January 18, 2024

Via: Electronic Mail to GA GOP Leadership and GA GOP District 11

Petition to Remove District Chairman David E. Oles for Cause

On April 22, 2023, pursuant to GOP Convention, Harvard elitist David E. Oles was appointed 11th Congressional District GOP Chairman, Pickens County GOP Vice Chair of Communications and Pickens County Parliamentarian. David E. Oles is a voting member of the GA GOP's State Committee and State Executive Committee.

In contravention of GA GOP Rules and the laws of the State of Georgia, on December 20, 2023, District 11 Chairman David E. Oles posted a notice on the Pickens County Republican Party Facebook page stating that, pursuant to party rules enacted September 25, 2023, any candidate seeking to run for Pickens County GOP ticket must be interviewed by the Pickens County GOP (the "PCRP Politburo") on January 20, 2024 at 10am to 12pm. The statement expressly states failure to be interviewed and approved by the PCRP Politburo will result in the candidate not being placed on the ballot. **EXHIBIT A**

The local adoption of this so-called local "accountability" qualifying rule is an act of subversion contrary to the rules of the GA GOP. This is the stuff of totalitarianism and its variants fascism and communism. According to reporting by Greg Bluestein with the AJC, the Georgia Republican Assembly ("GRA"), attempted unsuccessfully to have the Georgia GOP adopt the rule. **EXHIBIT B.** The failed GRA amendment expressly sought the addition of a new GOP Rule 10.4 giving the County GOP the right to refuse to qualify someone for county office.

> "…[T]here shall be an opportunity for delegates to move that the GAGOP not qualify specific individuals for public office as a Republican" and that "Nothing in these rules shall prevent a county GOP from refusing to qualify someone for county office… Any GAGOP officer or employee who takes any step toward qualifying someone prevented from doing so by a vote of the state convention, or assists them in doing so through action or inaction, shall be deemed to have automatically and immediately resigned from the GAGOP, and their actions shall be considered void and without authority."
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> **EXHIBIT C**

According to an article by Jimmy Holbrook of Chattooga 1180, Chattooga County's State Court Solicitor, Sanford Buddy Hill, informed The Chattanooga Times-Free Press that qualifying with the local party isn't required by law, and as an attorney, he's prepared to take the county's Republican Party to court if necessary. **EXHIBIT D**

Both Oles and PCRP Politburo Chairman Christopher Mora were GRA endorsed candidates. David E. Oles, maintains a highly visible public profile as a GRA activist in his official role as District 11 Chairman. For example, after Governor Kemp accused Sen. Moore of engineering a grifter scam relating to Moore's attempts to impeach Fani Willis in relation to the Trump Rico case, on District 11 letterhead Oles blasted GA Senate Majority Leader Gooch expressing "shock" "disappointment" and alleging "horrifying developments" infringing on Moore's "unalienable right to freedom of speech". **EXHIBIT E.**

Mora (L), Oles (R)

Subsequent to becoming District 11 Chairman, Oles has engaged in improper litigation conduct by filing facially frivolous election related pleadings in Pickens County CAFN 2022SUCV0327 alleging sealed ballots are "***public records"*** within the meaning of the open records act. Oles filed the petition act on behalf of PCRP Politburo Chairman Christopher Mora in his alleged "personal capacity" as an elector. Oles's hostile pleading demanded attorney fees alleging the county violated the open records act. Pursuant to a verified Answer, the verified pleadings factual statements are squarely challenged. **EXHIBIT F.**

The Oles and Mora petition catapulted Oles and Mora into the national spotlight and was reported on by the Washington Post. According to a WAPO article, the local county attorney, Mr. Landrum, pointed out to the trial court that the petition was a trojan horse and

> Landrum "wondered whether the original push for a hand recount was being used as a pretext to get the sealed ballots declared public records, and he began imagining what might happen if a judge agreed. 'They could send an open-records request to all 159 counties in Georgia with that judge's order stapled to it," Landrum said. "Any citizen could get those records for any reason. If you have that declaration, then that is your Trojan horse. You've gotten under the tent, and you can do whatever you want with the ballots now.'"
> **EXHIBIT G**

The WAPO article further reported that while the Oles/Mora petition was pending, the election board members were being barraged with form letters urging them to "officially in public session discuss and vote to conduct a hand recount." *Id.* As a result of the pressure campaign, at the next meeting the Board "voted" to adopt a resolution directing Landrum to write an order to unseal the ballots. David Oles was present and stated "I want to congratulate the board for showing courage here today," Oles said." *Id.* However, Landrum refused and informed the Board that violating the open records act is a crime. *Id*. At the hearing on Mora's petition to unseal the ballots, Landrum informed the trial court that "[t]he lawsuit in front of us is an open-records violation," he said. "***The board cannot agree to the commission of a crime***." *Id.* The trial court agreed and denied the frivolous petition. *Id*

This conduct by attorney David E. Oles, a Harvard elitist, in supporting the board in violating the law to improperly unseal records without a court order is not surprising. In his capacity as an

attorney, David E. Oles was found beyond a reasonable doubt of criminal contempt for willful refusal to abide by a sealing order of the court. See Cobb County CAFN 2009-0069335.

> For all the above and foregoing reasons, the Court finds beyond a reasonable doubt that Attorney Oles willfully violated the Court's orders of October 6, 2006, March 5, 2007 and May 21, 2007.

Exhibit H

At Oles's criminal contempt hearing, the trial court made a finding of fact that Oles's explanation for violating the court's sealing order was "disingenuous" (i.e. the court found that Oles is a liar).

> A plain reading of the Court's order of October 6, 2006, coupled with the subsequent orders of the Court, make such a tortured reading of the Court's order disingenuous.

Exhibit H

It is unknown whether attorney Oles coordinated with the other activists in the continued pressure campaign to have the board unseal the records after Oles filed the Mora petition to unseal. However, per the WAPO article, Oles's clearly supported the pressure campaign by publicly congratulating the board in what Landrum describes as a crime. One document floating around on the internet indicates there was multi-county coordination among activists and the Mora lawsuit is referred to as "our case". The Mora suit was filed June 24th and the e-mail campaign directed at the Board commenced July 7th.

Pickens County BOE - Hand Recount Request Timeline

It has come to my attention that it would be helpful if we could provide some insight into what has been going on with the BOE and the citizens of Pickens County since June 8th when we requested the hand recount of the Republican Governor and Secretary of State races. What has transpired since we started our journey is very confusing. The below timeline will provide some clarity. However, keep in mind what we are attempting to do has never been done. There are many gray areas in the election code, and much is left to interpretation. Next up our case (Mora Lawsuit) will be heard by a Superior Court Judge in Cobb County on September 19th, 2022.

Friday June 24th
Friendly lawsuit was filed in the AM to unseal the ballots in the Appalachian Superior Court. In the afternoon Chief Judge Weaver recused herself.

Tuesday June 28th
Appalachian Superior Court Judges Worcester and Priest recuse themselves.

June 30th
Pickens County BOE holds an executive session/meeting. Since this was an executive session, the agenda was unknown.

Thursday July 7th
We started an email campaign directed to all the BOE members requesting them to move forward with a hand recount.

EXHIBIT I

In Fulton County CAFN 2019CV316544, Oles is being sued for four counts of fraud based on allegations of intentional overbilling and unauthorized settlement arising out of his conduct as an attorney. In Oles's own words, Oles will compromise and settle a client's claims without his client's approval.

Please note that if I have to sue you over the unpaid fees, I will be permitted to reveal your confidential information as needed in that litigation. See Georgia Rule Professional Conduct 1.6. In addition, as your current counsel of record in each of these four cases, I retain the right to take any action I deem appropriate in pursuit of your cases, including compromising and settling them with the other side with or without your approval. See Rule 1.2 Govern yourself accordingly.

Sincerely,

David Edward Oles, Esq.
GA Bar. # 551544

One wonders what David Oles will do when certifying nominees or when casting secret ballots to determine if a candidate meets Oles's personal criteria to run for office.

Subsequent to being appointed District 11 Chairman, in August 2023 Oles and his counsel filed documents in Fulton County Superior Court, CAFN 2019CV316544, demanding the trial court deny the Plaintiff her constitutional and statutory right to a trial by jury. The GA GOP platform plainly establishes that the aims and purposes for participation in the party are founded, in part, upon the following:

1. We believe in the Constitution, written not as a weak and bendable document, but as an enduring solemn league and covenant between the sovereign States.

2. We believe that our constitutional system of limited government, separation of powers, federalism, and the rights of the people — must be preserved uncompromised for future generations.
3. We believe that personal freedom and personal morality are indivisible. When personal freedom and personal morality are separated — society is in peril; when they are united, liberty and tranquility reigns.
4. We believe in the right of all Americans to enjoy their God-given liberties and to have equal access to the law and the courts for redress when those rights are violated.

In CAFN 2019CV316544, a motion remains pending for sanctions against Oles with a request that the Court consider criminal sanctions arising out of Oles's attempt to disrupt the court proceedings and interfere with the orderly administration of justice by Oles's attempt to violate a pretrial order and an attempt to deprive a party of a constitutional and statutory right. **EXHIBIT J, EXHIBIT K.**

Previously in CAFN 2019CV316544, Oles sought to prevent the Plaintiff from filing documents in the public record relating to alleged improper litigation conduct by Oles. Oles demanded the court declare the Plaintiff a "vexatious litigant" and institute a **star chamber** limiting the Plaintiff's rights to petition the court and disclose allegations supported by fact relating to Oles's various alleged improprieties. In his demand for a star chamber, Oles alleged that none of the Plaintiff's claims had factual or legal merit and contain defamatory statements that Oles both lied to the Court and committed other crimes.

> "shot-gun motions and briefs" Plaintiff has filed that "lack legal and factual merit, recycle arguments set forth in prior motions, and contain defamatory accusations that Defendants and their counsel have lied to the Court and committed other crimes." Defendants maintain that as a result of Plaintiff's filings, they have spent an incredible amount of time and expense responding to her motions. As a result, Defendants request the Court bar Plaintiff from filing any more motions or supplemental briefs without first obtaining leave of Court.

EXHIBIT L[1]

The Court denied the Ole's request for a star chamber and found that Oles failed to prove the allegations that Oles lied to the court and committed other crimes lacked substantial justification.

[1] FULTON COUNTY ORDER: Tatyana Ellis v. David E. Oles, etal CAFN 2019CV316544

that warrants placing restrictions on her ability to file pleadings and responses. Id. The Court also finds Defendants have failed to prove that Plaintiff's claims and motions lack substantial justification and are an abuse of the law. As a result, Defendants' Motion is **DENIED**.

EXHIBIT L[2]

According to affidavits filed into CAFN 2019CV316544, David Oles's paralegal and paramour, Dona Webb, contacted the spouse of the plaintiff and alleged that Oles viciously beat her all over her body and slammed her heading into a kitchen island and left her lying on the floor unconscious for over an hour. Oles's paralegal and paramour further alleged that Oles and his attorney threatened to disparage her character and mental health if she provided the Plaintiff with information supporting Plaintiff's claims against Oles. Several months prior to the alleged beating, public records show that Police were called to Ms. Webb's house because Oles had a handgun and was threatening to shoot himself. **EXHIBIT M.**

Oles is attempting violate GA GOP Rules and GA Law by requiring candidates participate in an interview before him and other members of the PCRP Politburo for *approval* to run for elected office. Even if the PCRP Politburo could exercise such vast powers to interfere with democracy, Oles's conduct in publicly undermining GA GOP objectives and history of alleged violations of the individual liberties his client and his paramour are germane to the propriety of his character and relevant to his role in such a powerful politburo.

Oles maintains a highly public profile as an attorney filing public litigation relating to the republican party and / or election integrity in cases that have made local, state, and national media attention.

- Local Counsel for Stephen Cliffgard Lee in the Trump Fulton RICO case State of Ga v. Trump et al; Fulton County 23SC188947
- Acting as attorney for the Fulton County Republican Party v. Fulton County Board of Commissioners in Fulton County CAFN 2023CV382174[3]
- Acting as local counsel for True the Vote in Fulton County State Election Board v. True The Vote; Fulton County CAFN 2023CV382520.
- Counsel for Christopher Mora v. Pickens County Board of Elections, and Stacey Godfrey, Supervisor of Elections; Pickens County CAFN 2022SUCV0327

I. AUTHORITY TO REMOVE DISCTRICT 11 CHAIRMAN DAVID OLES

The Rules of the Georgia Republican Party, Inc. (the "GOP Rules") allow for removal of officers and district committee members for cause. See Rules 7.5(A) and 8.16(A). Likewise, the

[2] FULTON COUNTY ORDER: Tatyana Ellis v. David E. Oles, etal CAFN 2019CV316544

[3] Apparently, Oles thinks he and his politburo comrades may determine who can run for elected office, but the Fulton County Board of Registration and Elections has no authority to refuse to accept the nomination of board members. Oles is the quintessential carpetbagger.

11th District may also remove members for cause pursuant to Rule 2.07. Under Rule 2.07(b)(iii) conduct detrimental to the party is grounds for removal.

II. ARUGMENT IN SUPPORT OF REMOVAL OF DISTRICT 11 CHAIRMAN DAVID OLES

Count I

Subversive GOP Activities

In contravention of GA GOP Rules and the laws of the State of Georgia, on December 20, 2023, District 11 Chairman David E. Oles posted a notice on the Pickens County Republican Party (the "PCRP Politburo") Facebook page stating that any candidate seeking to run for Pickens County GOP ticket **must be interviewed by the PCRP Politburo on January 20, 2024 at 10am to 12pm**. The statement expressly states failure to be interviewed and approved by the PCRP Politburo will not be placed on the ballot. **EXHIBIT A**

a) The PCRP Politburo's September 25, 2023 amendment to the rules was not in accordance with the GA GOP rules and CALL, and therefore contrary to Georgia law.

Pursuant to the Call for the 2023 Georgia Republican Precinct Causes and For County, Congressional District and State Conventions:

- Precinct Caucus in Counties under 80,000 population and County Conventions scheduled for March 11, 2023
- 9.1(B) THE STATE CALL 9.1mandates that counties may adopt or amend rules pursuant to rule 9.8
- 9.8 Adoption and Filing of County and District Rules mandates that amended rules shall be by convention and such amended rules shall not be inconsistent with the Rules of GRP. Upon amending, a certified copy shall be filed with the District Chairman, Secretary of the GRP, and with the superintendent of the County
  EXHIBIT N

Thus, on its face the September 25, 2023 amendment is not in accordance with the Call and therefore, contrary to the rules of the GA GOP. If that isn't repugnant enough, at the 2023 Convention, the GA GOP refused to pass a GRA resolution adding a new GOP Rule 10.4 giving the County GOP the right to refuse to qualify someone for county office.

