IN THE SUPERIOR COURT OF BIBB COUNTY
STATE OF GEORGIA

GEORGIA TRUST FOR LOCAL NEWS, LLC, D/B/A THE MACON MELODY, Plaintiff, v. THE BIBB COUNTY SCHOOL DISTRICT, Defendant.	CIVIL ACTION FILE NO. 2025 CV 083495

PLAINTIFF'S REPLY TO DEFENDANT'S RESPONSE TO PLAINTIFF'S RULE NISI MOTION

Defendant's brief contains a recitation of the perimeters of the Georgia Civil Practice Act that bears no applicability to the case at bar. While Defendant's mistake concerning discovery is understandable, given that its position would be correct in most civil actions, Georgia courts have repeatedly held that defendants in Open Records Act cases may not conduct the type of discovery that Defendant seeks on requester-plaintiffs.

Essentially, there are three forces at play prohibiting the discovery that Defendant seeks. First, discovery as to any Open Records Act requester is generally prohibited, even when such discovery would be relevant, because the right to seek public records is a "public" right and, therefore, the agency may not discriminate based upon who is seeking the information or why. *See Smith v. Northside Hosp., Inc.*, 347 Ga. App. 700, 708-09 (2018) 347 Ga. App. at 707 (affirming a trial court's

denial of similar discovery in an Open Records Act case and rejecting defendant's argument that the trial court failed to acknowledge the forgiving standards generally applicable to discovery in civil actions); *see also* O.C.G.A. § 50-18-70(a) (setting forth the "strong public policy" and presumptions that underlie the Open Records Act).[1]

Second, when the requester is a news media organization, additional First Amendment protections as to sources and other sensitive news gathering information are at play. Although the statutory reporter's shield does not squarely apply in this case, the Court of Appeals has held that even in the absence of statutory protection, news media discovery is disfavored. *See Atlanta J.-Const. v. Jewell*, 251 Ga. App. 808, 811–12, 555 S.E.2d 175, 180 (2001).

Third, nothing in FERPA requires this Court to treat this case differently than any other Open Records Act case (in which the sought discovery would be prohibited), because FERPA only protects "education records," and a dollar amount is not an "education record" according to the many state and federal courts who have interpreted FERPA. Likewise, nothing in the IDEA requires this Court to permit discovery, because the dollar amount that the District spent settling a lawsuit is not "personally identifiable information" pursuant to 34 C.F.R. § 300.32.

[1] This is a unique aspect of the Open Records Act that frequently surprises litigants who are less familiar with the Act's contours. Attached to this brief (and more fully discussed below) are orders from Georgia trial courts who have recently held that the type of discovery that Defendant seeks is impermissible in Open Records Act cases, and granting similar immediate motions for final hearings in Open Records Act cases.

Put simply, Defendant has set forth the general rules relating to civil discovery in its response. Open Records Act cases are the exception to those general rules, as proven true by decades of appellate precedent and statute.

I. Argument

a. The law is clear that in an Open Records Act case, discovery concerning a requester is generally prohibited

The Defendant's intention to conduct fact discovery on the Plaintiff in this matter is prohibited by Georgia case law. *See*, *e.g.*, *Smith*, 347 Ga. App. at 706 (affirming protective order barring discovery concerning requester, including trial court's determination that "the intentions and motives behind an Open Records Act request are irrelevant"); *see also Atchison v. Hosp. Auth. of City of St. Marys*, 245 Ga. 494, 495 (1980) (holding that excluding records from disclosure "can [] only be the result of the nature of the information and not the…connections of the person seeking to secure the information.").

Both the Georgia Supreme Court and the Court of Appeals have recognized that permitting the probing of Open Records requesters would violate both logic and public policy. The right to access public records is a public right. The right does not depend on the identity, circumstances, connections, or purposes of any particular requester, whether they be beneficent or malevolent. The right does not vary from one requester to another. *Smith*, 347 Ga. App. at 704 (noting, "the Supreme Court of Georgia has held that the right of access afforded by the Act is a 'public right of the People as a whole,' rather than a private right vested in any particular person" (brackets omitted) (quoting *Deal v. Coleman*, 294 Ga. 170, 184 (2013))). Either a

record is subject to public disclosure—in which case anyone and everyone may access and disseminate it—or it is not.[2] And the determination turns solely on the information that the record contains. *See Atchison*, 245 Ga. at 495 (holding that application of an exemption to disclosure "can . . . only be the result of the nature of the information"). Consequently, information about the requester is immaterial. *See Smith*, 347 Ga. App. at 709 (affirming denial of discovery, noting that "regardless of the identity and purposes of any interested third party or nonparty competitor, the documents sought in an open-records request either contain trade secrets [and thus fall under an exemption from disclosure] . . . or they do not.").

The details in the *Smith* case underscore this point. There, the defendant surmised that the requester, an attorney, was not seeking the documents for the requester's own use but rather for use by one or more of his firm's clients. *Smith*, 347 Ga. App. at 702-03. The defendant sought to ascertain through discovery the identity and motives of those clients and presented various arguments that information concerning the clients was material to the Open Records issues. *See id.* at 705. Among other things, the defendant argued that, if the notional clients were the defendant's business competitors, then information concerning their identities and purposes would help support the defendant's claim to a "trade secret" exemption. *Id*. at 708-09. The trial court rejected these arguments, and the Court of Appeals affirmed. *Id*. As

[2] Georgia courts have repeatedly noted the limited, two-step inquiry that applies in Open Records Act cases. "[W]hen an action to enforce the Act is brought, the first inquiry is whether the records are 'public records' as defined by the Act, and if so the second inquiry is whether they are protected from public disclosure under a statutory exception [or other law]." *Smith*, 347 Ga. App. at 705 (punctuation and citations omitted).

the Court of Appeals noted, regardless of the requester's purposes, the case would still boil down to the limited, two-step, inquiry that controls every Open Records Act case—*i.e.*, consideration only of (1) whether **the information** constitutes a "public record" and, if so, (2) whether **the information** is subject to any exemption from disclosure. *Id.* at 705. Thus, even if the requester was acting for a business competitor, the defendant would still have to prove its entitlement to a "trade secret" exemption based on **the information itself**. *Id.* at 708 ("[Defendant] does not dispute that, regardless of whether [the requester] requested the documents at issue and initiated this action on behalf of one of its competitors or solely on his own behalf, it is still required to prove that the *documents* requested qualify as trade secrets[.]" (emphasis in original)). Therefore, even though information concerning the requester's or his notional clients' purposes bore a great logical relationship to the case, thus falling within the broad scope of "relevance," the trial court properly denied the defendant's requests to explore those purposes in discovery. *Id*. at 708-09.

The same reasoning applies here. Information concerning the Plaintiff is strictly off limits because "public" means public; the documents at issue should be publicly available (or not) due to their intrinsic content. Defendant's proposed discovery would add nothing to the analysis. If permitted, this type of discovery would certainly chill future attempts to enforce the Open Records Act. Few news media journalists would ask for public records if doing so required participating in costly and intrusive discovery into their identity, motives, and connections, thus making them and their connections vulnerable to potential retaliation. No journalist would

ever bring an Open Records Act claim if giving the government its confidential source information was the price to be paid for doing so.

b. Even outside of the Open Records Act context, Georgia courts are rightfully reluctant to permit discovery into information held by the news media

Georgia law protects journalists from discovery relating to any information that is used in preparation for news reporting. O.C.G.A. § 24-5-508 (commonly known as the "Reporter's Shield"). Even in circumstances where the statutory shield does not apply, Georgia courts have relied on the underlying policy concerns of the shield to hold that discovery on media plaintiffs is highly disfavored.

As the Court of Appeals states, even when "there is no federal or state constitutional privilege, legislative act, or common law which protects against the disclosure of confidential sources, there is a strong public policy in favor of allowing journalists to shield the identity of their confidential sources unless disclosure is necessary in order to meet other important purposes of the law." *Jewell,* 251 Ga. App. at 811–12, 555 S.E.2d at 180. "This public policy is not only reflected in the statute creating the qualified privilege discussed above, but also in jurisprudence regarding the protection of all sensitive material under the protective order provisions of the discovery rules." *Id.*; *see also Flynn v. Roanoke Companies Group, Inc.*, Nos. 1:06-cv-1809, 1:07-MD-1804, 2007 WL 4564113 (N.D. Ga. Dec. 21, 2007) (recognizing a federal qualified common law reporter's privilege for sources in civil cases).

