Requests Nos. 12, 16, and 18 do not comply with this requirement.

III. Conclusion

Defendant Costco has withheld relevant documents from this discovery process and failed to even investigate the existence of responsive documents. Costco has clearly thwarted efforts by the Plaintiffs to obtain full discovery in this matter.

WHEREFORE, Plaintiffs, respectfully request that this Court compel Costco to respond to Plaintiffs' First Request for Production in full, to award Plaintiffs their reasonable expenses including attorney's fees, and for such other relief as the court deems just.

Respectfully submitted this 31st day of March, 2026.

JOHN D. WEBB, P.A.

/s/ John D. Webb

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CERTIFICATE OF CONFERRAL PURSUANT TO FLA. R. CIV. P. 1.202

I certify that prior to filing this motion, I discussed the relief requested in this motion by electronic mail on March 3, 2026, and by telephone on October 9, 2025, who objects to the relief requested herein.

s/ John D. Webb
Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, March 31, 2026, I electronically filed the foregoing with the Clerk of the Court through Florida Court's E-Filing Portal (www.myflcourtaccess.com), by using the E-Service Option, which will send a Notice of Electronic Filing, in compliance with Florida Rules of Judicial Administration Rule 2.516, to all parties and counsel of record.

s/ John D. Webb
Attorney

Exhibit “A”



Discovery conferral correspondence

From Jack Webb <jwebb@jackwebblaw.com>

Date Tue 3/3/2026 10:47 AM

To Kevin Jakab <kjakab@jakablaw.com>

Cc Alexis Richey <arichey@jackwebblaw.com>; Deirdre Connolly <dconnolly@jackwebblaw.com>; Richard Maselli <rmaselli@ogdensullivan.com>

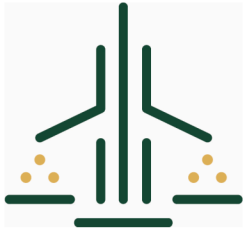
 1 attachment (654 KB)

Meet and Confer to CIS 3-3-2026.docx;

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March 3, 2026

Via Electronic Mail
kjakab@jakablaw.com

Kevin Jakab, Esq.
Board Certified Civil Trial Lawyer
Florida Supreme Court Certified Circuit Mediator
Jakab Law, PLLC
6277 Dupont Station Ct, Suite 3
Jacksonville, FL 32217

Re: Demand for Meet and Confer Regarding Defendant's Deficient Discovery Responses
Byrd, Bradley v. Costco and RXO Last Mile,
St. Johns County Circuit Court, Case No. 2025-CA-001320A000MX

Counsel:

I am writing on behalf of my clients, Bradley and Anna Byrd ("Plaintiffs"), in a good-faith attempt to resolve outstanding discovery deficiencies in Defendant Costco-Innovel Solutions, LLC, d/b/a Costco Wholesale Logistics's ("CIS") Response to Plaintiffs' First Requests for Production of Documents ("RFPs"), as required by Rule 1.202(a) of the Florida Rules of Civil Procedure.

On January 15, 2026, CIS served and filed its Responses to Plaintiffs' RFPs (the "RFP Responses"), attaching documents, some of which were stamped "Confidential". On the same day, CIS filed a Notice of Inadvertent Disclosure of Confidential Materials, withdrawing service of the documents attached to the RFPs.

1. CIS is not entitled to a blanket Confidentiality Agreement Before Producing Responsive Documents (Fla. R. Civ. P. 1.280(6))

You have demanded that Plaintiffs execute a blanket confidentiality agreement before CIS will produce any documents responsive to Plaintiffs' RFPs. This demand is contrary to Fla. R. Civ. P. 1.280(c)(6). Under the Rule, CIS must "describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection." If you assert that certain documents are confidential or proprietary, you may make a motion for a protective order pursuant to Fla. R. Civ. P. 1.280(d) and file the alleged protected documents with the Court in a sealed envelope.

Plaintiffs challenge CIS's assertion of privilege pursuant to Fla. R. Civ. P. 1.285(c) on the grounds that the documents in question are not privileged.

2. "Overbroad, Ambiguous and Vague" Objections are Improper as They do Not Specify the Specific Reason for the Objections

Rule 1.280(c)(1) specifically states that "[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense ... Information within this scope of discovery need not be admissible in evidence to be discoverable." Therefore, CIS's objections to RFPs Nos. 1 and 2, 12, 17, and 18 do not comply with this requirement, as the requests ask specifically for documents and communications related to Plaintiffs' claims in the Complaint.

3. Failure to State Whether Documents Are Being Withheld (Rule 1.350(b)(6))

Under Rule 1.350(b)(6), a responding party must state whether responsive materials are being withheld on the basis of an objection. Defendant's responses to Requests Nos. 1, 2, 3, and 17 do not comply with this requirement. Each response must be amended to state clearly:

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4. Improper "Possession, Custody, or Control" Responses (Rule 1.350(a))

Defendant states that documents are held by RXO and therefore are not produced. Rule 1.350(a) requires production of all documents within a party's "possession, custody, or control," which includes documents a party has the right or ability to obtain. Defendant's responses to Requests Nos. 12, 16, and 18 do not comply with this requirement.

Please confirm whether you have the contractual or practical ability to obtain documents from RXO. If so, responsive documents must be produced. If not, CIS must state explicitly why it cannot produce the responsive documents and describe the nature of the relationship preventing production.

Unless CIS cures the deficiencies identified above and produces responsive documents within 10 days of the date of this letter, Plaintiff will file a motion to compel and will seek appropriate relief, including an award of fees under Rule 1.380(a)(5). Please govern yourselves accordingly.

Sincerely,

s/ Jack Webb

John D. "Jack" Webb