> "…[T]here shall be an opportunity for delegates to move that the GAGOP not qualify specific individuals for public office as a Republican" and that "Nothing in these rules shall prevent a county GOP from refusing to qualify someone for county office… Any GAGOP officer or employee who takes any step toward qualifying someone prevented from doing so by a vote of the state convention, or assists them in doing so through action or inaction, shall be deemed to have automatically and immediately resigned from the GAGOP, and their actions shall be considered void and without authority."
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> **EXHIBIT C**

According to Georgia Law, it is the duty of the **state executive committee** to "formulate, adopt, and promulgate rules and regulations, consistent with law, governing the conduct of conventions and ***other party affairs.*****"** OCGA 21-2-111(b). Such rules and regulations shall be filed with the Secretary of State, and no amendment to such rules and regulations shall be effective unless filed with the Secretary of State at least 30 days prior to the date of such convention.[4] Under Georgia Law, the county executive committees "shall formulate, adopt, and promulgate rules and regulations, consistent with law and the rules and regulations of the ***state executive committee.*** OCGA 21-2-111(c). No such county rule and regulation shall be effective until copies thereof, certified by the chairperson, have been filed with the superintendent of the county. *Id.* Further, OCGA 21-2-113(a) states in plain language that a county executive committee may ***only*** adopt rules and regulations **consistent with law and the rules and regulations of the state executive committee** and no such rule or regulation shall be effective until a copy, certified by the chairperson, has been filed with the county superintendent. OCGA 21-2-113(b).

b) The PCRP Politburo unlawfully establishes the qualification period as a two-hour window!

The PCRP Politburo has issued public statements that any person wishing to run for Pickens County GOP ticket must be interviewed by the PCRP Politburo on January 20, 2024 at 10am to 12pm. **EXHIBIT A**

The Georgia Election Code, including Municipal elections, is governed by Title 21, Chapter Two of the Official Code of Georgia ("Georgia Election Code"). As matter of Georgia law, OCGA 21-2-153(c)(1) plainly mandates that the qualification period for county nomination for a county primary "shall commence qualifying at 9:00 A.M. on the Monday of the eleventh week immediately prior to the state or county primary and shall cease qualifying at 12:00 Noon on the Friday immediately following such Monday". Thus, the PCRP Politburo's two-hour qualifying period is plainly unlawful.

c) The PCRP Politburo unlawfully establishes an interview process to determine if nominees meet their radical standards and support for an elitist administrative state.

Oles and the PCRP Politburo require interviews to determine who may qualify for GOP. However, the GA GOP Rules have no such provision and stipulates membership as follows:

- Rule 1.1 mandates that all electors, as defined by OCGA 21-2-2(7), who are in accord with the principles of the Republican Party, believe in its declaration of policy and are in agreement with its aims and purposes may participate as members of the Georgia Republican Party.
- Rule 1.2 PUBLICATION OF QUALIFICATIONS states that the qualifications and conditions for participation in the GRP shall be published in all official calls for precinct

[4] When no convention is used, the qualifying period for county nomination begins at 9:00 AM on the Monday of the thirty fifth week prior to the election and ends at 12:00 noon the following week. OCGA 21-2-132(d)(3). Municipal qualifying periods are determined by the County superintendent, but shall not commence earlier than 8:30 AM on the third Monday in August and also lasting a week. OCGA 21-2-132(d)(4)

caucuses and conventions called pursuant to these Rules and pursuant to the Rules and Call of the Republican National Convention.

- Rule 10.2 places no additional restrictions on electors who wish to run for public office under the Republican platform except, pursuant to Rule 10.3, the party chose to avail itself of the statutory right to have the candidate sign an oath pursuant to OCGA 21-2-153(b)(4).

Pursuant to OCGA 21-2-172, any political body desiring to nominate its candidates qualifying with petitions by convention for the nomination of candidates for any state, district, or county office shall, through its ***state executive committee***, adopt rules and regulations governing conventions in conformity with the Code. Nothing in the Georgia GOP's 2023 convention Call requires an interview or anything other than the filing of an affidavit. **EXHIBIT K**. Unless the 2024 Call so requires, the PCRP's amendment requiring an interview is unlawful.

d) Opinion: District 11 Chairman Oles may have engaged in one or more an overt acts to commit election fraud.

In neighboring Chattooga County, the Chattooga County's State Court Solicitor, Sanford Buddy Hill, informed The Chattanooga Times-Free Press that qualifying with the local party isn't required by law, and as an attorney, he's prepared to take the county's Republican Party to court if necessary. **EXHIBIT D**. If the actions are illegal, questions remain as to whether the activities violate any of the criminal provisions of the Election Act.

Fascinatingly, Oles is an attorney representing a defendant in the Trump Rico case. While it is for the jury to determine, a fair-minded person could conclude that Oles may have engaged in criminal activity. For example, for county elections the county executive committee is bound by law to certify with the county superintendent its duly nominated candidates. OCGA 21-2-154. Further, OCGA 21-2-132(a) mandates that nominees of political parties nominated in a primary shall be placed on the ballot. Georgia law expressly states that a candidate for party nomination in a state or county primary may qualify by payment of a fee or pauper's affidavit. OCGA 21-2-153(a) and "unless otherwise provided by law, all candidates for party nomination in a state or county primary shall qualify as such candidates in accordance with the ***procedural rules of their party***; provided, however, that no person shall be prohibited from qualifying for such office if he or she:

1. Meets the requirements of such procedural rules;
2. Is eligible to hold the office which he or she seeks;
3. Is not prohibited from being nominated or elected by provisions of Code Section 21-2-7 or 21-2-8; and
4. If party rules so require, affirms his or her allegiance to his or her party by signing the following oath: "I do hereby swear or affirm my allegiance to the (name of party) Party."

OCGA 21-2-153(b)

Further, in the case of a general state or county primary, the candidates or their agents shall commence qualifying at 9:00 A.M. on the Monday of the eleventh week immediately prior to the state or county primary and shall cease qualifying at 12:00 Noon on the Friday. OCGA 21-2-153(c). The PCRP's letter plainly violates the law and the PCRP has no legal authority to refuse to accept a duly qualified nominee. However, their letter plainly states they intend to refuse to qualify an elector who does not appear for an interview within a 2-hour window.

It is my *opinion* that Harvard attorney David Oles may have committed a crime. It is my *opinion* that I find it disingenuous that an attorney could have such a tortured reading of black letter law. Any person who willfully makes any false **nomination certificate** or defaces or destroys any nomination petition, nomination certificate, or nomination paper, or letter of withdrawal, knowing the same, or any part thereof, to be made falsely, or **suppresses any nomination petition, nomination certificate, or nomination paper or any part thereof which has been duly filed shall be guilty of a felony**. OCGA 21-2-564. "A person commits the offense of conspiracy to commit election fraud when he or she conspires or agrees with another to commit a violation of [Title 21, Chapter Two of the Official Code of Georgia]. The crime shall be complete when the conspiracy or agreement is effected and an overt act in furtherance thereof has been committed, regardless of whether the violation of this chapter is consummated." OCGA 21-2-603. Further, except as otherwise provided in Code Section 21-2-565, any person who shall make a false statement under oath or affirmation regarding any material matter or thing relating to any subject being investigated, heard, determined, or acted upon by any public official, in accordance with this chapter, shall be guilty of a misdemeanor. OCGA 21-2-560.

Additionally, the county superintendent is bound by law to determine the sufficiency of nomination petitions. OCGA 21-2-70(2) and is bound by oath to prevent fraud and deceit and to truly, impartially and faithfully perform those duties. OCGA 21-2-70(15). A person commits the offense of criminal solicitation to commit election fraud when, with intent that another person engage in conduct constituting a felony or misdemeanor he or she solicits, requests, commands, importunes, or otherwise attempts to cause the other person to engage in such conduct. OCGA 21-2-604. Any person who intentionally interferes with, hinders, or delays or attempts to interfere with, hinder, or delay any other person in the performance of any act or duty authorized or imposed by this chapter shall be guilty of a misdemeanor. OCGA 21-2-597. Any public officer or any officer of a political party or body on whom a duty is laid by this chapter who willfully neglects or refuses to perform his or her duty shall be guilty of a misdemeanor. OCGA 21-2-596. Any person who intentionally interferes with, hinders, or delays or attempts to interfere with, hinder, or delay any other person in the performance of any act or duty authorized or imposed by this chapter shall be guilty of a misdemeanor. OCGA 21-2-597

e) *Opinion: District 11 Chairman Oles has engaged in conduct detrimental to the party*

Oles's conduct in participation with the PCRP executive committee has made local, state, and national media attention. Engaging in subversive activities that seek to undermine the party, let alone state law, is plainly detrimental to the party. The Rules of the Georgia Republican Party, Inc. (the "GOP Rules") allow for removal of officers and district committee members for cause. See Rules 7.5(A) and 8.16(A). Likewise, the 11th District may also remove members for cause pursuant to Rule 2.07. Under Rule 2.07(b)(iii) conduct detrimental to the party is grounds for removal.

Count II

Oles advanced meritless litigation attempting to unseal ballots while supporting the Pickens County Board of Elections and Registration to commit a crime.

According to a Washington Post article, Oles and Mora stormed a Pickens County Board of Elections and Registration meeting demanding access to sealed ballots.[5] After being instructed to petition the court, Oles filed a hostile pleading demanding unsealing pursuant to the open records act and demanded attorney fees for said alleged violation of the open records act. While the petition was pending, Oles attended a meeting whereby the Board was further pressured to unlawfully unseal the records. When the board indicated it intended to do as pressured, Oles publicly proclaimed "I want to congratulate the board for showing courage here today," County attorney, Mr. Landrum, informed the Board and the Court that such unsealing without a court order is *crime*. **EXHIBIT G**

Oles' legal filing on behalf of Christopher Mora had the stated intent to declare cast ballots public records within the meaning of the open records act. Oles's public actions at election board meetings involved both directly requesting the board unseal ballots and supporting their decision to do so, even while a petition Oles filed was pending before the court.

Oles is a Harvard trained attorney. It is black letter law that the contents of cast ballots are secret and kept under seal. OCGA 21-2-500(c), OCGA 21-2-70(13). By virtue of sealing, the contents of executed ballots, whether physical ballots or contents of a voting machine, are not open to public inspection pursuant to OCGA 21-2-72 and OCGA 21-2-379.24(g). Open records requests relating to sealed documents are expressly exempt from the open records act. See OCGA 50-18-70(b). If there was any doubt, the court's resolved this issue in 2007 pursuant to Smith v. Dekalb County, 288 Ga App. 574 (2007).

At a minimum Oles's conduct, which drew national attention, puts the Georgia GOP in a negative light. As to Oles's actions with the Election Board, a reasonable person could conclude that Oles knew he was requesting the Election Board violate the law and that Oles actively supported such violation. At a minimum, Oles supported the unsealing ballots while he had an open records petition before the court. It is my *opinion* that Harvard attorney David Oles may have committed a crime. It is my *opinion* that I find it disingenuous that an attorney could have such a tortured reading of black letter law. While it is for the jury to determine, a fair-minded person could conclude that Oles may have engaged in criminal activity. A person commits the offense of criminal solicitation to commit election fraud when, with intent that another person engage in conduct constituting a felony or misdemeanor he or she solicits, requests, commands, importunes, or otherwise attempts to cause the other person to engage in such conduct. OCGA 21-2-604.

Regardless, engaging in meritless election litigation creates confusion and distrust with the electorate, actions clearly inapposite to a leader of a political party. Oles's "personal" public actions cannot be separated from his public duties as District 11 Chairman of the GA GOP and attending election board meetings clearly could not be reasonably construed as unrelated to his public political activities, including a leadership position in the GA GOP. The Rules of the Georgia Republican Party, Inc. (the "GOP Rules") allow for removal of officers and district committee members for cause. See Rules 7.5(A) and 8.16(A). Likewise, the 11th District may also remove members for cause pursuant to Rule 2.07. Under Rule 2.07(b)(iii) conduct detrimental to the party is grounds for removal.

Count III

[5] The Pickens County Board of Elections has the powers and duties of the election superintendent and the board of registrars relating to the registration of voters and absentee balloting procedures. H.B. 682 Section 1

Oles seeks to deprive a person of a constitutional and statutory right.

When Oles engaged in public litigation demanding a court deny a party a constitutional and statutory right to a trial by jury, Oles caused damage to the integrity of the Georgia GOP party showing the GA GOP charter is meaningless. The GOP's charter plainly states

1. We believe in the Constitution, written not as a weak and bendable document, but as an enduring solemn league and covenant between the sovereign States.
2. We believe that our constitutional system of limited government, separation of powers, federalism, and the rights of the people — must be preserved uncompromised for future generations.
3. We believe that personal freedom and personal morality are indivisible. When personal freedom and personal morality are separated — society is in peril; when they are united, liberty and tranquility reigns.
4. We believe in the right of all Americans to enjoy their God-given liberties and to have equal access to the law and the courts for redress when those rights are violated.

Engaging in public litigation which demands a party be denied constitutional and statutory rights should be repugnant to any American. Here, Oles is in a position of authority with voting rights in a political party that expressly states in its charter that membership requires a commitment to the constitution and laws. The constitution and laws must be applied equally and impartially. Oles incredulously and repeatedly demands a two-tier system of justice, as further evidenced by Oles subversive actions against the GA GOP and his demands and support to illegally unseal Pickens County ballots.

Oles's public litigation has meaning, relevance, and context to his character and actions as a public leader in the GA GOP. While Oles foments internal party division attacking the "establishment", his conduct and actions show that Oles is an "America First" carpetbagger. Regardless of party affiliation, Oles's conduct should be repugnant to all Americans. Plainly, Oles's public conduct cannot be divorced from his political role as the District 11 Chairman of the GA GOP. The Rules of the Georgia Republican Party, Inc. (the "GOP Rules") allow for removal of officers and district committee members for cause. See Rules 7.5(A) and 8.16(A). Likewise, the 11th District may also remove members for cause pursuant to Rule 2.07. Under Rule 2.07(b)(iii) conduct detrimental to the party is grounds for removal.

III. GOOD FAITH REGARDING A MATTER OF PUBLIC INTEREST

The General Assembly of Georgia finds and declares that it is in the public interest to encourage participation by the citizens of Georgia in matters of public significance and public interest through the exercise of their constitutional rights of petition and freedom of speech. All statements herein have been made in good faith, on information I believe to be true and correct, and which formulates a reasonable ***opinion*** that Oles at a minimum has acted with conduct detrimental to the GA Republican Party. It is my ***opinion*** that Oles has violated civil and criminal election statutes.