Many federal courts within the 11th Circuit have noted the "chilling effect" that discovery would have on the news media. *United States v. Blanton*, 534 F. Supp. 295, 297 (S.D. Fla. 1982) ("Although no confidential source or information is involved, this

distinction is irrelevant to the chilling effect enforcement of the subpoena would have on the flow of information to the press and public."); *Loadholtz v. Fields*, 389 F. Supp. 1299, 1301-02 (M.D. Fla. 1975) ("The issue raised is whether the First Amendment prevents compulsory disclosure in civil litigation of materials developed in preparation for a newspaper article. This Court concludes that the paramount interest served by the unrestricted flow of public information protected by the First Amendment outweighs the subordinate interest served by the liberal discovery provisions embodied in the Federal Rules of Civil Procedure.").

Although this newsgathering context is certainly relevant, this Honorable Court need not wade excessively through the 11th Circuit court decisions, as governing Georgia case law already prohibits this type of discovery for any requester in Open Records Act cases, regardless of whether they are journalists.

c. Common practice in Georgia courts acknowledges the reality that discovery pertaining to the requester in Open Records Act cases is generally not permissible, and that swift hearings in Open Records Act cases are common and appropriate

Georgia's trial courts have routinely followed the rule that discovery cannot be conducted on Open Records Act plaintiffs. For example, last year, a news media organization sued the Atlanta Police Foundation for public records relating to its government functions.[3] The Atlanta Police Foundation sought discovery as to the plaintiffs, arguing that the plaintiffs were terrorists who were seeking to attack the Atlanta Police Foundation (and its building of the Public Safety Training Center) and

[3] *See* Nearly 300 pages of Atlanta's 'Cop City' records released after first-of-its-kind ruling | 'Cop City' | The Guardian, available at https://www.theguardian.com/us-news/2025/jul/20/atlanta-police-foundation-cop-city-records (last accessed Oct. 14, 2025).

therefore, the information they held and their connections were highly relevant to whether the information should be disclosed. Ex. 1 (Atlanta Police Foundation's Motion to Compel Discovery). Relying on *Smith v. Northside*, the trial court held that while the sought discovery was prohibited under binding case law interpreting Georgia's Open Records Act. Ex. 2. The Atlanta Police Foundation, with the permission of the trial court, appealed the trial court's denial of its Motion to Compel to the Georgia Court of Appeals, recycling the same general civil discovery arguments that the District relies upon in its response to this Motion. The Court of Appeals promptly rejected the appeal. Ex. 3.

Contrary to Defendant's assertions that this case is not ripe for final review, Georgia courts routinely set these cases for early full and final hearings pursuant to the Open Records Act's statutory proscription that the adjudication of these cases be "just, speedy, and inexpensive." O.C.G.A. § 9-11-1.

For example, undersigned counsel recently represented a different plaintiff seeking records from the Georgia Secretary of State. The plaintiff filed a complaint and a rule nisi motion seeking a final hearing date. The initial documents were served on August 12, 2025 (Ex. 4), and fourteen days later, the trial court entered an order granting the plaintiff's rule nisi motion and setting the case for a full and final hearing, before the defendant had even filed an answer or a response to the rule nisi motion. Ex. 5.

Such is the appropriate procedural path when the defendant bears the burden of proof, as it does here; no discovery as to the Plaintiff is permissible; and the

legislature plainly stated that it intended for these cases to be resolved quickly and efficiently. This Court should likewise grant the Plaintiff's Rule Nisi Motion and set this matter for a full and final hearing on the issue of whether the disclosure of this public financial information is protected by either the Open Records Act, or FERPA.

d. Nothing in the Family Educational Rights and Privacy Act ("FERPA") or its interpretive regulations alters the general rule that discovery of a plaintiff is prohibited in an Open Records Act case

As set forth in the trial court orders attached to Plaintiff's Rule Nisi motion, many courts have held that any application of FERPA to settlement agreements is dubious at best, and courts have always permitted disclosure for dollar amounts even while acknowledging that FERPA might protect other parts of the agreement. The purpose of FERPA is "…to protect such individuals' rights to privacy by limiting the transferability of their records without their consent." *Joint Statement,* 120 Cong.Rec. 39858, 39862 (Dec. 13, 1974). There is nothing about the amount of tax dollars spent by the District in civil litigation that violates an individual's right to privacy.

Despite the on point cases cited by Plaintiff, Defendant counters that federal regulations interpreting FERPA state that "personally identifiable information," includes (1) information that, alone or in combination, is linked or linkable to specific students that likely would allow a reasonable person in the community without personal knowledge of the relevant circumstances to identify the students with reasonable certainty; and also (2) information requested by a person whom the District reasonably believes knows the identity of the student to whom the education record relates. 34 C.F.R. § 99.3 (emphasis added).

The Plaintiff anticipates that Defendant will seek discovery to attempt to show that Plaintiff's news media reporters are persons "whom the District reasonably believes knows the identity of the student to whom the education record relates." 34 C.F.R. § 99.3. In other words, Defendant probably hopes to prove that if a reporter already gained more information about the settlement agreement through confidential sources (or in this case, via the District's voluntary act of publishing the initials of the minor child in its public meeting minutes while purporting to be the gallant protector of the minor child's privacy), then the dollar amount of the settlement cannot be disclosed to that particular reporter.

Defendant is mistaken. The regulatory definition of "personally identifiable information" to which Defendant cites only applies to "education records," which does not include the information sought in this lawsuit. *See* 34 C.F.R. § 99.3. The amount of money that the District spent on a civil litigation action is simply not an "education record" as that term is defined by FERPA.

Although FERPA's definition of "education record" is sparse (20 U.S.C.A. § 1232g (4)(a)), courts have always interpreted the term in light of the statute's primary purpose:

> The legislative history of the Family Educational Rights and Privacy Act indicates that the statute was not intended to preclude the release of any record simply because the record contained the name of a student. The federal statute was obviously intended to keep private those aspects of a student's educational life that relate to academic matters or status as a student. Nevertheless, in addition to protecting the privacy of students, Congress intended to prevent educational institutions from operating in secrecy. Prohibiting disclosure of any document containing a student's name would allow [schools] to operate in secret, which would be contrary to one of the policies behind the Family Educational Rights and Privacy Act.

Kirwan v. The Diamondback, 352 Md. 74, 91, 721 A.2d 196, 204 (1998) (emphasis added). As explained in detail below, information relating to public financial spending is not an "education record" as defined by FERPA. "[S]uch records relate in no way whatsoever to the type of records which FERPA expressly protects; i.e., records relating to individual student academic performance, financial aid or scholastic probation which are kept in individual student files." *Bauer v. Kincaid,* 759 F. Supp. 575, 591 (W.D. Mo. 1991).

When deciding whether to release information that primarily concerns the institution, as opposed to the student, federal courts have reiterated that "Congress did not intend FERPA to cover records directly related to teachers and only tangentially related to students." *Ellis v. Cleveland Mun. Sch. Dist.,* 309 F. Supp. 2d 1019, 1022 (N.D. Ohio 2004).

For this reason, courts interpreting FERPA have held that FERPA does not prevent the disclosure of many records that might, at first glance, appear to "directly relate" to students. *See id.* For example, one state court held that "[t]he names of the victim in and witnesses to an alleged incident of sexual harassment by a teacher does not relate closely enough with the educational process to warrant the statutory protection of 'educational records' in FERPA." *Bd. of Educ. of Colonial Sch. Dist. v. Colonial Educ. Ass'n,* No. CIV. A. 14383, 1996 WL 104231, at *6 (Del. Ch. Feb. 28, 1996), *aff'd,* 685 A.2d 361 (Del. 1996). Citing to *Bauer*, *supra*, the court concluded: "FERPA protects as confidential, information which a student is required to provide or divulge in conjunction with application and attendance at an educational

institution. FERPA also protects academic data generated while an individual is a student at an education institution." *Id*. Similarly, a school's investigatory notes and unredacted student witness statements concerning a maintenance employee's alleged inappropriate sexual behavior toward students were not found to be protectable "education records" under FERPA, despite the fact that they obviously related in some tangential way to the students. *Wallace v. Cranbrook Educ. Commun.*, 2006 US Dist LEXIS 71251, 2006 WL 2796135 (ED Mich, 2006). Again, the underlying rationale in all of these cases is that FERPA was designed to protect kids' educational records, not to help school districts evade scrutiny over their financial expenditures or personnel missteps.

Moreover, there are several opinions holding that settlement agreements, and especially settlement dollar amounts, are not subject to FERPA. Those cases were already discussed in, and attached to, Plaintiff's Rule Nisi motion, and are even more on point than the cases discussed here. Defendant has not even attempted to rebut the applicability of those cases, while claiming that it needs discovery on the subsequent issue of Plaintiff's knowledge. For Plaintiff's knowledge to become remotely relevant under 34 C.F.R. § 99.3, this Court must first find that the dollar amount that the District spent on litigation is an "education record." It is not.

Plaintiff is asking for far, far less information than was sought and obtained in prior public records cases that have examined the contours of what constitutes an "education record" pursuant to FERPA. Plaintiff is <u>not</u> asking for unredacted witness statements authored by students, underlying allegations relating to the settlement,

or underlying incident reports detailing the facts that led to the payment of the settlement. Plaintiff is only asking for the amount of money spent on the District's settlement— information that has no tie to an individual student and reveals nothing about an individual student.

Because the dollar amount that the District spent in litigation is not an "education record," Defendant's attempt to conduct discovery pursuant to 34 C.F.R. § 99.3 is misplaced. *See* 34 C.F.R. § 99.3 (only protecting "information requested by a person whom the District reasonably believes knows the identity of the student to whom the education record relates."). Plaintiff's suspected knowledge has no bearing on whether this record should be released, because no "education record" is at stake here.

In short, nothing in FERPA requires this Court to analyze this case any differently than any other Open Records Act case, in which discovery of the plaintiff is typically prohibited. Contrary to Defendant's assertions that "a minor child's right to privacy is on the line" (Defendant's Response to Rule Nisi, p. 3), the only thing on the line is whether the people of Macon get to know how much of their tax dollars the school district is spending in litigation.

e. Nothing in the Individuals with Disabilities Education Act ("IDEA") or its interpretive regulations alters the general rule that discovery of a plaintiff is prohibited in an Open Records Act case

Likewise, nothing in the IDEA changes the fact that Defendant does not get to conduct fact discovery on the requester in this Open Records Act case.

In support of its assertion that it gets to conduct discovery on the Plaintiff, the Defendant provides the following definition of "personally identifiable" information under the IDEA: "Personally identifiable means information that contains— (a) The name of the child, the child's parent, or other family member; (b) The address of the child; (c) A personal identifier, such as the child's social security number or student number; or (d) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty." 34 C.F.R. § 300.32.[4]

Nothing about the dollar amount of a settlement agreement would make it "possible to identify the child with reasonable certainty." *See id*. A single dollar amount is far afield from any kind of information that would allow anyone to identify a student, and nothing akin to the kinds of personal information expressly listed in the regulation (social security numbers, student numbers, addresses, or names).

Furthermore, nothing in the IDEA regulation suggests that any suspected, preexisting, subjective knowledge of Plaintiff would bear on this Court's analysis of whether the information sought is public or not, as the regulation makes no mention of the requester's preexisting knowledge, or lack thereof.

For all of these reasons, there is no basis in the IDEA to permit the kind of discovery that would otherwise be generally barred under the Open Records Act.

f. Defendant has failed to rebut (or even address) any of the substantive legal arguments in Plaintiff's Rule Nisi petition, instead relying on discovery to delay the inevitable

[4] Arguably, the parents of the minor child have a viable cause of action against the District under the IDEA for voluntarily publishing the initials of the minor child in the public meeting minutes. However, this misstep on the part of the District cannot be held against the requester, nor does it have any bearing on whether this information is otherwise available under the Open Records Act.

While failing to address these arguments on the merits, Defendant paints a picture of fact-finding complexity in its briefing that simply does not exist. This case concerns the disclosure of a single dollar amount (e.g., $500.00). While Plaintiff is generally not opposed to in camera review, as suggested by Defendant on page 1 of its responsive brief, the notion of the Court conducting in camera review of a dollar amount is ridiculous (and would take the Court less than five seconds to complete, if Defendant insists upon such review).

Instead of rebutting the substantial legal arguments in Plaintiff's Rule Nisi Motion, Defendant instead hopes to prolong this case by placing it on a general civil discovery six-month timeframe, in direct contradiction to the legislature's intent that adjudication of Open Records Act cases must be "just, speedy, and inexpensive." O.C.G.A. § 9-11-1. Discovery of the Plaintiff's sensitive newsgathering information would be neither "just," nor "speedy," nor "inexpensive." *See id*. Thankfully, Defendant's proposed discovery is also prohibited by controlling precedent.

Defendant's litigation strategy does not serve the public interest, nor does it protect the privacy of any student(s). It only serves the interest of public officials who are seeking to protect themselves from any form of public scrutiny over how it is spending taxpayer money— an interest that is not recognized by either FERPA or the Open Records Act.

II. Conclusion

Pursuant to common practice, statutory law, and case law in the state of Georgia, Plaintiff asks that this Court set this matter for a full and final hearing, at

which the District can attempt to meet its burden of proof to establish that it did not violate the Open Records Act when it failed to provide Plaintiff with appropriate redacted records.

Respectfully submitted this the 17th day of October, 2025.

RAMSINGH LEGAL

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CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of October, 2025, I caused to be electronically filed a true and correct copy of the foregoing with the Clerk of the Court using the court's electronic filing system, which will automatically send e-mail notification of such filing to all counsel of record.

/s/ Joy Ramsingh
Joy Ramsingh (GA Bar #862332)

EXHIBIT 1

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

ATLANTA COMMUNITY PRESS COLLECTIVE and LUCY PARSONS LABS, Plaintiffs, v. ATLANTA POLICE FOUNDATION, Defendant.	CIVIL ACTION NO. 24CV001116

DEFENDANT'S MOTION TO COMPEL DISCOVERY AND BRIEF IN SUPPORT

COMES NOW Defendant, Atlanta Police Foundation ("APF"), and, by and through its undersigned counsel and pursuant to O.C.G.A. §§ 9-11-37(a)(2)–(3) and 9-11-34(b)(2), files this Motion to Compel Plaintiffs to supplement their responses to APF's written discovery requests ("Motion"), propounded on Plaintiffs on August 27, 2024. In support thereof, APF respectfully shows this Court the following:

INTRODUCTION

This case involves Plaintiffs' attempts to inspect APF's records pursuant to the Georgia Open Records Act ("GORA"), O.C.G.A. § 50-18-70 *et seq.*, relating to the building of the Public Safety Training Center ("the PSTC"). While APF has already produced to Plaintiffs most of the requested records in its possession, custody, or control, the parties in this action remain in disagreement over two remaining items: (1) APF's internal board of directors meeting agendas and minutes; and (2) redacted portions of the general contract between APF and Brasfield & Gorrie, dated June 26, 2023. *See* APF's Am. Resp. to Pls' Mot. to Show Cause at 3. As APF argues in its Amended Response to Plaintiffs' Motion to Show Cause, even if this Court were to

hold the remaining two items mentioned above are subject to GORA, the Court should nonetheless hold the records are not subject to disclosure pursuant to the public interest exception. *See id.* at 2. Given the prior numerous (and very recent) violent attacks on individuals, businesses, and their property in protest of the PSTC, disclosure of the records would place them at a continuous risk of harm. *See id.*

To support its public interest exception defense and demonstrate Plaintiffs' intertwinement with the aforementioned violent attacks on businesses, individuals, and property connected to the PSTC, APF propounded its First Requests for Production of Documents to Plaintiffs on August 27, 2024. Broadly, the discovery requests asked Plaintiffs to produce any and all documents and communications exchanged between them and various individuals and/or organizations openly involved in fomenting the violent attacks on the PSTC. On August 30, 2024, Plaintiffs served their responses but produced no documents based on several erroneous objections. Accordingly, APF respectfully requests that this Court grant APF's Motion and enter an order compelling Plaintiffs to produce responsive documents.

BACKGROUND

Plaintiffs initiated this case on January 24, 2024. *See generally* Pls.' Compl. The Complaint sets forth one count, "Violation of Georgia's Open Records Act," and seeks declaratory and injunctive relief directing APF "to fully comply with its obligations under [GORA]." *See id.* ¶¶ 53–58. Plaintiffs also seek attorney's fees, costs, and civil penalties pursuant to O.C.G.A. §§ 50-18-73(b) and 74(a). *Id.*

APF filed its Answer and Defenses on May 10, 2024. *See generally* Def.'s Answer. On June 10, 2024, Plaintiffs propounded 11 written interrogatories upon APF, which APF timely answered on July 18, 2024. Seemingly dissatisfied with the pace of the current proceedings, on

July 19, 2024, Plaintiffs filed their Motion to Show Cause Why Defendant Should Not Be Ordered To Comply With Plaintiffs' Open Records Act Request. *See generally* Pls.' Mot. to Show Cause. Plaintiffs attached as an exhibit to their Motion to Show Cause a proposed rule nisi setting this matter for a final hearing at the Court's earliest convenience. *See id.* at Ex. A. APF timely responded to Plaintiffs' Motion to Show Cause on August 19, 2024.[1] *See generally* APF's Resp. to Pls.' Mot. to Show Cause.