Absolutely nothing herein is intended to imply that any member of the Pickens County Republican Party Executive Committee other than David Oles knowingly violated GOP Rules or

state law. David E. Oles is a Harvard trained attorney and was nominated parliamentarian of the PCRP. Absent evidence to the contrary, a fair-minded person could reasonably construe that these members were acting upon the advice and counsel of parliamentarian David E. Oles. As it relates to David Oles, any allegations of criminal conduct are made in good faith supported by facts and reasonable inferences in formulating an opinion that Oles's conduct warrants removal as a District Chairman of the Republican party – a role that has voting rights affecting all Georgia GOP constituents.

CONCLUSION

If this party has any moral compass, it will vote to remove David E. Oles for cause. It is fascinating that Oles wishes to establish the parameters of who is fit to be a Republican via committee interviews and secret votes - this is the stuff of totalitarianism and its liberal variant communism and exactly the sort of thing one would expect from a Harvard elitist. By actions, it is clear Oles seeks to establish an ***Administrative Class*** (aka the PCRP Politburo) as the ultimate arbiter of who can run for elected office. Further, Oles's public conduct makes clear that in his world the ends justify the means. Regardless of political affiliation, Oles's conduct should shock the conscious of any American as morally repugnant and inherently un-American.

It is up to the electors, not a politburo, to elect their party candidate(s). Oles thinks otherwise and he will engage in any conduct he deems appropriate to affect his will on electors and the GA GOP. In his capacity as an attorney, Oles has made written statements that he will take any action he deems appropriate, including compromising and settling his client's claims without his client's approval. Oles is plainly neither bound by ethics nor law in his actions.

> Please note that if I have to sue you over the unpaid fees, I will be permitted to reveal your confidential information as needed in that litigation. See Georgia Rule Professional Conduct 1.6. In addition, as your current counsel of record in each of these four cases, I retain the right to take any action I deem appropriate in pursuit of your cases, including compromising and settling them with the other side with or without your approval. See Rule 1.2 Govern yourself accordingly.
>
> Sincerely,
>
> 
>
> David Edward Oles, Esq.
> GA Bar. # 551544

Oles is a Harvard elitist who moved to Pickens county, grew out his beard, donned a pair of blue jeans, and got active in the PCRP under alleged "America First" advocacy. Upon being appointed leadership within the PCRP and GA GOP, Oles has engaged in actions that undermine public trust in elections and has consolidated power to an administrator to determine who "qualifies" as a republican candidate in county elections.

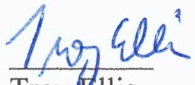
David Oles is exactly the sort of carpetbagger the PCRP Politburo alleges it is attempting to protect the electors from. Make no mistake, Harvard elitist David Oles is as cunning as he is totalitarian. It is clear the end goal is to take decisions away from electors and place them in the hands of a vast and unaccountable administrative class. Plainly, the PCRP's faux claims of

"America First" are juxtaposed by their ***collectivist*** efforts to undermine a constitutional democracy – one rural county at a time.

The people of Georgia deserve much better. The GA GOP must act expeditiously and decisively. Otherwise, Georgian's may well conclude that the Georgia Republican Party is prostrate and incapable of staving off a coupe by any totalitarian carpetbagger who grows a long beard, dons blue jeans, and disingenuously alleges to be America First. Oles is plainly anti-constitutional, and Oles will engage in any actions he deems fit to dismantle the inherent rights of electors.

Do your civic duty and purge District 11 Chairman Oles from his leadership position and dismantle the PCRP Politburo!

Respectfully,



Troy Ellis

1530 Aurelia Drive
Cumming, GA 30041
404-310-6819
troyellis@bellsouth.net

EXHIBIT A

Pickens County Georgia Republican Party
December 20, 2023 at 11:29 AM ·

OFFICIAL NOTICE

Official Notice
Qualifying Process
Pickens County Republican Party

This notice is to inform residents of Pickens County, who are wanting to run as a candidate on the GOP ticket in the upcoming local elections. There have been rule changes per the Pickens County Republican Party (PCRP). The new rules will affect how local candidates are now accepted on to the GOP party ticket.

The rules have been enacted into the Pickens County Republican Party rules as of September 25th, 2023 which was voted on by the entire Pickens County Republican Party County Committee and pursuant to Georgia law, O.C.G.A. 21-2-153. The new qualifying rules are within this notice. Which follows as: The PCRP will be the "exclusive body" to approve potential local candidates for the GOP ticket in Pickens County. The PCRP has empowered the Pickens County Republican Party County Committee (Executive Committee, 12 Precinct Chairman and Secretaries) to approve potential candidates; which includes a declaration of facts (affidavit). All candidates must be interviewed within the time, place, date allotted before the new "qualifying committee" for the approval process to occur. This date meets rules changes standards, that states, "anyone wishing to run as a Republican candidate in any upcoming primary or general election shall apply for PCRP County Committee approval by a date not less than 30 days prior to qualifying start date". One will not be allowed to be on the Republican ballot without having first been approved by the PCRP. Please keep updated calendars for this event.

The Pickens County Republican Party County Committee Candidate Interviews will take place:

- Date: Saturday, January 20th, 2024
- Time: 10am to 12pm
- Place: Pickens County Recreation Center: 1329 Camp Road, Jasper, GA 30143

If there are any questions or concerns, please feel free to contact the Pickens County Republican Party at the contact information below.

David Oles, Vice Chair of Communications – Pickens County Republican Party

Contact: (706) 751-9965 or chair@pickensgop.org

facebook

Log In

Charlie Vickers
I have identified politically as a Republican since I was about 12 years old, so that's 65 years. I don't expect every Republican to believe and support everything I do, nor I them. This mandate is an attempt to form a cookie cutter party. This committee will create the cookie cutter and every cookie, or in this case candidate, must be created only by this single cookie cutter. That's wrong, and not at all what this country is about. If I were a candidate in Pickens County I would be filing as an Independent before bowing to this mandate. You cannot be a candidate and potential elected official that would be representing ALL the people and be beholden to a party's mandate. Our form of government cannot survive without compromise, something sorely lacking in today's politics due to mandates of this sort being created by both party's.

2w

Author
Pickens County Georgia Republican Party
Charlie Vickers Our concern is for one party and one party only, not both. To clarify, this voted upon enactment is a reacquisition of a bylaw that was in place for years prior to 2019 when the 9th district decided make universal bylaws for all counties within their district. We are now reacquiring what stood before. We have always provided a platform for citizens to voice their oppionions or concerns at our monthly meetings. Accordingly, we have persistently encouraged local elected officials to attend and express their oppinions or concerns. Further, it would obviously be in their best interest to interact with the public and those who voted for them, so that they too can express their opinions and concerns. If someone running for office has something to contribute to this narrative, they know where and how to get in touch with us. We, however, did reach out to all elected officials to personally notify them that this bylaw is being reinstated, and have yet to receive a complaint from them.

2w

Craig Stallings
About time we were able to weed out the "born again republicans"

3w

Deborah Galloway
We are appalled at learning a small group of people on a committee will "interview" and then decide, based on the interview, who we will have the opportunity to vote for. A previous commitment in this post is an example just how absurd this process is.

2w

Brian Laurens
Online posts do not official notices make. Facebook is not a legal organ, nor is it the

facebook

Log In

3w

Ashford Schwall
This could be problematic

3w

Linda Jones
This is an abhorrent GRA backed purity test. I really hope all local Republican candidates and elected officials run as independents and deny the PCRP their qualifying fee.

1w

Christina Benjamin

JOIN THE GEORGIA VOLUNTEERS 72 HOUR

Log in or sign up for Facebook to connect with friends, family and ...

Log In or Create new account

EXHIBIT B

Far-right faction pushes to oust 'traitors' from Georgia GOP

Credit: Jason Getz/AJC

By Greg Bluestein

May 9, 2023

A far-right faction that has gained clout in the Georgia GOP wants to give the state party new powers to block candidates from qualifying to run as Republicans if they're deemed to be insufficiently conservative or a "traitor" to the party.

The rule change is being championed by leaders of the Georgia Republican Assembly, a conservative faction that has vilified Gov. Brian Kemp, Secretary of State Brad Raffensperger and other Republicans who rejected Donald Trump's demands to illegally overturn his election defeat.

Under the proposed rule change, the Georgia GOP convention could vote to prevent a political candidate from qualifying to run as a Republican in the next election, giving the state party's 1,500 or so delegates authority to pick favorites in top races.

"If the candidate has shown himself to be a traitor to the principles of the party, then the party can vote to exclude him from qualifying at the next election," Nathaniel Darnell, a GRA leader, said during a recent address to the state Constitution Party.

Credit: arvin.temkar@ajc.com

The activist group has made clear that Kemp, Raffensperger and other Republican officials are a target of their anger. GRA officials frequently blast GOP leaders in speeches and newsletters, and Darnell said the governor and his allies have shown "disdain" to the grassroots.

“The primary for both parties has been corrupted by big money interests, which has harmed the Republican brand,” said the GRA’s president, Alex Johnson, who maintains an overhaul would give “voters an unmediated way to hold their elected officials accountable.”

The proposed rule faces significant obstacles. The state GOP’s rules committee must vet the policy change before it can be voted on by the state GOP convention in June. Even if it clears those hurdles — a prospect that party insiders view as unlikely — it would face immediate legal challenges from the first candidate rejected under the new rules.

“So much for respecting the will of the voters,” Kemp adviser Cody Hall said. “This is a terrible idea that is likely unconstitutional — which isn’t surprising given the source.”

Still, GOP officials take the proposal seriously. And its momentum underscores the Georgia GOP’s focus on far-right policies and pro-Trump conspiracy theories that have sidelined more mainstream activists.

Kemp, who was heckled at the state party’s 2021 convention, plans to skip this year’s gathering and is developing a parallel organization through a committee that can raise unlimited funds. Other statewide Republican officials are also boycotting the June convention.

Credit: Nathan Posner

And the party's outgoing chair, David Shafer, is the target of potential criminal prosecution for his role in the fake elector scheme in December 2020, when he helped organize a secretive ceremony for a pro-Trump slate after Georgia officials validated Joe Biden's narrow victory.

At least half of the false GOP electors recently struck immunity deals with Fulton County prosecutors who are investigating whether Trump and his allies violated state laws, heightening the scrutiny on Shafer and other fake electors who were not part of the deal.

From fringe to a force

Once a fringe organization with little power in state Republican circles, the GRA has recently gained influence. The faction won a string of victories at recent county-level and districtwide meetings and has endorsed a slate of contenders in June elections for top party posts.

A key GRA loyalist is Kandiss Taylor, who campaigned on a slogan of "Jesus, Guns and Babies" in her failed primary challenge last year against Kemp, earning scorn and derision for her attacks on fellow Republicans as Communist collaborators who were part of a "Luciferian Cabal."

Activists last month elected Taylor, who has yet to concede her 2022 primary defeat, to chair

the Savannah-based 1st District GOP. She has called for a purge of every Republican elected official in Georgia and promised "big things" are in store since winning the post.

Credit: Ben Gray for the AJC

GRA activists have long dreamed of changes to rid the party of more moderate candidates but have lacked influence at the highest reaches of the party infrastructure. With those recent victories at local meetings, the faction's leaders say their moment has arrived.

"We're excited about this possibility. We want to strike while the iron is hot," said Darnell, the head of Cobb County's GRA chapter. "And we feel like for the first time, the makeup of the GOP delegates includes enough accountability-minded people that this has a significant chance of passing in the convention."

Johnson, the GRA president, has also exhorted his supporters to embrace the idea — and said he was prepared to defend it in court. He pointed to a 2000 U.S. Supreme Court ruling and the Wyoming GOP's vote to oust former U.S. Rep. Liz Cheney as encouraging precedents.

"This rule, if adopted," Johnson wrote in a recent newsletter, "would compel the Atlanta Establishment to no longer ignore the people back home who do most of the campaigning for them in election season."

Staff writer Mark Niesse contributed to this article.

Related

LISTEN: The Georgia GOP's great divide

In this episode of the Politically Georgia podcast, hosts Greg Bluestein and Patricia Murphy discuss the widening rift...

Kemp will skip this year's GOP convention

Gov. Brian Kemp won't address the Georgia GOP convention this summer, highlighting a deepening rift between the state's...

About the Author

Greg Bluestein

EXHIBIT C

PROPOSED RULE CHANGE TO GAGOP RULES – 2023

I move to amend the GAGOP Rules by adding the following section:

10.4 DISQUALIFICATION OF INDIVIDUALS BY THE STATE CONVENTION

A. At all GAGOP State conventions, there shall be an opportunity for delegates to move that the GAGOP not qualify specific individuals for public office as a Republican.

B. Any such motion that passes by a majority vote of those present and voting shall prohibit the GAGOP or any of its subsidiaries from, through action or inaction, qualifying that person for office, doing anything to help that person qualify for office, or to seek or achieve political office, unless a majority of delegates at a future state convention votes to allow that person to qualify for office again.

C. Nothing in these rules shall prevent a county GOP from refusing to qualify someone for county office.

D. Neither the state committee, nor executive committee of the GAGOP, may vote to prevent someone from qualifying for office, or to rescind or repeal such a decision made by the state convention.

E. Any GAGOP officer or employee who takes any step toward qualifying someone prevented from doing so by a vote of the state convention, or assists them in doing so through action or inaction, shall be deemed to have automatically and immediately resigned from the GAGOP, and their actions shall be considered void and without authority.

F. This rule (10.4) may only be amended or removed by a vote of the state convention.

EXHIBIT D

WZQZ FM 99.1 • AM 1180

December 19, 2023 • by Jimmy Holbrook • Local News, Local News Items • 0

Chattooga County’s State Court Solicitor says that the local Republican Party can’t block candidates from the ballot who wish to run as Republicans in the GOP Primary in 2024.

The Chattooga County Republican Party says that they have established a five-person committee that will qualify candidates for the upcoming election, but some have questioned what criteria the committee will use to determine if a person can appear on the ballot. The local Republican Party Chair Jennifer Tudor has said that if a person is a “conservative Republican” they won’t have any problem getting on the ballot. But some question why five people get determine if a candidate is “conservative” enough to run.