On August 6, 2024, the Court held a scheduling conference and entered a case management order. *See* July 26, 2024 Notice of Scheduling Conf. and August 6, 2024 Case Management Order. Pursuant to this Court's Case Management Order, APF was required to submit all written discovery requests to Plaintiffs by August 27, 2024. *See* August 6, 2024 Case Management Order at 1. In the same Order, the Court set the case for trial on October 15, 2024. *See id.*

On August 27, 2024, APF served its First Requests for Production of Documents to Plaintiffs. In addition to requesting "[a]ny and all documents and communications reflecting the membership (or any changes in membership) of the Atlanta Press Collective's advisory board from January 1, 2021 through the present," APF requested documents and communications exchanged between Plaintiffs and various individuals and/or organizations APF believes have been involved in the violent attacks on the PSTC. These discovery requests are attached hereto as Exhibit A. Three days later, on August 30, 2024, instead of producing any documents, Plaintiffs responded to APF's discovery requests by raising, mainly, the same two erroneous objections as to each request: (1) that the requested information is not "reasonably calculated to

[1] After inadvertently omitting Exhibit A in its filing, APF amended its Response, attaching the previously missing Exhibit A, on September 4, 2024. *See* APF's Am. Resp. to Pls.' Mot. to Show Cause. All of the other contents of the originally filed Response remained unchanged.

lead to the discovery of admissible evidence," O.C.G.A. § 9-11-26; and (2) that the requests seek "information concerning the identity, purposes, or the connections of the requester," which, Plaintiffs argue, is prohibited under the holding of *Smith v. Northside Hosp., Inc.*, 347 Ga. App. 700, 706 (2018). Plaintiffs' responses to APF's discovery requests are attached hereto as Exhibit B.

On September 4, 2024, to prepare for the September 6, 2024 status conference and in a good faith effort to resolve the discovery dispute pursuant to Uniform Superior Court Rule 6.4(B) and O.C.G.A. § 9-11-26(e), the parties conferred over Zoom but their efforts to resolve the issues raised failed. As of the filing of this Motion, Plaintiffs have served no substantive responses and produced no documents to a single discovery request.

ARGUMENT AND CITATION TO AUTHORITY

"Discovery is an integral and necessary element of our civil practice. Wide latitude is given to make complete discovery possible." *Int'l Harvester Co. v. Cunningham*, 245 Ga. App. 736, 738 (2000). Section 9-11-26(b)(1) of the Georgia Civil Practice Act states that "[p]arties 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*** . . . ." (emphasis added). "Relevant evidence" is defined as "evidence having ***any tendency*** to make the existence of ***any fact*** that is of consequence to the determination of the action ***more probable or less probable*** than it would be without the evidence." O.C.G.A. § 24-4-401 (emphases added). Importantly, discovery is allowed as to any information that "appears reasonably calculated to lead to the discovery of admissible evidence." O.C.G.A. § 9-11-26(b)(1).

O.C.G.A. § 9-11-37(a)(2) allows a party to move for an order compelling discovery where, *inter alia*, a party, "in response to a request for inspection submitted under Code Section 9-11-34, fails to . . . permit inspection as requested." Where, as here, the discovery is unanswered, the burden of persuasion is on the objecting party to show that the discovery should not be answered. *See Munn v. Munn*, 116 Ga. App. 297, 298 (1967). An evasive or incomplete answer is treated as a failure to answer for purposes of the discovery statute. *See* O.C.G.A. § 9-11-37(a)(3).

Contrary to Plaintiffs' arguments and objections set forth in Exhibit B, APF's document requests are proper, and Plaintiffs are required to produce documents in response to them. APF's document requests seek relevant, nonprivileged information. Additionally, contrary to Plaintiffs' position, APF is not seeking information "relating to the identity of an Open Records Act requester, or the requester's purpose(s) in filing the request[.]" *See generally* Ex. B. Finally, contrary to Plaintiffs' argument during the September 6, 2024 status conference in front of this Court, the journalist privilege under Georgia law is limited in scope and does not apply to this case. Accordingly, for the reasons set forth below, APF respectfully requests that this Court compel Plaintiffs to respond to the outstanding discovery.

I. APF's Document Requests Seek Relevant, Nonprivileged Information.

The Georgia Rules of Civil Procedure provide that, "[f]or purposes of the provisions of this chapter which relate to depositions and discovery, an evasive or incomplete answer is to be treated as a failure to answer." O.C.G.A. § 9-11-37(a)(3). Here, Plaintiffs provided no substantive answers and produced no documents in response to APF's document requests. Instead, Plaintiffs copied and pasted the same two erroneous boilerplate objections, one of them reading: "Plaintiffs object to [these requests] on the ground that the requested information is not

'reasonably calculated to lead to the discovery of admissible evidence.' O.C.G.A. § 9-11-26." *See generally* Ex. B.

As explained above, "relevant evidence shall be admissible," O.C.G.A. § 24-4-402, and discovery is allowed as to any information that "appears reasonably calculated to lead to the discovery of admissible evidence." O.C.G.A. § 9-11-26(b)(1). As of the filing of this Motion, Plaintiffs have utterly failed to explain how APF's document requests seek irrelevant information or information not "reasonably calculated to lead to the discovery of admissible evidence." O.C.G.A. § 9-11-26(b)(1). APF's document requests are unquestionably relevant to its defense of the public interest exception raised in this action. The requests seek documents and communications exchanged between Plaintiffs and various individuals and/or organizations APF believes have been involved in the violent attacks on the PSTC. If, after Plaintiffs' production of the documents, APF could show a direct link between the PSTC protesters' violent attacks and threats relating to the PSTC and Plaintiffs' participation, encouragement, support, or exchange of information relating to the same, such a showing would be directly relevant to APF's public interest exception defense in this case.

Neither can Plaintiffs explain how APF's document requests seek information not "reasonably calculated to lead to the discovery of admissible evidence." O.C.G.A. § 9-11-26(b)(1). As explained above, responsive documents would be directly relevant to APF's public interest exception defense in this case, and APF could admit such documents into evidence through an appropriate witness at trial. Under *Houston v. Rutledge*, 237 Ga. 764 (1976), documents otherwise required to be produced are excepted where public interest requires that they be withheld from public scrutiny in the interest of safety of persons and property. Applying the public interest exception requires a balancing test that weighs the interest of the public in

favor of inspection against the interest of the public in favor of non-inspection. *Houston*, 237 Ga. at 765; *see also Bd. of Regents v. Atlanta Journal, et al.*, 259 Ga. 214, 216 (1989). While it is true that the threats of harm resulting from the production of the requested documents might be adequately shown without the requested documents, it is also true that the suspected close nexus between the requesters and bad actors significantly increases the risk of harm and the immediacy of that harm. The magnitude of the threats is directly relevant to the balancing test required under the public interest exception.

In response, Plaintiffs simply objected to every single one of APF's document requests on this erroneous ground and utterly failed to produce any responsive documents. Such a response is insufficient, and Plaintiffs should be compelled to respond fully. *See Bowden v. Med. Ctr., Inc.*, 297 Ga. 285, 296 (2015) (holding the Court of Appeals erred in holding that the trial court abused its discretion in granting motion to compel where the plaintiff provided only boilerplate objections and one medical record in response to the otherwise relevant interrogatories and requests for production).

II. Contrary to Plaintiffs' Position, APF Is Not Seeking Information for the Purposes of Identifying the Requester(s)' Identity or Motive.

Plaintiffs' second erroneous objection rests on the false premise that the requests seek "information concerning the identity, purposes, or the connections of the requester," which, Plaintiffs argue, is prohibited under the holding of *Smith v. Northside Hosp., Inc.*, 347 Ga. App. 700, 706 (2018). Contrary to this argument, APF is aware of the established precedent on the issue and has no interest or intention of prying into the requester(s)' identity, connections, purpose, or motive behind requesting APF's records. As explained above, APF's only reason

behind its document requests to Plaintiffs is its ability to effectively present the public interest exception defense at trial in this case.

Plaintiffs' false and unsupported assumption that the only reason behind APF's document requests is to discover the requester(s)' identity, connections, purposes, or motives behind the GORA requests to APF is inapposite. In fact, APF is willing to accept responsive documents with any third-party names, e-mail addresses, addresses, and any other personally identifiable information redacted. Plaintiffs' current responses (in the form of objections) are insufficient, especially in light of APF's willingness to receive redacted responsive documents, and Plaintiffs should therefore be compelled to respond fully.

III. Contrary to Plaintiffs' Argument, the Journalist Privilege Does Not Apply Here.

Plaintiffs argue that their entitlement to documents remains fully intact regardless of the identity of the requester. *See generally* Ex. B. At the same time, they argue that their entitlement to documents is greater because of the media status.

Contrary to Plaintiffs' argument during the September 6, 2024 status conference in this case, the journalist privilege under Georgia law is limited in scope and does not apply to this case. Georgia law recognizes a statutorily qualified journalist's privilege in both civil and criminal proceedings, but only when the journalist is not a party to the case. *See In re Paul*, 20 Ga. 680, 684–85 (1999); *see also* O.C.G.A. § 24-5-508 ("Any person, company, or other entity engaged in the gathering and dissemination of news for the public through any newspaper, book, magazine, radio or television broadcast, or electronic means shall have a ***qualified privilege*** against disclosure of any information, document, or item obtained or prepared in the gathering or dissemination of news in any proceeding ***where the one asserting the privilege is not a party***, unless it is shown that this privilege has been waived or that what is sought: (1) is material and

relevant; (2) cannot be reasonably obtained by alternative means; and (3) is necessary to the proper preparation or presentation of the case of a party seeking the information, document, or item.") (emphases added).

Here, it is undisputed that the persons claiming the journalist privilege are Plaintiffs—parties to the present case. Additionally, even if the privilege was somehow available in this case, APF's document requests meet all three of the above-recited exceptions to the qualified privilege: (1) the information APF seeks, as explained above, is "material and relevant" to the case; (2) the information sought "cannot be reasonably obtained by alternative means"; and (3) the information sought "is necessary to the proper preparation or presentation of the case of a party seeking the information, document, or item," i.e., APF's "proper preparation or presentation" of the public interest exception defense at trial in this case.

The fallacious logic upon which Plaintiffs' journalist privilege argument rests would mean that in any case where a journalist is directly involved—either as a suing party or a disinterested third-party—the party on the other side of the case would not, under any circumstances, be allowed to request any discovery. Such a conclusion is absurd, and the statute expressly prohibits a party from asserting the privilege. *See* O.C.G.A. § 24-5-508; *see also In re Paul*, 20 Ga. at 684–85; *Atlanta Journal-Constitution v. Jewell*, 251, Ga. App. 808, 811 (2001). Accordingly, the journalist privilege does not apply to this case and Plaintiffs should therefore be compelled to respond to APF's document requests fully.

CONCLUSION

WHEREFORE, for the reasons stated above, APF respectfully requests this Court to grant APF's Motion and to compel Plaintiffs to supplement their responses to APF's First Requests for Production of Documents to Plaintiffs. APF reserves its right to seek any attorney's

fees or litigation expenses incurred in obtaining the Court's order if the Court grants such an order.

DISCOVERY CERTIFICATION

The undersigned counsel hereby certify pursuant to the provisions of Uniform Superior Court Rule 6.4(B) that they made a good faith effort to resolve this discovery dispute with opposing counsel prior to invoking the compulsory process of this Court.

Dated: September 16, 2024.

TROUTMAN PEPPER HAMILTON SANDERS LLP

/s/ *Harold D. Melton*
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(404) 885-3000 (phone)
(404) 885-3900 (fax)

Counsel for Defendant Atlanta Police Foundation

CERTIFICATE OF SERVICE

I HEREBY certify that on this 16th day of September, 2024, I caused to be electronically filed a true and correct copy of the foregoing with the Clerk of the Court using the Odyssey E-File system which will automatically send e-mail notification of such filing to all counsel of record.

This 16th day of September, 2024.

/s/ *Harold D. Melton*
Harold D. Melton, GA Bar No. 501570

Counsel for Defendant Atlanta Police Foundation

EXHIBIT A

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

ATLANTA COMMUNITY PRESS COLLECTIVE and LUCY PARSONS LABS, Plaintiffs, v. ATLANTA POLICE FOUNDATION, Defendant.	CIVIL ACTION NO. 24CV001116

DEFENDANT'S FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS TO PLAINTIFFS

Pursuant to O.C.G.A. §§ 9-11-26 and 9-11-34, Defendant, Atlanta Police Foundation ("APF"), requests that Plaintiffs respond to each of the following requests for production by serving written responses and the requested documents on counsel for APF at the offices of Troutman Pepper Hamilton Sanders LLP, 600 Peachtree Street, Suite 3000, Atlanta, GA 30308 on the 30th day following service of these requests.

DEFINITIONS AND INSTRUCTIONS

1. The words "**document**" and "**documents**" mean and include each and every written, recorded, or graphic materials of any kind, type, nature, or description, including but not limited to the following: memoranda; invoices; purchase orders; tapes; stenographic or handwritten notes; written forms of any kind; charts; blueprints; drawings; sketches; graphs; plans; articles; specifications; diaries; photographs; minutes; contracts; reports; surveys; computer printouts; data compilations of any kind; teletypes; order forms; checks; drafts; statements; reports; summaries; books; ledgers; notebooks; schedules; transparencies; recordings; catalogs; advertisements; promotional materials; films; video tapes; audio tapes; brochures; pamphlets; social media posts; or any other materials of any other kind, however stored, recorded, produced, or reproduced.

"Documents" also means and includes drafts, copies, or versions of any of the foregoing that contain any notes, comments, or markings of any kind not found on the original documents or that are otherwise not identical to the original documents.

2. The words "**communication**" or "**communications**" refer to any exchange of information by any means of transmission, sending or receipt of information of any kind by or through any means, including, but no limited to the following: speech; writings; documents; language (machine, foreign or otherwise) of any kind; computer electronics or electronic data; sound, radio, or video signals; telecommunications; telephone; teletype; telexes; facsimile; telegram; microfilm; microfiche; photographic film of all types or other media of any kind. The terms "**communication**" or "**communications**" also include, without limitation, the following: all inquiries; discussions; conversations; correspondences; letters; text messages; e-mail communications; negotiations; agreements; understandings; meetings; notices; requests; responses; demands; complaints; or press, publicity, or trade releases.

3. The words "**you**," "**your**," "**Plaintiff**," and/or "**Plaintiffs**" shall mean Plaintiffs Atlanta Community Press Collective and Lucy Parsons Labs, and any agents, servants, employees, associates, investigators, attorneys, representatives, and all others who possess or may have obtained information and/or documents for or on behalf of you.

4. The singular and masculine form of any word shall embrace, and shall be read and applied as embracing, the plural, the feminine, and the neuter.

5. The use of a verb in any tense shall be construed as the use of the verb in all other tenses, wherever necessary, to bring within the scope of the Request for Production all responses which might otherwise be construed as being outside the scope.

6. You are required to produce the documents described in the Requests for Production that are in the possession, custody, or control of you, your attorneys, and/or any other persons who possess or have obtained documents on your behalf.

7. If you object to any Request for Production and/or do not produce all documents that are responsive to a Request for Production, state with specificity all grounds for each such objection and/or refusal to produce all responsive documents and produce those documents requested by the parts of each Request for Production to which you do not object.

8. You are under a duty seasonably to amend your response to a Request for Production if you, your attorneys, or any other person acting on your behalf obtains information upon the basis of which you or your attorneys know that the response was incorrect when made, or you or your attorneys know that the response, though correct when made, is no longer true and the circumstances are such that a failure to amend the response would be, in substance, a knowing concealment.

9. For each document described in these Requests that you do not produce as requested, please state in your responses:

a. The title or other identifying designation of the document, if any;

b. The basis for not producing the document or a copy thereof, i.e., please state the specific privilege or reason claimed and the foundation for such privilege or reason;

c. A description of the general type or nature of the document, e.g., report, opinion of counsel, memorandum, letter;

d. The name and current or last known address, telephone number, and job title of (i) the document's author; each person who edited, corrected, revised, amended, or reviewed the document; (iii) each person who wrote any initials, comments,

notations, or similar marking on the document; and (iv) each recipient of the document or a copy thereof;

e. A general description of the document's subject matter;

f. The relationship between the author and each recipient of the document; and

g. The particular Request(s) for Production to which the document is responsive.

10. In the event that any document requested herein was in the possession, custody, or control of you, your attorneys, or any other person who obtained information or documents on your behalf but is no longer in the possession, custody, or control of such person, please state what disposition was made of the document and the name, current or last known address, telephone number, and employer of the person or entity who now has possession, custody, or control of the document.