The Chattanooga Times-Free Press spoke with State Court Solicitor Sanford Buddy Hill over the weekend. According to the newspaper, Hill said that qualifying with the local party isn’t required by law, and as an attorney, he’s prepared to take the county’s Republican Party to court if necessary. Hill was one of the first Republicans elected to office in Chattooga County at a time when almost all local office

political party or file a notice of candidacy.

Hill said he doesn't think the rule is legal or good for the party. "All that does is divide people," he said of the rule. "If the Republican Party wants to be a big party, a party of inclusion, they should welcome them to the ticket and let the voters choose."

See more in the Chattanooga Times-Free Press Here (subscription required).

Comments

Leave a Reply

You must be logged in to post a comment.

EXHIBIT E

District Georgia Republican Party

September 29, 2023

Via: Electronic Mail to gracie.boortz@senate.ga.gov

Hon. Steve Gooch
Georgia Senate Majority Leader
236 State Capitol
Atlanta, GA 30334

Dear Senator Gooch:

I write to express my shock and disappointment after reading the unsigned statement issued by Georgia Senate Republican leadership against Senator Colton Moore.

Yesterday I witnessed Republican leadership trample upon 250 years of respect for fundamental rights and the rule of law. No mere lip service to respect for other viewpoints can disguise the attack on Senator Moore's unalienable right to freedom of speech, and his right to advocate redress for what thousands of Georgians – and his constituents - consider to be an unfair, politically-motivated persecution of our fellow Republicans. As members of a deliberative body, Senate Republicans well understand that the proper response to speech is other speech, not punishment for the speaker.

Conspicuously absent from the statement is due process of law's guarantee against abusive power. The statement identifies no rules that were allegedly broken, nor any process afforded to Senator Moore to defend himself against the charges before being cast precipitously out of the caucus.

This horrifying development is emblematic of what many believe ails Georgia politics: a tendency to favor the interests of legislators over the interests of the citizens of Georgia. Is this truly the leadership we may expect from Georgia Senate Republicans? The people of Georgia, and Senator Moore, deserve much better.

This letter is a request that Senate leadership immediately reconvene and rescind this ill-conceived sanction. Otherwise, Georgians may well conclude that their Senate Leaders are deaf to their needs and desires. I further extend to you an invitation to address the 11th district Republican committee at its next scheduled meeting.

Sincerely,

Chairman

EXHIBIT F

IN THE SUPERIOR COURT OF PICKENS COUNTY

STATE OF GEORGIA

CHRIS MORA, as an ELECTOR,
Petitioner

CAFN: 2022SUCV0327

v

PICKENS COUNTY BOARD OF ELECTIONS, and
STACEY GODFREY, SUPERVISOR OF ELECTIONS,
Defendants

ORDER SPECIALLY SETTING HEARING

Comes now the Court, sua sponte, and enters the following order, to wit:

1

On this date the court conducted a USCR 5.4 (Early Planning Conference and Discovery Plan) with counsel and after discussion it was agreed that the Defendants would file their motion to dismiss on or before August 15, 2022 and the Petitioner would have until on or before August 30, 2022 to file his response. Thereafter, the court would endeavor to rule on said motion without oral argument pursuant to the relevant Uniform Superior Court Rule. During the period of time between August 30, 2022 and September 19, 2022, the parties would schedule depositions by agreement or notice so that same would be set and ready to go should the court deny said motion with the understanding that should the court grant the motion, the issue of depositions would become moot.

1a

That any and all non-jury matters ripe for hearing are set for 1:30 pm in the Pickens

County Superior Court, Jasper, Georgia. The parties are directed to check with the Clerk's office prior to said date and time for the courtroom assignment.

2.

If any party wants the case to be reported that party is ordered to make the arrangement for same prior to the hearing; failure to comply with this order may result in a waiver; additionally, if any party needs an interpreter that party is ordered to make the appropriate arrangements for same prior to the hearing.

3.

The parties may not remove this case from the calendar by agreement; if the case is settled the parties are directed to immediately notify the undersigned as it is understood that the undersigned is a Senior Superior Court Judge/Mediator/Arbitrator/Special Master and if timely notified can schedule other matters.

4.

If the parties announce that the case is settled, it will not be removed from the calendar by the Court until all the paperwork associated with the settlement has been prepared and signed by all parties.

5.

Where there are conflicts with other Courts, it is ordered that the party or counsel with the conflict make contact with the conflicting court and explain that this is a specially set calendar by a Senior Judge with no other cases scheduled at the same time and therefore no other business to turn to and see if they will yield to this calendar. After making this contact, if you are unsuccessful in getting them to yield to this calendar, you are directed

to so inform the undersigned judge at grant.brantley@cobbcounty.org and include the style of the case in the other court along with its case number and the name of the other judge and his/her telephone number. This cannot be done by calling the undersigned judge but rather must be done as ordered.

6.

If any counsel should have a timely filed "Leave of Absence" filed prior to the date of this order which includes the hearing date set forth herein, then, in that event, said counsel is directed to immediately notify the undersigned at the email address above of that fact to include the date of filing: otherwise, counsel is expected to appear as directed

7.

The Court will proceed at said time to conduct the final trial on all remaining issues which trial will continue thereafter from day to day until completed.

8.

The persons listed on the attached Certificate of Service are directed to review same and advise the undersigned immediately if said Certificate does not include everyone who should have notice of the hearing scheduled herein.

SO ORDERED, this 1st day of August, 2022.

G. Grant Brantley, Senior Superior Court Judge

Office of Senior Judges
Superior Court of Cobb County
30 Waddell Street
Marietta, Georgia 30090-9642
grant.brantley@cobbcounty.org
770-528-1880

Order setting hearing
CAFN: 2022SUCV0327

IN THE SUPERIOR COURT OF PICKENS COUNTY
STATE OF GEORGIA

Chris Mora, an elector,	:	
Petitioner,	:	**Civil Action File No.**
	:	
vs.	:	**2022SUCV0327**
	:	
Pickens County Board of Elections, and	:	
Stacey Godfrey, Supervisor of Elections,	:	
Defendants.	:	

ORDER OF APPOINTMENT OF SENIOR JUDGE

WHEREAS, the judges of the Appalachian Judicial Circuit have recused from the above referenced action,

It is HEREBY ORDERED that Honorable G. Grant Brantley, Senior Judge of the Superior Courts of the State of Georgia, is hereby appointed to preside in this action. He is hereby authorized to conduct proceedings through the conclusion of the above referenced case(s) at times and locations to be determined. This appointment is made pursuant to Uniform Superior Court Rule 25 and O.C.G.A. § 15-1-9.2.

The Honorable G. Grant Brantley is hereby authorized and empowered to preside and discharge all the duties, power and authority of a Judge of the Superior Courts of the Appalachian Judicial Circuit in Pickens County Superior Court.

Let this Order, or a copy hereof, be filed with the Clerk of the Superior Court of Pickens County, Georgia, and with the office of the Ninth Judicial Administrative District.

This, the 28 day of July, 2022.

R. Timothy Hamil, ADMINISTRATIVE JUDGE
NINTH JUDICIAL ADMINISTRATIVE DISTRICT

Copy to: Hon. G. Grant Brantley

IN THE SUPERIOR COURT OF PICKENS COUNTY
STATE OF GEORGIA

CHRIS MORA,
Petitioner,

Civil Action No. 2022SUCV0327

vs.

PICKENS COUNTY BOARD OF ELECTIONS and
STACEY GODFREY SUPERVISOR OF
ELECTIONS,
Respondents

ANSWER

Comes now, PICKENS COUNTY BOARD OF ELECTIONS AND REGISTRATION and STACEY GODFREY, solely in her capacity as the Elections Supervisor for the Pickens County Board of Elections and Registration and not in her individual capacity, by and through counsel, and Answer the above-styled action as follows:

FIRST DEFENSE

Petitioner's Petition fails to state a claim against Respondents upon which relief may be granted.

SECOND DEFENSE

Petitioner's claims are moot.

THIRD DEFENSE

Petitioner lacks standing to sue on the claims for which are the basis of this lawsuit.

FOURTH DEFENSE

Petitioner's claims are barred by the doctrine of laches.

FIFTH DEFENSE

Petitioner's claims are barred in part by the applicable statute of limitations.

SIXTH DEFENSE

Respondents are entitled to the defense of sovereign immunity from the claims asserted by Petitioner, and for that reason, Petitioner's claims should be dismissed.

SEVENTH DEFENSE

Respondents are cloaked with official immunity from suit.

EIGHTH DEFENSE

Respondents are an improper party to this cause of action.

NINTH DEFENSE

Petitioner is prohibited from viewing the ballots and validating the vote count and inspection of such documents would endanger the security of the voting system used in Georgia. Smith vs. Dekalb County, 288 Ga. App. 574 (2007); O.C.G.A. §21-2-379.24(g).

TENTH DEFENSE

This Court lacks subject matter jurisdiction.

ELEVENTH DEFENSE

The relief Petitioner seeks is ultra vires.

TWELFTH DEFENSE

To the extent as may be shown by evidence, Defendant raises all those affirmative defenses set forth in O.C.G.A. §9-11-8 (c) and O.C.G.A. §9-11-12(b).

THIRTEENTH DEFENSE

In response to the specific allegations of Petitioner's Petition, Defendant states as follows:

1.

Respondents admit the allegations contained in Paragraph One of the Petition.

2.

Respondents deny the allegations contained in Paragraph Two of the Petition. In further answering said paragraph, Respondents show that Stacey Godfrey is the Elections Supervisor for the Pickens County Board of Elections and Registration.

3.

Respondents deny the allegations contained in Paragraph Two of the Petition. In further answering said paragraph, Respondents show that the Pickens County Board of Elections and Registration "shall have the powers and duties of the election superintendent relating to the conduct of primaries and elections and shall have the powers and duties of the board of registrars relating to the registration of voters and absentee balloting procedures." H.B. 682 Section 1

4.

Respondents admit the allegations contained in Paragraph Four of the Petition.

5.

Respondents admit the allegations contained in Paragraph Five of the Petition.

6.

Respondents admit the allegations contained in Paragraph Six of the Petition.

7.

Respondents admit the allegations contained in Paragraph Seven of the Petition.

8.

Respondents admit the allegations contained in Paragraph Eight of the Petition.

9.

Respondents are without sufficient knowledge to either admit or deny the allegations contained in Paragraph Nine of the Petition.

10.

Respondents are without sufficient knowledge to either admit or deny the allegations contained in Paragraph Ten of the Petition.

11.

Respondents are without sufficient knowledge to either admit or deny the allegations contained in Paragraph Eleven of the Petition.

12.

Respondents are without sufficient knowledge to either admit or deny the allegations contained in Paragraph Twelve of the Petition.

13.

Respondents admit the first sentence of Paragraph 13 of the Petition. Respondents deny the remaining allegations contained in Paragraph 13 of the Petition.

14.

Respondents deny the allegations contained in Paragraph Fourteen of the Petition.

15.

Respondents are without sufficient knowledge to either admit or deny the allegations as to what Petitioner supports or desires; however, it denies that the Pickens County Board of Elections and Registration anticipates a hand-count of ballots as alleged in Paragraph Fifteen of the Petition.

16.

Respondents are without sufficient knowledge to either admit or deny the allegations contained in Paragraph Sixteen of the Petition.

17.

Respondents deny the allegations contained in Paragraph Seventeen of the Petition.

COUNT ONE
OPEN RECORDS

18.

Respondents incorporate by reference the answers to paragraphs one through seventeen of the Petition.

19.

In answering Paragraph Nineteen of the Petition, Respondents attach the Open Records Request submitted by Petitioner as Exhibit A to this Answer. All allegations of said paragraph in contradiction of Exhibit A are denied.

20.

Respondents deny the allegations contained in Paragraph Twenty of the Petition.

21.

In answering Paragraph Twenty-One of the Petition, Respondents attach the Open Records Request response submitted by counsel for Respondent as Exhibit B to this Answer. All allegations of said paragraph in contradiction of Exhibit B are denied.

22.

To the extent that Paragraph Twenty-Two requires an answer, Respondents admit that Petitioner seeks the order from this Court as described. Respondents deny the remaining allegations contained in Paragraph Twenty-Two of the Petition.

23.

To the extent that Paragraph Twenty-Three requires an answer, Respondents admit that Petitioner seeks attorney's fees from this Court as described. Respondents deny the remaining allegations contained in Paragraph Twenty-Three of the Petition.

24.

In responding to Petitioner's "WHEREFORE" clause and the prayers for relief, Respondents deny the same as pled.

25.

Any and all allegations contained in the Petition not specifically responded to are denied.

WHEREFORE, having answered Petitioner's Petition within the time allowed by law, Defendant respectfully requests:

a. that all of Petitioner's prayers for relief be denied;

b. that this action be dismissed;

c. that all costs incurred by Respondents to defend this action be cast upon Respondent;

d. in lieu of a dismissal, that Respondents have a trial by twelve (12) jurors as the law provides; and

e. for such other and further relief that is deemed just and proper by the Court.

Respectfully submitted this 27 day of July, 2022.

Phil Landrum
Georgia Bar Number 434125

Attorney for Pickens County Board of Elections and Registration and Stacey Godfrey in her capacity as the Elections Supervisor for the Pickens County Board of Elections and Registration

LANDRUM & LANDRUM
95 Stegall Drive
Post Office Box 400
Jasper, Georgia 30143
706-692-6464
phil@landrumandlandrum.com

VERIFICATION

PERSONALLY APPEARED before me, the undersigned attesting authority, the PICKENS COUNTY BOARD OF ELECTIONS AND REGISTRATION, by and through its Chairman, JOE WALKER, and STACEY GODFREY, solely in her capacity as the Elections Supervisor for the Pickens County Board of Elections and Registration, who state under oath that the facts and matters contained in the within and foregoing **ANSWER** are true and correct.

This 28 day of July, 2020.

PICKENS COUNTY BOARD OF ELECTIONS AND REGISTRATION

By: _____
Joe Walker
Its: Chairman

_____
STACEY GODFREY
Elections Supervisor for the Pickens County Board Of Elections and Registration

Sworn to and subscribed before me this 28 day of July, 2020.

PHILIP M LANDRUM III NOTARY PUBLIC PICKENS COUNTY GEORGIA MY COMMISSION EXPIRES Feb. 16, 2025

_____
Notary Public

CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for the opposing party in the foregoing matter with a copy of the within and foregoing **ANSWER** by depositing in the United States Mail a copy of same in a properly addressed envelope with adequate postage thereon to:

David E. Oles, Sr., Esq.
104 North Main Street
Jasper, Georgia 30143

This 27 day of July, 2020.