11. In the event that any document requested herein was in the possession, custody, or control of you, your attorneys, or any other person who obtained information or documents on your behalf but has now been destroyed or otherwise disposed of, please specify the date and manner of destruction, the reason for destruction, the identity of the person who destroyed the document, and the identity of the custodian of the document on the date and at the time of its destruction.

12. In the event that any document requested herein has been lost or otherwise misplaced, please identify the person who last had the document.

13. Each paragraph herein shall be construed independently and not by reference to any other paragraph for the purpose of limitation.

DOCUMENTS REQUESTED

1. Any and all documents and communications reflecting the membership (or any changes in membership) of the Atlanta Press Collective's advisory board from January 1, 2021 through the present;

2. Any and all documents and communications exchanged between you and any and all members of the Atlanta Press Collective's advisory board related to the Atlanta Public Safety Training Center (and/or "Cop City") from January 1, 2021 through the present;

3. Any and all documents and communications exchanged between you and Kamau Franklin related to the Atlanta Public Safety Training Center (and/or "Cop City") from January 1, 2021 through the present;

4. Any and all documents and communications exchanged between you and Hannah Riley related to the Atlanta Public Safety Training Center (and/or "Copy City") from January 1, 2021 through the present;

5. Any and all documents and communications exchanged between you and Mariah Parker related to the Atlanta Public Safety Training Center (and/or "Copy City") from January 1, 2021 through the present;

6. Any and all documents and communications exchanged between you and Sam Beard related to the Atlanta Public Safety Training Center (and/or "Cop City") from January 1, 2021 through the present;

7. Any and all documents and communications exchanged between you and Parker Demos related to the Atlanta Public Safety Training Center (and/or "Cop City") from January 1, 2021 through the present;

8. Any and all documents and communications exchanged between you and Frederick Hetzel related to the Atlanta Public Safety Training Center (and/or "Cop City") from January 1, 2021 through the present;

9. Any and all documents and communications exchanged between you and Jack Mazurek related to the Atlanta Public Safety Training Center (and/or "Cop City") from January 1, 2021 through the present;

10. Any and all documents and communications exchanged between you and Scenes from the Forest related to the Atlanta Public Safety Training Center (and/or "Cop City") from January 1, 2021 through the present;

11. Any and all documents and communications exchanged between you and Anarchist Federation related to the Atlanta Public Safety Training Center (and/or "Cop City") from January 1, 2021 through the present;

This 27th day of August, 2024.

TROUTMAN PEPPER HAMILTON SANDERS LLP

/s/ *Harold D. Melton*
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Counsel for Defendant Atlanta Police Foundation

CERTIFICATE OF SERVICE

I HEREBY certify that on this 27th day of August, 2024, I served a true and correct copy of the foregoing upon counsel for Plaintiffs at the e-mail address listed below:

Joy Ramsingh
4203 Union Deposit Road, #1030
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Counsel for Plaintiffs

This 27th day of August, 2024.

/s/ *Harold D. Melton*
Harold D. Melton, GA Bar No. 501570

Counsel for Defendant Atlanta Police Foundation

EXHIBIT B

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

ATLANTA COMMUNITY PRESS COLLECTIVE and LUCY PARSONS LABS,	)	
Plaintiffs,	)	CIVIL ACTION FILE NO. 24CV001116
v.	)	
ATLANTA POLICE FOUNDATION,	)	
Defendant.	)	

PLAINTIFFS' RESPONSES TO DEFENDANT'S FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS TO PLAINTIFFS

Plaintiffs respectfully serve these responses pursuant to O.C.G.A. §§ 9-11-26 and 9-11-34.

RESPONSES TO SPECIFIC REQUESTS

REQUEST FOR PRODUCTION NO. 1: Any and all documents and communications reflecting the membership (or any changes in membership) of the Atlanta Press Collective's advisory board from January 1, 2021 through the present[.]

Response: Plaintiffs object to this request on the ground that the requested information is not "reasonably calculated to lead to the discovery of admissible evidence." O.C.G.A. § 9-11-26. The request seeks information concerning the identity of the requester. *See*, *e.g.*, *Smith v. Northside Hosp., Inc.*, 347 Ga. App. 700, 705 (2018) upholding the trial court's ruling precluding discovery seeking information relating to the identity of an Open Records Act requester, or the requester's purpose(s) in filing the request, despite the fact that such information was relevant to the agency's defense).

REQUEST FOR PRODUCTION NO. 2: Any and all documents and communications exchanged between you and any and all members of the Atlanta Press Collective's advisory board related to the Atlanta Public Safety Training Center (and/or "Cop City") from January 1, 2021 through the present[.]

Response: Plaintiffs object to this request on the ground that the requested information is not "reasonably calculated to lead to the discovery of admissible evidence." O.C.G.A. § 9-11-26. The request seeks information concerning the identity, purposes, or the connections of the requester. *See*, *e.g.*, *Smith v. Northside Hosp., Inc.*, 347 Ga. App. 700, 706 (2018) (noting that determinations under the Open Records Act "must be based on 'the nature of the information' sought, not the connections of the person seeking the information with a nonparty" and forbidding discovery based on the same despite its relevance to the agency's defense) (quoting in part *Atchison v. Hospital Auth. of City of St. Marys*, 245 Ga. 494, 495 (1980)).

REQUEST FOR PRODUCTION NO. 3: Any and all documents and communications exchanged between you and Kamau Franklin related to the Atlanta Public Safety Training Center (and/or "Cop City") from January 1, 2021 through the present[.]

Response: Plaintiffs object to this request on the ground that the requested information is not "reasonably calculated to lead to the discovery of admissible evidence." O.C.G.A. § 9-11-26. The request seeks information concerning the identity, purposes, or the connections of the requester. *See*, *e.g.*, *Smith v. Northside Hosp., Inc.*, 347 Ga. App. 700, 706 (2018) (noting that determinations under the Open Records Act "must be based on 'the nature of the information' sought, not the connections of the person seeking the information with a nonparty" and forbidding discovery based on the same despite its relevance to the agency's defense) (quoting in part *Atchison v. Hospital Auth. of City of St. Marys*, 245 Ga. 494, 495 (1980)).

REQUEST FOR PRODUCTION NO. 4: Any and all documents and communications exchanged between you and Hannah Riley related to the Atlanta Public Safety Training Center (and/or "Cop City") from January 1, 2021 through the present[.]

Response: Plaintiffs object to this request on the ground that the requested information is not "reasonably calculated to lead to the discovery of admissible evidence." O.C.G.A. § 9-11-26. The request seeks information concerning the identity, purposes, or the connections of the requester. *See*, *e.g.*, *Smith v. Northside Hosp., Inc.*, 347 Ga. App. 700, 706 (2018) (noting that determinations under the Open Records Act "must be based on 'the nature of the information' sought, not the connections of the person seeking the information with a nonparty" and forbidding discovery based on the same despite its relevance to the agency's defense) (quoting in part *Atchison v. Hospital Auth. of City of St. Marys*, 245 Ga. 494, 495 (1980)).

REQUEST FOR PRODUCTION NO. 5: Any and all documents and communications exchanged between you and Mariah Parker related to the Atlanta Public Safety Training Center (and/or "Cop City") from January 1, 2021 through the present[.].

Response: Plaintiffs object to this request on the ground that the requested information is not "reasonably calculated to lead to the discovery of admissible evidence." O.C.G.A. § 9-11-26. The request seeks information concerning the identity, purposes, or the connections of the requester. *See*, *e.g.*, *Smith v. Northside Hosp., Inc.*, 347 Ga. App. 700, 706 (2018) (noting that determinations under the Open Records Act "must be based on 'the nature of the information' sought, not the connections of the person seeking the information with a nonparty" and forbidding discovery based on the same despite its relevance to the agency's defense) (quoting in part *Atchison v. Hospital Auth. of City of St. Marys*, 245 Ga. 494, 495 (1980))

REQUEST FOR PRODUCTION NO. 6: Any and all documents and communications

exchanged between you and Sam Beard related to the Atlanta Public Safety Training Center (and/or "Cop City") from January 1, 2021 through the present[.]

Response: Plaintiffs object to this request on the ground that the requested information is not "reasonably calculated to lead to the discovery of admissible evidence." O.C.G.A. § 9-11-26. The request seeks information concerning the identity, purposes, or the connections of the requester. *See*, *e.g.*, *Smith v. Northside Hosp., Inc.*, 347 Ga. App. 700, 706 (2018) (noting that determinations under the Open Records Act "must be based on 'the nature of the information' sought, not the connections of the person seeking the information with a nonparty" and forbidding discovery based on the same despite its relevance to the agency's defense) (quoting in part *Atchison v. Hospital Auth. of City of St. Marys*, 245 Ga. 494, 495 (1980)).

REQUEST FOR PRODUCTION NO. 7: Any and all documents and communications exchanged between you and Parker Demos related to the Atlanta Public Safety Training Center (and/or "Cop City") from January 1, 2021 through the present[.]

Response: Plaintiffs object to this request on the ground that the requested information is not "reasonably calculated to lead to the discovery of admissible evidence." O.C.G.A. § 9-11-26. The request seeks information concerning the identity, purposes, or the connections of the requester. *See*, *e.g.*, *Smith v. Northside Hosp., Inc.*, 347 Ga. App. 700, 706 (2018) (noting that determinations under the Open Records Act "must be based on 'the nature of the information' sought, not the connections of the person seeking the information with a nonparty" and forbidding discovery based on the same despite its relevance to the agency's defense) (quoting in part *Atchison v. Hospital Auth. of City of St. Marys*, 245 Ga. 494, 495 (1980)).

REQUEST FOR PRODUCTION NO. 8: Any and all documents and communications exchanged between you and Frederick Hetzel related to the Atlanta Public Safety Training

Center (and/or "Cop City") from January 1, 2021 through the present[.]

Response: Plaintiffs object to this request on the ground that the requested information is not "reasonably calculated to lead to the discovery of admissible evidence." O.C.G.A. § 9-11-26. The request seeks information concerning the identity, purposes, or the connections of the requester. *See*, *e.g.*, *Smith v. Northside Hosp., Inc.*, 347 Ga. App. 700, 706 (2018) (noting that determinations under the Open Records Act "must be based on 'the nature of the information' sought, not the connections of the person seeking the information with a nonparty" and forbidding discovery based on the same despite its relevance to the agency's defense) (quoting in part *Atchison v. Hospital Auth. of City of St. Marys*, 245 Ga. 494, 495 (1980)).

REQUEST FOR PRODUCTION NO. 9: Any and all documents and communications exchanged between you and Jack Mazurek related to the Atlanta Public Safety Training Center (and/or "Cop City") from January 1, 2021 through the present[.]

Response: Plaintiffs object to this request on the ground that the requested information is not "reasonably calculated to lead to the discovery of admissible evidence." O.C.G.A. § 9-11-26. The request seeks information concerning the identity, purposes, or the connections of the requester. *See*, *e.g.*, *Smith v. Northside Hosp., Inc.*, 347 Ga. App. 700, 706 (2018) (noting that determinations under the Open Records Act "must be based on 'the nature of the information' sought, not the connections of the person seeking the information with a nonparty" and forbidding discovery based on the same despite its relevance to the agency's defense) (quoting in part *Atchison v. Hospital Auth. of City of St. Marys*, 245 Ga. 494, 495 (1980)).

REQUEST FOR PRODUCTION NO. 10: Any and all documents and communications exchanged between you and Scenes from the Forest related to the Atlanta Public Safety Training Center (and/or "Cop City") from January 1, 2021 through the present[.]

Response: Plaintiffs object to this request on the ground that the requested information is not "reasonably calculated to lead to the discovery of admissible evidence." O.C.G.A. § 9-11-26. The request seeks information concerning the identity, purposes, or the connections of the requester. *See*, *e.g.*, *Smith v. Northside Hosp., Inc.*, 347 Ga. App. 700, 706 (2018) (noting that determinations under the Open Records Act "must be based on 'the nature of the information' sought, not the connections of the person seeking the information with a nonparty" and forbidding discovery based on the same despite its relevance to the agency's defense) (quoting in part *Atchison v. Hospital Auth. of City of St. Marys*, 245 Ga. 494, 495 (1980)).

REQUEST FOR PRODUCTION NO. 11: Any and all documents and communications exchanged between you and Anarchist Federation related to the Atlanta Public Safety Training Center (and/or "Cop City") from January 1, 2021 through the present[.]

Response: Plaintiffs object to this request on the ground that the requested information is not "reasonably calculated to lead to the discovery of admissible evidence." O.C.G.A. § 9-11-26. The request seeks information concerning the identity, purposes, or the connections of the requester. *See*, *e.g.*, *Smith v. Northside Hosp., Inc.*, 347 Ga. App. 700, 706 (2018) (noting that determinations under the Open Records Act "must be based on 'the nature of the information' sought, not the connections of the person seeking the information with a nonparty" and forbidding discovery based on the same despite its relevance to the agency's defense) (quoting in part *Atchison v. Hospital Auth. of City of St. Marys*, 245 Ga. 494, 495 (1980)).

RESPECTFULLY SUBMITTED: August 30, 2024

[SIGNATURES APPEAR ON THE NEXT PAGE]

RAMSINGH LEGAL	**POOLE HUFFMAN LLC**
/s/ Joy Ramsingh Joy Ramsingh Georgia Bar No. 862332) 4203 Union Deposit Road, #1030 Harrisburg, Pennsylvania 17111 Phone: (844) 744-6882 joy@ramsinghlegal.com	*/s/ Lucas W. Andrews* Lucas W. Andrews Georgia Bar No. 019533 3562 Habersham at Northlake Building J, Suite 200 Tucker, Georgia 30084 Phone: (770) 988-6574 luke@poolehuffman.com

SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

ATLANTA COMMUNITY PRESS COLLECTIVE and LUCY PARSONS LABS, *Plaintiffs*, v. ATLANTA POLICE FOUNDATION, *Defendant*.	)	CIVIL ACTION FILE NO. 24CV001116

CERTIFICATE OF SERVICE OF DISCOVERY

Pursuant to Uniform Superior Court Rule 5.2, I hereby certify that on this 30th day of August 2024, I caused a true and correct copy of Plaintiffs' Responses to Defendant's First Requests for Production of Documents to Plaintiffs, along with a copy of this Certificate, to be served upon counsel of record by Statutory Electronic Service to dominyka.plukaite@troutman.com and harold.melton@troutman.com.

Poole Huffman LLC

/s/ Lucas W. Andrews
Lucas W. Andrews
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Attorney for Plaintiffs

EXHIBIT 2

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

ATLANTA COMMUNITY PRESS COLLECTIVE and LUCY PARSONS LABS, Plaintiffs,	)	
V.	)	Case No. 24CV001116
ATLANTA POLICE FOUNDATION, Defendant.	)	

ORDER DENYING DEFENDANT'S MOTION TO COMPEL DISCOVERY

Having received and considered the Defendant's Motion to Compel Discovery and Brief in Support (filed September 16, 2024) and the Plaintiffs' Response to Defendant's Motion to Compel Production (filed September 25, 2024) and having heard oral argument from counsel for both sides on September 30, 2024, the Court hereby **DENIES** the Defendant's Motion to Compel Discovery.[1]

The Court concludes that the Defendant's arguments here are substantially the same as those addressed in *Smith v. Northside Hospital, Inc.*, 347 Ga. App. 700 (2018). In *Smith*, the plaintiff was seeking access to records under Georgia's Open Records Act, and the defendant sought information in discovery regarding the identity and motives of individuals on whose behalf, allegedly, the plaintiff was pursuing his claim. 347 Ga. App. at 701. The Superior Court of Fulton County entered a protective order prohibiting the defendant from taking the discovery,

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[1] The Defendant served the discovery requests at issue on August 27, 2024. The Plaintiffs then notified the Court, at a status conference on September 6, 2024, that the Plaintiffs objected to the discovery, pointing the Court to the *Smith* case, and that the Plaintiffs anticipated the need for a discovery motion and court resolution. At the September 6, 2024, status conference, the parties agreed to a process by which the Defendant would file a motion to compel, the Plaintiffs would file a response, and the Court would hold a hearing, all of which happened as agreed.

and the Court of Appeals affirmed. *See id.* The reasoning applied by the Superior Court and the Court of Appeals in *Smith* applies here as well.

The Court finds that Defendant's Motion to Compel was substantially justified, and, in light of the circumstances, an attorney's fees award would be "unjust."

SO ORDERED THIS 3rd day of October, 2024

Honorable Jane C. Barwick
Fulton Superior Court

EXHIBIT 3

Court of Appeals
of the State of Georgia

ATLANTA, November 18, 2024

The Court of Appeals hereby passes the following order

A25I0075. ATLANTA POLICE FOUNDATION v. ATLANTA COMMUNITY PRESS COLLECTIVE et al.