Phil M. Landrum, III
Attorney for Defendant
Georgia Bar No. 434125

IN THE SUPERIOR COURT OF PICKENS COUNTY
STATE OF GEORGIA

CHRIS MORA,
Petitioner,

Civil Action No. 2022SUCV0327

vs.

PICKENS COUNTY BOARD OF ELECTIONS and
STACEY GODFREY SUPERVISOR OF
ELECTIONS,
Respondents

ACKNOWLEDGMENT OF SERVICE

Comes now, PICKENS COUNTY BOARD OF ELECTIONS AND REGISTRATION and STACEY GODFREY, solely in her capacity as the Pickens County Board of Elections and Registration Supervisor and not in her individual capacity, by and through counsel, and acknowledge service of the Summons and Petition in the above-styled action.

This 30th day of June, 2022.

Phil Landrum
Attorney for Respondents
Georgia Bar Number 434125

LANDRUM & LANDRUM
95 Stegall Drive
Post Office Box 400
Jasper, Georgia 30143
706-692-6464
phil@landrumandlandrum.com

IN THE SUPERIOR COURT OF PICKENS COUNTY

STATE OF GEORGIA

CHRIS MORA, an elector,	*
	*
Plaintiff,	*CIVIL ACTION FILE NO.
VS	* 2022UCV327
	*
PICKENS COUNTY BOARD OF	*
ELECTIONS, & STACEY GODFREY	*
SUPERVISOR OF ELECTIONS	*
Defendant.	*

RECUSAL ORDER

In order to avoid any appearance of any impropriety or impartiality in the conduct of the above proceedings, I, the undersigned Judge of Pickens County Superior Court, do hereby recuse myself from presiding over the proceedings, not because of being bias but to avoid the appearance of any impropriety in said matter.

It is hereby ORDERED that this Order be filed in the Office of the Clerk of the Superior Court of Pickens County Georgia this 28 day of June, 2022.

Mary E Priest

MARY ELIZABETH PRIEST, JUDGE
SUPERIOR COURT OF PICKENS COUNTY
APPALACHIAN JUDICIAL CIRCUIT

CC:
David Oles
Firm@deoleslaw.com

Pickens County Board of Elections
Joe Walker, Chairman
83 Pioneer Rd.
Jasper, Ga. 3043

Stacey Godfrey, Supervisor of Elections
83 Pioneer Rd.
Jasper, Ga. 30143

IN THE SUPERIOR COURT OF PICKENS COUNTY

STATE OF GEORGIA

CHRIS MORA, an elector,

Petitioner,

vs. CIVIL ACTION NO.: 2022SUCV327

PICKENS COUNTY BOARD OF ELECTIONS, and STACEY GODFREY, SUPERVISOR OF ELECTIONS,

Respondents.

RECUSAL ORDER

In order to avoid the appearance of any impropriety or impartiality in the conduct of the above proceedings, I, the undersigned Judge of Pickens County Superior Court, do hereby recuse myself from presiding over the above proceedings, not because of being bias but to avoid the appearance of any impropriety in said matter.

It is hereby ordered this Order be filed in the office of the Clerk of the Superior Court of Pickens County, Georgia.

This 28 day of June, 2022.

Honorable John E. Worcester, Judge
Pickens County Superior Court
Appalachian Judicial Circuit

IN THE SUPERIOR COURT OF PICKENS COUNTY

STATE OF GEORGIA

CHRIS MORA, an elector,

Petitioner,

vs. CIVIL ACTION NO.: 2022SUCV327

PICKENS COUNTY BOARD OF ELECTIONS, and STACEY GODFREY, SUPERVISOR OF ELECTIONS,

Respondents.

CERTIFICATE OF SERVICE

This is to certify that I have this day served the within RECUSAL ORDER upon the individuals listed below by depositing a copy of same in the United States Mail in a properly addressed envelope with adequate postage to ensure delivery and by electronically mailing a true copy of said pleading to them by filing with PeachCourt addressed as follows:

David Oles
firm@deoleslaw.com

Pickens County Board of Elections
Joe Walker, Chairman
83 Pioneer Road
Jasper, GA 30143

Stacey Godfrey, Supervisor of Elections
83 Pioneer Road
Jasper, GA 30143

This the 13th day of June, 2022.

Phyllis Ross
Judicial Assistant to
Hon. John E. Worcester, Judge

IN THE SUPERIOR COURT OF PICKENS COUNTY
STATE OF GEORGIA

CHRIS MORA, an elector, **Petitioner**	
v.	**CIVIL ACTION NO. _____**
PICKENS COUNTY BOARD OF ELECTIONS, and STACEY GODFREY SUPERVISOR OF ELECTIONS	
Respondents	

PETITION TO UNSEAL ELECTION MATERIALS

COMES NOW, CHRISTOPHER MORA, Petitioner, in the above-styled and numbered case, and files this petition to unseal election materials pursuant to O.C.G.A. § 21-2-500, and as grounds shows the following:

1.

Petitioner Chris Mora is a resident of Pickens County, GA, and a duly qualified elector who voted in the May 24, 2022, primary election.

2.

Respondent Stacey Godfrey is the Supervisor of Elections of Pickens County, GA and the officer responsible to hold the sealed ballots cast in the May 24, 2022, Pickens County primary election and can be served at 83 Pioneer Road, Jasper, Pickens County, GA 30143.

3.

Respondent Pickens County Board of Election is the political subdivision of Pickens County empowered by the Georgia General Assembly with broad authority to

oversee the conduct of primaries and elections in Pickens County and ensure that they are honestly, efficiently, and uniformly conducted.[1] The Board can be served through its chairman Joe Walker at 83 Pioneer Road, Jasper, Pickens County, GA 30143.

4.

Jurisdiction and venue are further proper pursuant to O.C.G.A. § 50-18-73.

5.

Pickens County recently conducted a primary election, with certain early mail-in voting, advance voting taking place in person-voting between May 2nd and May 20th, and in-person voting taking place on May 24, 2022.

6.

All returns of the election from all voting methods were consolidated at the Pickens County Elections Office, tabulated, certified on May 27, 2022, and the results transmitted to the Secretary of State under seal.

7.

The paper ballots generated during the May 24, 2022, primary election remain in containers in the Pickens County Elections Office under seal.

8.

The May 24th primary election was conducted using the Dominion Voting System adopted by the State of Georgia.

9.

A number of counties reported election anomalies during and following the completion of the May 24, 2022, primary election. In DeKalb County the anomaly was

[1] O.C.G.A. § 21-2-40.

so severe that a pre-certification audit conducted on the race resulted in a reversal of the results of a local election.

10.

Independent organizations have noted numerous significant discrepancies in elections conducted using the Dominion Voting System, including significant discrepancies in votes collected and tabulated in Fulton County using the same voting machines used in Pickens County. Documented problems included missing ballot images, missing authentication files, impossible duplicate time stamps, ballots improperly forced to adjudicate, backdated image files, unsigned and missing closing tapes and other issues. See https://voterga.org/wp-content/uploads/2022/03/Press-Release-VoterGA-2020-Fulton-Election-Results-Manipulated-03-07-22.pdf

11.

For example, unauthorized access to Georgia's Dominion software allegedly occurred in Coffee County following the April 2020 election. Dr. Halderman's sealed report documenting system vulnerabilities was filed with the State Election Board's experts on July 1, 2021, and federal Cybersecurity and Infrastructure Security Agency ("CISA") recently completed a vulnerability assessment of the ballot marking devices in confirming numerous vulnerabilities such that the assessment has itself been sealed. These and other recognized risks are further described in Appendix 1 to this petition.

12.

Petitioner is concerned that his vote was improperly counted during the May 24th primary election. A federal court considering the issue has ruled that the Dominion Voting System utilized by the State of Georgia does not satisfy the statutory requirement to produce a ballot readable and verifiable by the elector due to the fact that it scans an

unreadable QR Code.[2] As a result, no Pickens County elector is able to verify his vote prior to being cast using the Dominion Voting System and doubt exists as to the accuracy of the vote.

13.

Questions have been raised to the Pickens County Board of Elections by Petitioner and other duly qualified electors concerning the validity and accuracy of the May 24, 2022, primary. At a recent public meeting on the subject, the Pickens County Board of Elections and Supervisor of Elections determined that it would be appropriate to conduct a hand-count of printed ballots from selected races to satisfy their constitutional duty to conduct an accurate election.

14.

The Board and the Supervisor of Elections has considered and reviewed a process to conduct the hand-count as generally set forth on Exhibit "A", in order to safeguard the accuracy and confidentiality of the ballots. Control of such a review would remain at all times with the Board of Elections and Elections staff.

15.

Petitioner supports the foregoing procedure, and desires that this Court issue an order to unseal the ballots to facilitate completion of the hand-count anticipated by the Pickens County Supervisor of Elections and the Pickens County Board of Elections.

16.

[2] "Rather, the evidence shows that the Dominion BMD system does not produce a voter-verifiable paper ballot or a paper ballot marked with the voter's choices in a format readable by the voter because the votes are tabulated solely from the unreadable QR code." *Curling v. Raffensperger*, 493 F. Supp 3d 1264, 1309(2020)

The legislature has determined that primary and election records of the Board of Election, including ballot images created by the voting system, are public records that are open to public inspection. O.C.G.A. § 21-2-72; O.C.G.A. § 50-18-71(k) In the present case, Petitioner does not seek to access or review the records or engage in public disclosure, but only to unseal the records to facilitate a hand recount under the supervision of the Pickens County Board of Elections engaged in its proper purpose. This Court has the authority and discretion under O.C.G.A. § 21-2-500 to unseal the records to permit the anticipated hand recount by the Pickens County Board of Elections and Supervisor of Elections. [3]

17.

The Pickens County Board of Elections and Election Supervisor support this request for relief and consent to the issuance of an unsealing order.

COUNT ONE

OPEN RECORDS

18.

The Petitioner incorporates and realleges paragraphs 1 through 17 of this Petition verbatim as if set forth herein.

19.

Petitioner made an Open Records Request on June 16, 2022, for access to unsealed ballots from the May 24, 2022, primary election in order to conduct a hand recount under the supervision of the Board of Elections to verify the accuracy of the voting systems.

[3] The Secretary of State recently utilized this authority when seeking a review of ballots in DeKalb County.

20.

The requested records are public records subject to disclosure and unsealing by a Superior Court.

21.

Petitioner has been denied access to the records on the basis that the records are sealed under O.C.G.A. § 21-2-500 and require an order from the Superior Court to unseal them.

22.

Petitioner seeks an order from this Court to unseal the ballots of the May 24, 2022, primary election to permit a hand recount under the Board of Election's supervision.

23.

Petitioner seeks attorney fees for having to file this action to enforce the Open Records Act.

WHEREFORE, Petitioner prays that this Court:

1. ORDER that the ballots of the May 24, 2022, Pickens County primary election be unsealed to permit the completion of the hand-count under procedural safeguards designed, administered and supervised by the Pickens County Board of Elections and its Supervisor of Elections and promptly following completion of the hand-count, the ballots be returned to their containers and resealed;
2. GRANT Petitioner his reasonable attorney fees and expenses; and
3. GRANT such other relief as this Court shall deem good and proper.

This 24 day of June, 2022.

FOOTHILLS LEGAL

/s/David E. Oles, Sr.
DAVID EDWARD OLES, SR.
Attorney for Petitioner
GA Bar No. 551544

104 N. Main Street, Ste. 4
Jasper, GA 30143
Telephone: 770-954-5100
firm@foothillslegal.net

VERIFICATION

Personally appeared before the undersigned attesting officer, Christopher Mora, who after being duly sworn, states that the facts alleged in the forgoing Petition to Unseal Election Records are true and correct.

Christopher Mora, Petitioner

Sworn to and subscribed before me
this 24th day of June, 2022.

JAMIE KING BECK
NOTARY
PUBLIC
PICKENS COUNTY

Notary Public

Appendix 1
(Information supplied by Coalition for Good Governance)

Risks to 2022 Election and Voter Confidence

-*Alleged Dominion software breach/copying/theft in Coffee County*. There are credible allegations of the unauthorized copying of the Dominion software from Coffee County, apparently facilitated by insiders in November 2020. After alleged unauthorized access to the software, the Coffee County machine recount was reportedly discrepant, causing the county board of elections to initially refuse to certify the presidential recount.[1] In 2021, after the alleged breach, the SOS apparently seized the county election server containing Dominion software. The State Election Board disclosed in Court that an investigation was undertaken in late February 2022. Findings of this Board should promptly be made public.

-*Unauthorized copies of Dominion software threaten 2022 elections.* Unauthorized copies of the Dominion software from Colorado and Michigan were released into the public domain. This facilitates election attacks by large number of would-be attackers with extended access to the software to develop and practice system hacks. Georgia Dominion software is also reportedly in unauthorized hands, although this is just becoming public information.

-*High risk electronic touchscreen system*. CISA (a division of DHS) is reviewing the vulnerabilities of Georgia's BMD system. There is no estimate of the time required for assessment, disclosure, software patches, EAC approval and installation in the BMD systems.[2] Experts have issued grave warnings (details under court seal) of potential for undetectable vote manipulations.[3]

-*Significant November 2020 vote tabulation discrepancies are subject to repetition in 2022.* Unrebutted experts' reports show that thousands of ballots were counted two or more times, or not at all, in the November 2020 election, although the reported discrepancies were said to be offsetting in the POTUS votes (although too many records are missing to estimate with certainty.) The root cause of the systemic inaccurate counting of ballots is unknown, because discovery has not been conducted to date. The causes may include software bugs, malware, machine malfunctions, human error, and intentional double and triple scanning.

-*The November 2020 POTUS audit proved that Georgia audits do not detect tabulation discrepancies.* Political leaders and state officials are generally unaware of the significant audit failures because Secretary Raffensperger has declared the audits to be a success, while not

[1] AJC https://www.ajc.com/politics/election/georgia-investigates-coffee-countys-handling-of-presidential-recount/VVS2ZTREURCHDMXBUNT6BEPFWM/
[2] CISA 3/14/22 updated https://coaltionforgoodgovernance.sharefile.com/d-s9273ab2a290a40f4a1fd16c3c927e8fe
[3] AJC https://www.ajc.com/politics/us-cybersecurity-agency-reviews-hacking-risk-to-georgia-voting-system/UQ4LHNUL3VGNLM7UIX6VNKDUVE/

reporting the significant audit discrepancies detected. Thousands of votes were inaccurately recorded in the audit records, but were not investigated nor corrected.[4, 5]

-*BMD ballots proven to be unverified, unauditable records.* Secretary of State commissioned research to determine whether voters accurately verified the computer-marked ballots. The results demonstrated that voters do *not* adequately verify their ballots.[6] This finding is consistent with experts' previous reports. [7]

-*Russian cyber-security threats are escalated.* Federal government officials warn that threats of Russian election hacking have increased and urge defensive measures.[8] Georgia is an attractive and easy target given the unusual statewide uniformity, the preponderance of BMD-generated ballots, and central programming of the system, and the national importance of the high profile 2022 races for US Senate and Governor, and low voter confidence that exists today.