Upon consideration of the Application for Interlocutory Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

24CV001116

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 18, 2024.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Christina Bailey Smith, *Clerk.*

EXHIBIT 4

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

Brant Meadows Plaintiff/Petitioner	Case No.: **25CV009429**
vs. **Brad Raffensperger, John and/or Jane Doe** Defendant/Respondent	AFFIDAVIT OF SERVICE OF **COMPLAINT; SUMMONS; PLAINTIFF'S MOTION FOR RULE NISI**

Received by **Roosevelt Watt II**, on the **24th day of July, 2025 at 7:11 AM** to be served upon **CEO or Clerk of Secretary of State** at **214 State Capitol, Atlanta, Fulton County, GA 30334**.
On the **12th day of August, 2025 at 10:12 AM**, I, **Roosevelt Watt II**, **SERVED CEO or Clerk of Secretary of State** at **214 State Capitol, Atlanta, Fulton County, GA 30334** in the manner indicated below:

SUBSTITUTE SERVICE, by personally leaving **1** copy(ies) of the above-listed documents at his/her usual place of abode with **Charlene McGowan**, who is 15 years of age or older, a person residing therein of who confirmed the Defendant resides at the above address and informed that person of the contents thereof.

THE DESCRIPTION OF THE PERSON WITH WHOM THE COPY OF THIS PROCESS WAS LEFT IS AS FOLLOWS:
I delivered the documents to Charlene McGowan who identified themselves as the general counsel, with identity confirmed by subject stating their name. The individual accepted service with direct delivery. The individual appeared to be a brown-haired white female contact 45-55 years of age, 5'4"-5'6" tall and weighing 140-160 lbs.

Service Fee Total: **$85.00**

Per 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

NAME: _____ N/A 8-13-2025
Roosevelt Watt II — Server ID # — Date

Notary Public: Subscribed and sworn before me on this 13th day of August in the year of 2025
Personally known to me X or _____ identified by the following document:

_____
Notary Public (Legal Signature)

MARVIN WOOLEY NOTARY PUBLIC COMMISSION EXPIRES Jan. 21, 2027 DEKALB COUNTY, GA

REF: **25CV009429 Meadows**

Tracking #: **0182009033**

24-EX-001596

FILED IN OFFICE

DEC 20 2024

CHE ALEXANDER
Clerk of Superior Court
Fulton County, Georgia

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

Administrative Order No. 2024-EX_____

ORDER FOR THE APPOINTMENT FOR PROCESS SERVICE 2025

Having read and considered the petitions and criminal records, it appears to the Court that sufficient grounds exist whereby each petitioner meets the requirements for the appointment by the Court,

IT IS HEREBY ORDERED and ADJUDGED that the following:

Adams John George Jr.
Aguirre Antuan
Allen Lakeita
Anschutz Edwin J.
Armstrong Christopher J
Armstrong Cynara J
Armstrong Michael
Armstrong Michelle D.
Atkinson-Meiklejohn Chelsea
Backo Mustafa
Bailey Anna
Bailey Santonias DeVon
Banks Randy
Barbagelata Daniel
Barbagelata Gavin
Barnes Kristopher
Barney Steven Michael Jr.
Barron Shane W.
Basham James S.
Benito Richard
Bethel Vaquisha
Beyene Euael
Billings Omari
Blakeney Cody
Blakeney Kristian John
Blalock James Stephen Paul
Bolling Katherine DeVore
Brazeman Craig Philip
Brewster Celeste
Bridges Kayla D.
Briley Donnie
Brown Irish
Brownlee Savshywa
Bryant Shemika
Bunch Kim
Burke Nayshunda
Burns Tamara
Byer Edmond J.
Chastain Michael Alan
Chester Rosetta L
Childress Clifton
Clemmons Joyce
Cline Travis Daniel
Cochrane Babette D.
Cooke Latoria
Cotton Charles
Crossland Christina
Cunningham Sally
Dalman Alexandra
Dalman Jonathan
Dambach-Cirko Patriciajoyce
Daniel Nakisha
Davidson Danny
Davidson Mitchell T.
Davis Mitch
Day Duane D.
Derricho, David Jr.
Dolbier Jeffrey A.
Earthrise Rochelle
Echols Eric D.
Echols Patricia
Elliott Maurice
Emile Kirby Treshawn
Farkas Bela
Faulkner Dana
Fazzio Dedrea
Ferguson Reginald B
Ferrero Amy Lynn
Fisher Dawn W
Fitzgerald Floretta
Fletcher Nia
Floyd Anton
Folds Catherina Pilar
Fox Juhani Allen
Freese Jessica Renee
Fuller Thomas Wayne
Galvin Elizabeth
Garmon Daylien
Garmon Jason
Garner Jennifer R
Gayle Earl Winston
George Randal
Gibbs Thomas III
Gibson Chelsea L.
Giles Herbert
Gotell Rachel P.
Graham Lamone
Green Anjenai G.
Green Melba J
Greenway Kimberly
Gunnels Jamie
Gunnels Matthew
Gunther Melissa
Guthridge Mia
Handley Wiley D.
Harbuck Michael
Harris Parks
Hassan Muhsin
Hassan Muhsin Shahid
Hernandez Bryan
Hicks Andrew Sr
Hightower Anthonio
Hill Hollis J.
Hill Lisa W.
Hines James William
Horton Christopher
Hudson Hakimah
Hudson Kyle
Hunte Karen
Hunter Jermarcus
Irvin Elizabeth
Irvine Xavier
Iyaniwura Gbolabo
James Frank Hugh
Johnsong Earl
Kahssu Haile
Kenerson Lorenzo
Khalill Jobena
Kirkland Shirley P.
Kotlar Michael J.
Laster Beverly L.
Lausman Marsha
Lawson Zuri M.
Lee Jeremy
Lewis Crystal
Lewis Kevin J.
Louis Clyde
Maggard Andrew
Maggard J Daniel
Mallas Nicholas
Mathes Gabrielle
McClellan Rodney
McMillon Ericka
Mgbor Daniel O.
Mitchell Kevin J.
Moore Brad
Mostafa Vernon H.
Muhammad Kabir
Murphy Alesia
Murphy Gregory Jr.
MURPHY SHARON
Murrieta Fancisco
Nolen Milton
Obrien Christopher
Oleary Christine L.
Pannell Nicole D
Parker Atari
Parker Ernesqueshia
Perlson Marc
Phelan Ross
Porter Gregory
Ransom Marcus
Ransome Maurice
Rashid Hassan M.
Reckersdrees Thomas
Rhodes Kathryn D.
Richardson Clark
Richardson Leroy
Rivers Michael
Rowe Lynn
Rucker Keith A.
Ruddock Margaret
Rutherford Danyelle
Sanders Shakilla
Saxon Jasmine N
Saxon Rashad L.
Saxon Robin L
Saxon-Ford Virginia
Seklecki Christian
Singletary Samuel
Singleton Wanda Mae
Singleton Wesley G.
Sistrunk Alesha
Smith Norei Chenice
Smith Ronald L.
Snellings Sharon
Soleyn Gracelyn
Stanton Christopher
Starks Marc
Stephens Geri S.
Stewart Ronnie N.
Stiggers James
Stover Cierra
Spears Joye L.
Swindle Frank
Swinger Ina L.
Tassaw Berhane
Tassaw Semiyea
Tatum Kristi
Taylor Tyrian Reginald
Temitope Ode
Thomas Corvon
Thomas Jeffrey Alan
Thompson Chrissana
Thompson Vanessa
Thrash Nancy
Tibbs Mariah E.
Tort Henry
Travis Christy L
Turner Travis Davon
Tuttle Garry
Watt Roosevelt II
Winkelman Nan L.
Wolfe Lisa
Yancey Shadae
Yellig Edward

be appointed and authorized to serve as a Permanent Process Server in the Fulton County Superior Court, for the calendar year 2025, without the necessity of an order for appointment in each individual case.

BY ORDER OF THE COURT this 20th day of December, 2024.

Ural Glanville

Chief Judge Ural Glanville
Fulton County Superior Court
Atlanta Judicial Circuit

EXHIBIT 5

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

Brant Meadows, Plaintiff, v. Brad Raffensperger, et al., Defendants.	CIVIL ACTION FILE NO. 25CV009429

NOTICE OF FINAL HEARING

The above-styled action is set for a final hearing before the Honorable Scott McAfee in the Superior Court of Fulton County on the 23rd day of September, 2025, at 9:00 a.m. in Courtroom 5A, 136 Pryor Street S.W., Atlanta, Georgia 30303.

The failure to appear by any party could result in dismissal of the action, default judgment, or other sanctions. Please note that the Court will not supply a court reporter for take-down of the hearing. If the parties would like the hearing recorded, they are advised to make arrangements with an outside court reporter.

SO ORDERED this 26th day of August, 2025.

Judge Scott McAfee
Superior Court of Fulton County
Atlanta Judicial Circuit

Filed and served electronically via eFile-GA.