[4] Kemp Report https://coaltionforgoodgovernance.sharefile.com/d-s1e505a57ed0246ca8b1608765cea6446
[5] Stark report https://www.stat.berkeley.edu/~stark/Preprints/cgg-rept-9.pdf
[6] SOS commissioned study https://www.documentcloud.org/documents/21017815-gvvs-report-11
[7] Andrew Appel report https://coaltionforgoodgovernance.sharefile.com/d-s40bc4b887136446a9842b46352120fb0
[8] https://www.washingtonpost.com/politics/2022/03/15/us-intel-ops-ukraine-could-be-model-protecting-elections/

Pickens County Elections Office

Proposed Procedure for Conduct of Limited Hand Recount

of May 24, 2022 Primary Election

Races to be tabulated:

May 24, 2022 Governor's primary race

May 24, 2022 Secretary of State primary race

Procedures:

1. Original voted paper ballots produced during the May 24th primary election are currently stored in sealed containers in the Pickens County Board of Elections office.[1]
2. The Pickens County Elections Office shall post notice to the public of the date, time and location of the hand recount.
3. The sealed ballot containers for the May 24th primary election will be transported by Pickens County Board of Elections staff from the Board of Elections office to the Pickens County Administration building (or other secure location chosen by the BOE staff) by BOE employees with an escort from the Pickens County Sheriff's office.
4. A chain of custody verification will be duly executed when the sealed containers leave the BOE office and when they arrive at the secure counting location.
5. The containers will be placed in a secure counting room, with a posted Sherriff's deputy, where they will be unsealed by BOE staff.
6. No ballots are permitted to leave the counting room or the oversight of BOE staff during the count.
7. The ballots will be divided for counting among election officials (BOE supervisor and her staff and designated poll managers). Temporary staff, if needed, may be drawn from poll workers previously approved by the Pickens County BOE and who are sworn to confidentiality, who shall work directly under the oversight of BOE workers. Preference shall be given to approved poll managers first, and then approved poll workers but only if additional workers are required.

[1] This includes early voting and election day ballots transferred to the Elections office pursuant to signed chain of custody as well as mail-in ballots.

8. Two persons will be assigned to count ballots from each precinct. A BOE staff member shall be assigned to oversee each team.
9. The recount tally will be recorded on paper with ink by each team, and consolidated by BOE staff.
10. Up to two monitors from each Pickens County political party who have been credentialed by the Elections Supervisor are permitted to observe the hand count and are permitted to move around the counting room so long as they do not handle any ballots nor interfere with the count in any way.
11. There will be a space provided in the counting room for members of the public to observe the count, but they may not move beyond that space.
12. The count will be recorded by video arranged by BOE staff.
13. All counted ballots will be promptly replaced into the container from which they were removed.
14. The BOE staff will verify the restoration of the ballots, and reseal the ballot containers.
15. The resealed ballot containers will be returned by BOE employees to the election office with Sherriff's escort. A chain of custody form will be duly executed when the sealed ballot containers leave the counting room and when they are received back at the BOE office.
16. Results of the hand count will be made available to the BOE members and also published at the BOE office for review by the general public.

Approved by:

_____

Pickens County Elections Office

IN THE SUPERIOR COURT OF PICKENS COUNTY
STATE OF GEORGIA

CHRIS MORA, an elector, **Petitioner**	)	
v.	)	**CIVIL ACTION**
PICKENS COUNTY BOARD OF ELECTIONS, and STACEY GODFREY, SUPERVISOR OF ELECTIONS	)	**NO. _____**
Respondents	)	

ORDER

Petitioner having filed his verified Petition to Unseal Election Records, and the Respondents having been duly served, and having no objection to the relief requested, the Petition is hereby GRANTED. The records of the May 24, 2022, Pickens County primary election maintained under the authority of the Pickens County Board of Elections shall be unsealed to permit the conduct of a hand recount under the supervision of the Pickens County Board of Elections and Election Staff. Following the completion of such hand recount, the records shall be resealed pursuant to O.C.G.A. § 21-2-500.

IT IS SO ORDERED, this _____ day of June, 2022.

_____
Hon. _____
Superior Court of Pickens County

SUPERIOR COURT OF PICKENS COUNTY
STATE OF GEORGIA

CIVIL ACTION NUMBER 2022SUCV0327

MORA, CHRIS

PLAINTIFF

VS.

Pickens County Board of Elections
Godfrey, Stacey

DEFENDANTS

SUMMONS

TO: PICKENS COUNTY BOARD OF ELECTIONS

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

David Oles
Law Offices of David E Oles
5755 North Point Parkway Suite 25
Alpharetta , Georgia 30022

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

This 24th day of June, 2022.

Clerk of Superior Court

Jennifer E. Jordan, Clerk
Pickens County, Georgia

SUPERIOR COURT OF PICKENS COUNTY
STATE OF GEORGIA

CIVIL ACTION NUMBER 2022SUCV0327

MORA, CHRIS

PLAINTIFF

VS.

Pickens County Board of Elections
Godfrey, Stacey

DEFENDANTS

SUMMONS

TO: GODFREY, STACEY

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

David Oles
Law Offices of David E Oles
5755 North Point Parkway Suite 25
Alpharetta , Georgia 30022

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

This 24th day of June, 2022.

Clerk of Superior Court

Jennifer E. Jordan, Clerk
Pickens County, Georgia

EFILED IN OFFICE
CLERK OF SUPERIOR COURT
PICKENS COUNTY, GEORGIA
2022SUCV0327
JUN 24, 2022 09:18 AM

Jennifer E. Jordan, Clerk
Pickens County, Georgia

General Civil and Domestic Relations Case Filing Information Form

☑ Superior or ☐ State Court of Pickens County

For Clerk Use Only

Date Filed 06-24-2022 (MM-DD-YYYY)

Case Number 2022SUCV0327

Plaintiff(s)

MORA, CHRIS

Last	First	Middle I.	Suffix	Prefix

Last	First	Middle I.	Suffix	Prefix

Last	First	Middle I.	Suffix	Prefix

Last	First	Middle I.	Suffix	Prefix

Defendant(s)

Pickens County Board of Elections

Last	First	Middle I.	Suffix	Prefix

Godfrey, Stacey

Last	First	Middle I.	Suffix	Prefix

Last	First	Middle I.	Suffix	Prefix

Last	First	Middle I.	Suffix	Prefix

Plaintiff's Attorney Oles, David **Bar Number** 551544 **Self-Represented** ☐

Check one case type and, if applicable, one sub-type in one box.

General Civil Cases

- ☐ Automobile Tort
- ☐ Civil Appeal
- ☐ Contract
- ☐ Contempt/Modification/Other Post-Judgment
- ☐ Garnishment
- ☐ General Tort
- ☐ Habeas Corpus
- ☐ Injunction/Mandamus/Other Writ
- ☐ Landlord/Tenant
- ☐ Medical Malpractice Tort
- ☐ Product Liability Tort
- ☐ Real Property
- ☐ Restraining Petition
- ☑ Other General Civil

Domestic Relations Cases

- ☐ Adoption
- ☐ Contempt
  - ☐ Non-payment of child support, medical support, or alimony
- ☐ Dissolution/Divorce/Separate Maintenance/Alimony
- ☐ Family Violence Petition
- ☐ Modification
  - ☐ Custody/Parenting Time/Visitation
- ☐ Paternity/Legitimation
- ☐ Support – IV-D
- ☐ Support – Private (non-IV-D)
- ☐ Other Domestic Relations

☐ Check if the action is related to another action(s) pending or previously pending in this court involving some or all of the same parties, subject matter, or factual issues. If so, provide a case number for each.

_____ Case Number _____ Case Number

☑ I hereby certify that the documents in this filing, including attachments and exhibits, satisfy the requirements for redaction of personal or confidential information in O.C.G.A. § 9-11-7.1.

☐ Is a foreign language or sign-language interpreter needed in this case? If so, provide the language(s) required.

_____ Language(s) Required

☐ Do you or your client need any disability accommodations? If so, please describe the accommodation request.

_____

_____

IN THE SUPERIOR COURT OF PICKENS COUNTY
STATE OF GEORGIA

CHRIS MORA, an elector, Petitioner, v. PICKENS COUNTY BOARD OF ELECTIONS, and STACEY GODFREY, SUPERVISOR OF ELECTIONS, Respondents.	)	CIVIL ACTION NO. 2022SUCV0327

RECUSAL ORDER

In order to avoid the appearance of any impropriety or impartiality in the conduct of the above proceedings, I, the undersigned Judge of Pickens County Superior Court, do hereby recuse myself from presiding over the above proceedings, not because of being bias but to avoid the appearance of any impropriety in said matter.

This case shall be assigned to whichever judge is next in the assignment of cases.

It is hereby ORDERED that this Order be filed in the office of the Clerk of the Superior Court of Pickens County Georgia.

This 24 day of June, 2022.

Brenda D. Weaver

Hon. Brenda S. Weaver, Chief Judge
Superior Court of Pickens County
Appalachian Judicial Circuit

IN THE SUPERIOR COURT OF PICKENS COUNTY
STATE OF GEORGIA

CHRIS MORA, an elector, Petitioner, v. PICKENS COUNTY BOARD OF ELECTIONS, and STACEY GODFREY, SUPERVISOR OF ELECTIONS, Respondents.	)	CIVIL ACTION NO. 2022SUCV0327

CERTIFICATE OF SERVICE

This is to certify that I have this day served the within Recusal Order upon the individuals listed below by depositing a copy of same in the United States Mail in a properly addressed envelope with adequate postage to ensure delivery and by electronically mailing a true copy of said pleading to them by filing with PeachCourt addressed as follows:

DAVID OLES
firm@deoleslaw.com

PICKENS COUNTY BOARD OF ELECTIONS
Joe Walker, Chairman
83 Pioneer Road
Jasper, GA 30143

STACEY GODFREY, SUPERVISOR OF ELECTIONS
83 Pioneer Road
Jasper, GA 30143

This 24 day of June, 2022.

Tara Gibson

Tara Gibson, Judicial Assistant

EXHIBIT G

DEMOCRACY IN AMERICA

How one small-town lawyer faced down the plans of election skeptics

By Stephanie McCrummen

October 30, 2022 at 6:00 a.m. EDT

Phil Landrum, who has been the Pickens County, Ga., attorney for 21 years, said he has noticed in the past few years a kind of mob mentality taking hold, heedless of law. (Michael S. Williamson/The Washington Post)

JASPER, Ga. — Word of the hearing had been spreading for weeks, and on a bright fall Friday, election skeptics from around northwest Georgia filed into the normally quiet Pickens County Courthouse, expecting that a victory for their movement was imminent.

"Down the hall," a security guard said to a man in an American flag golf shirt, a woman holding fliers for a possible victory rally, and others wearing stickers that read, "The machines must go," and soon every seat was taken in Courtroom A.

Of all the counties in Georgia, this was the one where the activists believed they would succeed. Pickens County is small, rural, overwhelmingly White and Republican, an under-the-radar place where election disinformation had flourished and the people who believed it had easily overtaken the establishment GOP.

What they wanted now was a version of what people like them were going for at the grass-roots level all over the country: a way to question the results of a decided election. In their case, they wanted a hand recount of paper ballots cast in the May GOP primary. They wanted to make those sealed paper ballots public records. And they wanted a judge to grant their county election board broad powers to conduct elections in whatever manner it deemed necessary to assuage the doubts of people like them, a ruling that could be applied across all of Georgia's 159 counties ahead of the midterm elections and beyond.

"Amazing," one woman whispered, noting the size of the crowd, and now they all stood as the judge entered the courtroom.

"This is case 2022SUCV0327," he began. "Is the petitioner present?"

"Yes, judge, David Oles," said the Harvard-trained attorney for the county's Republican Party chairman, who brought the lawsuit in the name of restoring voter confidence, telling his colleagues he anticipated "a slam dunk."

And momentum had been going in that direction all summer long, except that what happened next turned into a different story, one that began when the lawyer for the opposing side, the Pickens County attorney, stood up from his table and addressed the judge.

"Phil Landrum for the respondent," he said.

* * *

Among the many anonymous jobs at the grass roots of American democracy, the county attorney is one of the most anonymous of all. Phil Landrum's office is a small brick building with a two-chair waiting room and a framed copy of the Magna Carta. His days are usually spent advising county boards on the minutiae of state law, a job that has lately included defending his corner of the nation's voting system against a barrage of attempts to upend it.

Thousands of local officials across the country find themselves in a similar position as former president Donald Trump and his allies continue to spread false claims about the security of America's elections, and urge their followers to take action.

Hand-marked ballots, hand tallies, hand recounts — grass-roots activists around the country are trying to persuade local authorities to rely less on electronic voting results and more on bygone processes that experts say are far more vulnerable to human error and fraud.

The activists are making their case in areas they deem friendly — mostly rural, Trump-supporting counties where disinformation is rampant, opposing views are rare, and local officials are usually people they know. And that is what happened in Pickens County.

The momentum had started to build three months before Landrum would stand up in Courtroom A, back in June when a newly organized group of activists launched their campaign at a meeting of the county election board. Typically, only a few people showed up for the meetings, but on that night board members and election staff watched as the door kept swinging open.

“What is happening?” the election supervisor remembered thinking.

In came about two dozen residents who believed electronic voting machines were corrupted. In came the new chairman of the Pickens County Republican Party, Chris Mora, who had gotten a lawyer to help them with their cause. In came the lawyer, David Oles, who had recently moved to the area, become active in the county GOP, signed up to be a poll watcher, and was now channeling the grass-roots discontent into a demand.

“I hesitate to say we’ve been lied to about the integrity of the Dominion voting system but it’s clear we’ve been massively misinformed about its security,” he said to the board members as the meeting got underway. “We are now awake to this and the voting public is asking for answers. So, we come to this board.”

What the people wanted, he said, was a hand recount of two races from the May GOP primary, the one for governor and the one for secretary of state, whose results they did not trust. Those results had been certified. The ballots were sealed, as required by law to prevent tampering. But as Oles explained it, all the board members had to do was assert their legal authority to unseal the ballots. Then just count them.

“A modest effort,” he called it, acknowledging there were some legal issues to sort out.

“We’re a relatively small county,” he said. “We have the ballots, it seems a relatively simple thing to count them. And compare those ballots to what the machines have returned.”

The crowd cheered.

“The citizens of Pickens County have lost confidence in the voting system,” a man who referred to himself as a “patriot” told the board.

“What I want to hear is, ‘We’re going to get on it,’ ” a woman sitting next to him told the board.

“As small a county as we are? We could easily knock this out,” Mora said.

“I’m not opposed,” one of the board members said, “but we need to find out what the legalities are.”

“We want to help,” the board chairman told the crowd, and after the meeting adjourned, he got in touch with the county attorney.

Landrum’s first reaction was that he wasn’t opposed to the idea, either, if that’s what the board wanted to do. He would see what the law permitted.

He went into the conference room of his office, where the walls were lined with black volumes of the Official Code of Georgia, dog-eared and marked with slips of paper. He took down the one containing Title 21, Elections, sat at the table, and began reading.

* * *

This was the job, burying himself in tiny text and footnotes.

He had been the Pickens County attorney for 21 years, the second Landrum to hold the title. His aunt had done it before him. His father had represented the county school board. His grandfather had been a U.S. congressman for the area, and the name Landrum could be found on a brass plaque in front of the historic county jail, on a green sign along a highway, and on a slab of marble in the main cemetery in Jasper, the county seat, where he planned to be buried.

He was 55, married, had a daughter in college, and was as settled into Pickens County as anyone, accustomed to its conflicts and personalities. But in the past few years, he’d felt that familiarity breaking down. He noticed what he considered a kind of mob mentality taking hold, heedless of law.

His first brush with it had been just before the pandemic, when some parents were demanding that the county school board forbid a transgender student from using the boy's bathroom. Landrum advised the board that doing so would be illegal, a position that he said triggered a flood of pressure from friends and some political leaders urging him to just "let it go," which he did not. Landrum's photo wound up in Facebook posts suggesting he was part of some larger "deep state" agenda, as well as on a prominent LGTBQ website where he was amused to see it get more likes than that of the drag queen RuPaul.

He lost childhood friends, some of whom lobbied for him to be fired, saying that he was against "community values," to which Landrum responded by explaining what being the Pickens County attorney meant.

"My role is not to represent community values," he told them. "My role is to tell you what the damn law is."

Other times he put it a different way: "Imagine a room, at least 40 by 40, no windows, one door. Now in each corner, put a bowl. Then in each bowl, put two parts warm milk and one part LSD. Then at the center of the room, put a cardboard box with 40 feral cats. Walk out and shut the door. Now walk back in and try to get the cats back in the box."

In his office a few days after the June election board meeting, he decided to watch the video of it, since he'd been out of town that day.

He was not an expert in election law but he knew right away that there were at least two legal questions to address before the board could proceed. One was whether a county board had the authority to conduct a hand recount at this point, given that the results had been certified, and the candidates involved had not challenged them, and the county had conducted an audit that showed no problems.

The second issue was that a hand recount would require unsealing the already sealed ballots, and Landrum started there, reading deeper into Title 21. He flipped to Chapter 2, Article 12, Section 500, which governs what is supposed to happen to ballots after an election is over. He zeroed in on one sentence: Officials "shall hold such ballots and other documents under seal, unless otherwise directed by the superior court." He zeroed in on five words in that sentence: Under seal. Unless otherwise directed.

So, he decided, a court order would be necessary to unseal the ballots. That seemed to clarify how things should proceed, except that then he received an official request from Mora, the GOP chairman, suggesting a different approach altogether.

Instead of going to a judge, Mora wrote, the county could simply unseal the primary ballots and declare them public records, and let Mora himself do the recount, "so we can prove to the citizens of Pickens County and I that the machines we vote on are true and accurate."

Landrum had fielded hundreds of open-records requests in his 21 years as county attorney, and to him, this one was easy. The Open Records Act did not apply. The ballots were sealed, sealed records were exempt, and turning them over to the public could be a crime.

Given how straightforward the law seemed to him on this point, Landrum thought it was an odd request, and he found a phone call he received after that odd as well. It was from a state representative he'd known for years, urging him to grant Mora's request. "He was saying he can't understand why the records can't be released," Landrum said. "He was downplaying the repercussions."

Landrum rejected the request, put it out of his mind, and returned to what he considered the proper path forward, which was guided by what he had been reading in Chapter 2, Article 12, Section 500 of state election law. He zeroed in again on the five words.

It was clear to him that only a court order could unseal ballots. Less clear was what exactly could justify such an order. Landrum suggested to Oles that they go to court to sort it out. He figured Oles would file what he called "a friendly petition," a chance for two lawyers and a judge to clarify a vague part of the state election code at a time when clarity was critical.

"I thought we were engaging a question of law," Landrum recalled.

But when Oles filed his petition on behalf of the GOP chairman, Landrum did not find it friendly at all. Instead, to his surprise, the Open Records Act appeal was back on the table.

Starting on Page 5 and going on for six paragraphs, the petition referenced Mora's rejected request, arguing that the sealed primary ballots were public records, that Mora had been "denied access to the records," and that the court needed to "enforce the Open Records Act."

To Landrum, this part of the petition seemed so out of place, so unnecessary — almost tacked on — that he began to wonder whether this was the whole point. He wondered whether the original push for a hand recount was being used as a pretext to get the sealed ballots declared public records, and he began imagining what might happen if a judge agreed.

"They could send an open-records request to all 159 counties in Georgia with that judge's order stapled to it," Landrum said. "Any citizen could get those records for any reason. If you have that declaration, then that is your Trojan horse. You've gotten under the tent, and you can do whatever you want with the ballots now."

He kept spinning out the implications, imagining citizens all over Georgia demanding sealed paper ballots, conducting their own hand tallies and coming up with a thousand different results. He imagined county election boards asserting broad authority to do whatever they wished to address the doubts of voters. And as a Southerner, Landrum could not help but see parallels to a time before the civil rights movement, when White officials used the "local authority" argument to create all kinds of rules to keep themselves in power and others out.

"There are implications to seizing this kind of authority," he said.

The more he read into the petition, the more he found himself thinking about what had happened four hours to the south, in Coffee County, where local election officials claimed they had authority to allow a Trump-allied forensics team to copy software and other data off voting equipment, and are now under criminal investigation.

"It occurred to me that I didn't want to be part of that web," Landrum said. "I needed to be very damn careful."

Meanwhile, as Landrum was in his office reading further into the law, the election board members were being barraged with form letters urging them to "officially in public session discuss and vote to conduct a hand recount."

Then, at the next election board meeting, that is exactly what the board did.

"All in favor?" said the chairman, as they voted to adopt a resolution directing Landrum himself to write an order to unseal the primary ballots, and the crowd clapped and cheered.

"I want to congratulate the board for showing courage here today," Oles said.

"When you came in, we heard you, and we acted on it," said a board member. "And that's the way a republic works."

But when the meeting was over, Landrum told the board why he was not going to be able to do what they were asking, at least not now.

The reason, he told them, was that the petition with the six paragraphs about open records, still pending in court, had to be addressed first. He explained to the board that in his reading of it, the petition was saying that the election board had violated the Open Records Act by not turning over the ballots. He explained that violating the Open Records Act was a crime. He said that either he was going to have to go to court to defend the county, or Mora was going to have to drop his petition, at which point he could do what the board was asking him to do.

But Mora said that he was not going to drop the petition.

"There was no way I was ever going to drop this," he said later.

"I guess we're on now," Landrum thought to himself.

He filed a motion to have Mora's petition dismissed. A hearing date was set.

And in the weeks that followed, word began spreading to neighboring counties and out into the vast social media maw of the election-denier movement that the person standing in the way of progress in Georgia was a county attorney named Phil Landrum.

One story accused Landrum of "violating his oath" and ignoring "a lawful order" from the election board. Another included his photo along with a post, "The old establishment will do anything to cover up the corruption and protect the system." A prominent lawyer in the election-denier movement posted the hearing date and location on social media: "Pack the courtroom!" he wrote. At the next election board meeting, a man in the crowd asked the board, "Who is running the Pickens County board of elections? Is it the board of elections? Or is it Mr. Landrum?" Then members of the local GOP began lobbying the county commission to fire him.

As Landrum heard about all this he kept working, a famous quote from Shakespeare's Henry VI running though his mind, "Let's kill all the lawyers."

He'd always thought that people forgot the larger context of the quote. "You've got to realize who said that," he said. "It was an anarchist. That was the first step in the plan."

* * *

A few weeks later, the county attorney sat down at the defense table inside Courtroom A.

By now things had become so tense that Landrum asked a lawyer he sometimes consulted to sit next to him at the table.

A videographer from a website known for spreading disinformation set up a camera.

Now the judge, assigned to the case from Atlanta after all the local judges recused themselves, took his seat.

“All right,” he said. “Are you ready to proceed?”

“Yes sir,” Landrum said.

He walked to the podium, and aimed his argument at what he described as “an allegation of a violation” of the Open Records Act contained in the petition.

He said that the ballots Mora wanted were sealed, as required by law. He said that sealed records are “not subject to an open-records request.”

“The complaint that alleges that therefore should be dismissed,” he said.

The argument lasted two minutes, and Landrum sat down.

“I’ll hear from the other side,” the judge said, and Oles walked to the podium.

“I’d like to start with what this case is not about,” he began.

And then for roughly 30 minutes the judge listened as Oles argued that the case was not at all about making sealed ballots available to the general public, as Landrum had said, but rather it was merely about making those ballots available to the Pickens County election board for the purpose of a hand recount.

“And why are we interested in these ballots?” he continued, explaining that voters had questions about the ballot marking devices, and the QR codes on the ballots, and the scanners, and the software. “So many reports have been done about the vulnerabilities of the system that our board of elections here in little Pickens County thought it was a sensible thing to do this check.”

Oles argued that the law gave the county election board “very broad authority in how it discharges its obligation to ensure accuracy and integrity” in the voting process.

“There is nothing in here that places a limit on what they’re allowed to do,” he said, adding that he believed it was not the court’s place to “second guess” the board’s decision.

The judge listened. He asked Oles to address Landrum’s specific argument.

“I want to emphasize that we are not asking for these ballots to be released to the general public,” Oles said.

The judge gave him another chance.

“Judge, if you grant the relief that my client is asking for, the very worst that happens here is those ballots would become available to the board for the board to do what it said it was going to do,” he said. “They’re not going to be released to the public. No harm is going to come to anyone as a result of it. But we will have been able to eliminate an important roadblock in the process. So. Thank you, judge.”

Landrum walked to the podium to respond.

“The lawsuit in front of us is an open-records violation,” he said. “The board cannot agree to the commission of a crime.”

“Specifically what they are asking me to do is unseal paper ballots,” the judge said.

“Specifically, they are saying those are subject to the Open Records Act,” Landrum said. “I think once you declare them subject to the Open Records Act, you cannot limit them to anything other than full public access, which is specifically what the legislature said they did not want to do. ... If it’s granted to one person, it must be granted to every person.”

“The sealing concept becomes —” the judge said.

“Irrelevant,” Landrum said.

The judge asked Oles if he had anything further.

“The Open Records Act — okay, that count is in there,” Oles said. “We’re not asking for them to be given to the entire world, as counsel seems to fear.”

“I’m not unsympathetic to your situation,” the judge said. “But I try to follow the law, because that’s my oath.”

“Judge, I respect that,” Oles said. “But it seems to me the law does grant you authority to do what it is we’ve asked … and all we’re asking —”

“Okay,” the judge said, cutting him off.

He asked Landrum if he had anything further.

“We’ve been accused of violating the Open Records Act,” he said again. “That is what this case is about and —”

The judge stopped him.

“I’m ruling in your favor,” he said.

“Thank you, judge,” Landrum said.

“I like to tell a story in my order,” the judge said. “Prepare one that does.”

“Yes sir,” Landrum said.

* * *

If Landrum felt any satisfaction in winning, he did not show it. He gathered his papers and went back to his office off Main Street, and started working on the order for the judge.

He was not used to writing stories, but he had been an English major in college. He knew that all stories needed endings, and he knew that this one was not over yet.

On Facebook, his photo kept appearing in angry posts, calling for him to be fired.

At the county election office, more open-records requests that he would have to review continued to pour in, including an automatically generated request that kept popping into the election supervisor’s inbox every five minutes one day, until there were roughly 1,000 identical requests from 1,000 different people.

And a few days after the hearing, the Pickens County GOP convened their regular meeting, where the featured speaker was a woman gaining prominence in the election-denier movement. The crowd listened as she explained what she billed as a fresh strategy.

“My argument is that the whole 2020 election was illegal,” she began, explaining that she had filed a lawsuit in Wisconsin and was bringing one to Georgia and needed people to sign on as victims. “How many of you are hopeless?”

People raised their hands.

“I’m going to give you hope,” she said.

Meanwhile, Landrum worked on the order. He sent a three-paragraph version to the judge, who sent it back for further elaboration.

He thought about how he might tell the story if he wasn’t confined to the demands of a court order. In his mind, it would be a story about the fragility of the moment in America, and the importance of the law in holding the nation together.

He remembered a conversation he had with a neighbor who was talking about the need for a new civil war.

"I said be careful what you wish for," Landrum said. "Some of the constructs you want to tear down so badly are the only thing keeping you alive."

In his office now, he went back to drafting the order, settling on four pages of careful legal prose that ended with, "Respondents' motion to Dismiss is hereby GRANTED."

The judge signed it, and the county attorney got back to work, because he knew what was coming.

"November is going to be hell," he said.

EXHIBIT H

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

IN RE: DAVID E. OLES,	*	
	*	
CONTEMPT CITATION.	*	
	*	
	*	**CIVIL ACTION**
KAREN GOTTSCHALK,	*	
Plaintiff,	*	**FILE NO.: 06-1-03175-49**
	*	
vs.	*	
	*	
DEAN GOTTSCHALK,	*	
	*	
Defendant.	*	
	*	

ORDER OF CONTEMPT
RE: DAVID E. OLES, ATTORNEY

This matter came before the Court on April 17, 2009 for hearing on a contempt against Respondent, David E. Oles, for matters arising and revealed during the Court's trial of the underlying case on October 3, 2008. At that time, Respondent was serving as counsel for the Defendant in an action for modification of visitation. The contempt concerned a violation of the Court's orders protecting the confidentiality of a report by Dr. Sheri Siegel, the custody evaluator in the case. Mr. Oles chose to represent himself with respect to the contempt and presented evidence and argument on his own behalf, including the testimony of one witness, Dr. Monty Weinstein. After having heard counsel's evidence presented on his own behalf, having reviewed his argument, and having reviewed the entire record in this matter including the official transcript of the prior proceedings, the Court hereby finds

counsel, Mr. Oles, in contempt of the Court's order of October 5, 2006 (and as affirmed by the subsequent orders of March 5, 2007 and May 21, 2007), as follows:

On October 5, 2006, the previous judge in this action, the Honorable Adele Grubbs, entered an order (that was subsequently filed on October 6, 2006), concerning the appointment of a custody evaluator in this action. The order was prepared by the guardian ad litem, Diane Woods, appointing Sheri Siegel, Ph.D., as the custody evaluator. One of the provisions of that order, states as follows:

> Upon the completion of the custody evaluation, Dr. Siegel will forward a written report to the Court, to counsel for the parties, and to the Guardian ad Litem. The parties shall be entitled to review the written report. The Court hereby ORDERS, however, that *any unauthorized distribution of the contents of Dr. Siegel's report by a party or by counsel to any person shall be subject to sanctions, including a finding of contempt by the Court.* Furthermore, if Dr. Siegel's report is filed, it shall be filed under seal by the Clerk of Court.

Order of October 5, 2006, par. 3 (emphasis supplied).

Subsequent to the issuance of this order, a copy of Dr. Siegel's custody evaluation was authorized to be released to the Defendant's psychologist, Emmett Fuller. At that time, on March 5, 2007, the Court entered a subsequent order stating, in pertinent part, as follows:

> IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendant's attorney may release a copy of the report completed by Dr. Sheri Siegel to Defendant's psychologist, EMMETT FULLER. No further release of this report is authorized or granted by this Court and the parties and their respective counsel are hereby instructed to strictly adhere to the conditions set forth in this Court's order of October 6, 2006 entered in this action.

Again, on May 21, 2007, the Court permitted a copy of Dr. Siegel's report to be released to Dr. Susan Volentine, the minor children's psychologist. The Court's order of

May 21, 2007 authorizing such release contained language identical to the March 5, 2007 order quoted above.

In addition to the above-referenced orders, the Court also issued an order appointing the guardian ad litem on June 6, 2007. In that order, the Court specifically allowed the parties to distribute the contents of the guardian's report to experts in the case without further order of the Court. No similar language was contained in the Court's order regarding Dr. Siegel's report, and other than the two orders mentioned above, no party ever requested to be relieved of the confidentiality provisions of the October 6, 2006 order issued by the Court.

During the trial in the underlying action, Defendant presented the testimony of an expert witness, Dr. Monty Weinstein. In the course of Dr. Weinstein's testimony, Dr. Weinstein revealed that he had reviewed Dr. Siegel's report as a part of his preparation in the case. At that time, counsel for the Plaintiff moved to exclude Dr. Weinstein's testimony due to the violation of the Court's order of October 6, 2006. The Court made some inquiries of Dr. Weinstein with respect to how he came to review this report, and, in opposition to the Plaintiff's motion to exclude Dr. Weinstein's testimony, counsel for the Defendant also offered his version of the facts with regard to how Dr. Weinstein came to review the report. The Court ruled that Dr. Weinstein could not testify with respect to his review of Dr. Siegel's report, and the Court made clear that the matter of whether there had been an express violation of the Court's order would be taken up at a later date.

Subsequent to issuing an order in the underlying matter, the Court issued a Rule Nisi on the contempt, informing Mr. Oles of his opportunity to address the issue of the disclosure of the contents of Dr. Sheri Siegel's report to his expert and whether this disclosure violated

the Court's orders of October 6, 2006, March 5, 2007, and May 21, 2007. That hearing was held on April 17, 2009.

During the course of the trial of the underlying case, while Dr. Weinstein was testifying, he revealed that he had reviewed Dr. Siegel's report and that the report was shown to him by Mr. Oles. Mr. Oles responded that it was not his understanding that anything contained in the Court's order would prohibit him from showing the order to his expert in order to have the expert assist him in the preparation of his case. Mr. Oles stated as follows: "It has never been my understanding that there is any rule or law out there in the State of Georgia that overrides my right to enlist, within the protection of attorney-client privilege, a trial consultant to help me do that." T., pp. 657-658. Mr. Oles further affirmatively stated "We have not disseminated that report. The review of that report was limited to our office, solely in assisting us to prepare the case. *That report did not leave our custody or possession.*" T., pp. 658-659 (emphasis added). Mr. Oles further stated "I don't believe or perceive that it was the Court's intention to restrict me from having a trial expert look at this, just like it would be a trial expert in any other case. Certainly, it is a confidential document and was restricted from circulation. And we absolutely understand and respect that." T., p. 661, ll. 4-10.

On October 3, 2008, following the revelation that Dr. Weinstein had reviewed the report, the Court found that such review was in violation of the Court's order of October 6, 2006 (as reiterated in the Court's two subsequent orders) and excluded Dr. Weinstein's testimony regarding Dr. Siegel's report. Following this ruling, Dr. Weinstein reiterated that he had reviewed the report in Mr. Oles's office, but insisted that he did not have a copy of it

and did not have a file on the case at all. *See* Transcript, p. 685, ll. 1-4, 11. In fact, he indicated that he had returned all the materials relating to the Gottschalk matter to Mr. Oles. T., p.685.

After affirmatively stating that he had no file in the case, Dr. Weinstein was questioned by counsel for the Plaintiff as to whether he had administered any tests to the Defendant. He admitted that he had administered such tests and that he had a copy of the report with him. When he was asked by Plaintiff's counsel if she could review the report, Dr. Weinstein proceeded to produce a file that contained the report of test findings relative to the Defendant. When Dr. Weinstein was asked about that "file," he admitted that it also contained other documents relating to the case. Upon inquiry, he admitted that the guardian ad litem report was also in it. Since DR. Weinstein had previously denied possessing any fine on the case, the Plaintiff's attorney asked if the Court would conduct an in camera review of Dr. Weinstein's file to determine what other documents were in that file and whether they could be reviewed by Plaintiff's counsel. T., p. 691.

Upon conducting the in camera inspection, the Court found that the other document that was contained in Dr. Weinstein's file was, in fact, a copy of Dr. Sheri Siegel's report. T., p. 690. At the time the Court located Dr. Siegel's report in Dr. Weinstein's file, the following exchange took place:

JUDGE KELL:	I was explicitly told this report was only reviewed in your office, Mr. Oles, and that a copy was not given to this witness.
ATTORNEY OLES:	Yes, your Honor. That's absolutely my testimony.
JUDGE KELL:	Dr. Weinstein, where did you get this?

WITNESS DR. WEINSTEIN: I got this today from Mr. Oles. Again, I believe he showed it to me in his office. I gave it back to him last night, and he gave -- you know and I have a copy today.

JUDGE KELL: Who made this copy?

WITNESS DR. WEINSTEIN: I didn't make copies.

ATTORNEY OLES: Your Honor, that's my copy.

...

ATTORNEY OLES: We reviewed it. And how it got -- I don't know. That is all.

T., pp. 690-691.

The witness, Dr. Weinstein, asserted at several points in his testimony that he had first seen Dr. Siegel's report in Mr. Oles' office under Mr. Oles' supervision approximately a month and a half prior to trial. *See, e.g.*, T. pp. 717, 718, 719. Dr. Weinstein testified as follows: "I saw it in Mr. Oles' office under his supervision approximately a month and a half ago. I saw it in – and then I saw it afterwards. But maybe I should have returned it to Mr. Oles – or not. I can't remember." T. p. 717. The witness was then asked where he obtained the copy that was found in his file. He stated as follows: "The copy was – it was given to me last night in his office. I didn't take – I don't take this type - ... the answer is I got it last night. I looked at it in his supervision. ... I may have taken a copy." T., p. 717. A further exchange on the subject took place with Plaintiff's counsel as follows:

Q: But that's when you got it, last night?

A: I got it in his office.

Q: Not today, last night.

A: And today, I looked at it.

Q: So you reviewed it last night?

A: No, I didn't review it last night. I didn't review it last night. Did not.

As the Court indicated, after the completion of the trial on the underlying case, the Court issued a Rule Nisi to allow this matter to be further explored to determine whether or not any contempt or other violation of the Court's orders had occurred. The Court indicated that the matters that had occurred at the hearing of October 3, 2008 were the basis for the Court's *sua sponte* issuance of the Rule Nisi concerning the contempt. Mr. Oles was allowed to present evidence with respect to how Dr. Weinstein came into possession of the Sheri Siegel report.

Mr. Oles indicated from the outset that he had showed the report to his expert the night before the expert testified but that it had not been his intention to give a copy of the report to the expert witness. He denied that this was in violation of the Court's orders because he believed that it was "necessary" in order to properly prepare for his client's case. His position was that requiring him to obtain a court order before showing the document to his expert would require him to reveal the identity of a consulting expert before he had determined whether or not to use such expert at the trial. Thus, he determined that it "could not have been" the Court's intention to prevent him from showing the report to a consulting expert.

A plain reading of the Court's order of October 6, 2006, coupled with the subsequent orders of the Court, make such a tortured reading of the Court's order disingenuous.

Mr. Oles called Dr. Weinstein as a witness to describe the circumstances under which Dr. Weinstein reviewed the report. The Court finds Dr. Weinstein's testimony with regard to this matter to be, at best, confused and at worst an outright fabrication. For example, when initially questioned about how and when he came into possession of or first reviewed Dr. Siegel's report, Dr. Weinstein testified that he first reviewed Dr. Siegel's report a month and a half prior to trial. *See, e.g.,* T., pp. 717, 718, 719. When called to testify at the contempt hearing, however, he recanted this testimony and indicated that, in fact, the first time that he ever reviewed the Siegel report was the evening prior to his testimony on October 3, 2008. If he reviewed this report upon which he intended to opine at trial for the first time the evening before he testified at the trial, the Court finds it impossible to comprehend how the witness might have been "mistaken", as he claims, when he initially testified that he had seen the report a month and a half prior to trial. If the report was presented to him for the first time the night before his testimony, the Court finds it difficult to believe that he would have been repeatedly mistaken in testifying that he had, in fact, seen it a month and a half prior to trial.

Likewise, the witness' testimony with respect to how he obtained the copy of the report found in his file makes no sense. At the hearing on this matter in April 2009, Mr. Oles and the witness both indicated that the witness "accidentally" took the report from Mr. Oles' office. This, however, contradicts the witness' statement when the report was discovered in his possession on October 8, 2008. At that time, Dr. Weinstein testified as follows: "I got this [report] today from Mr. Oles. Again, I believe he showed it to me in his office. I gave it back to him last night, and he gave – you know and I have a copy today." T., p. 691. The

witness later testified:

> A: The copy was – it was given to me last night in his office. I didn't take – I don't take this type - ... the answer is I got it last night. I looked at it in his supervision.
>
> Q: And he gave you a copy of it?
>
> A: No. I may have taken a copy. I don't remember him saying, "here is the copy. Keep it," because I looked at it in the office. I didn't look at anything –
>
> Q: But that's when you got it, last night?
>
> A: I got it in his office.
>
> Q: Not today, last night.
>
> A: And today, I looked at it.
>
> Q: So you reviewed it last night?
>
> A: No, I didn't review it last night. I didn't review it last night. Did not.

T., p. 717.

In response to this line of questioning, the Court asked a question for clarification:

> JUDGE KELL: Let me ask this. Again, I'm confused: When you originally saw this report a month and a half ago in Mr. Oles' office, did you actually receive a copy of it at that time?
>
> WITNESS DR. WEINSTEIN: No, I didn't. That, I would remember.

T., p. 718.

When called to testify at the hearing on the contempt matter, however, Dr. Weinstein gave confusing and conflicting testimony with respect to when he actually obtained the copy of the report. He affirmatively stated, however, that he did not review the report at all a

month and a half prior to the trial as he stated in his prior testimony. He stated that he reviewed the report in Mr. Oles' office the night prior to his testimony on October 3, 2008 and did not review it again on the day of his testimony of October 3, 2008. Such testimony conflicts with testimony in the transcript quoted above.

In any event, the Court finds that Defendant's attorney, Mr. Oles, is in willful contempt of the Court's order of October 6, 2006, and as reiterated and restated in the subsequent orders of March 5, 2007 and May 21, 2007. It was clear from these orders that the contents of Dr. Siegel's report were not to be distributed in any fashion to any person other than the parties and their counsel. Mr. Oles admits that he purposely distributed the contents of the confidential report to his expert, Dr. Weinstein, in order to facilitate his client's case. *See* T. pp. 655-659, 661.

The Court finds Mr. Oles' arguments that the order *should not* have precluded his sharing the report with a consulting expert unpersuasive. If there was any question with respect to the scope of the order, the party could have sought clarification from the Court. In fact, however, a reading of the subsequent orders in March and May 2007 clarified the issue, if any such clarification was needed. In addition, the Court is convinced that the violation of the Court's order was a knowing violation which was perpetrated because Defendant's counsel thought it was more advantageous to prepare his expert without disclosing the expert's identity. Such a reckless strategy, however, constitutes contempt of this Court's authority and a willful violation of its order.

Criminal contempt is conduct which involves some form of "disrespectful or contumacious conduct" toward the Court. *In re: Mauldin*, 242 Ga. App. 350 (2000); *in re:*

Billy L. Spruell, 27 Ga. App. 324 (1997); *In re: Henritze*, 181 Ga. App. 560 (1987). This willful disrespect may involve either an intentional disregard for or disobedience of a court order, or conduct which interferes with the Court's ability to administer justice. *In re: Spruell, supra.* Both elements are present here.

In order to establish criminal contempt, there must be proof, beyond a reasonable doubt, that the alleged contemnor violated a court order and did so willingly. *See Thomas v. D.H.R.*, 228 Ga. App. 518 (1997). It is also essential to establish that the thing ordered to be done is within the power of the person against whom the order is directed. *Id.; see also In re: Heinritze, supra.*

Furthermore, whether attorney Oles believed his conduct was justified is irrelevant. *Barlow v. State*, 237 Ga. App. 152 (1999). Because attorney Oles refused to comply with the Court's orders, he "disrupted the court proceedings and interfered with the orderly administration of justice." *Id.* at 157.

Pursuant to O.C.G.A. § 15-6-8, the superior courts have the authority to punish contempt by imprisonment for not more than twenty days, or by a fine not exceeding $500.00. O.C.G.A. § 15-1-4(a) provides that

> [t]he powers of the several courts to issue attachments and inflict summary punishment for contempt of court shall extend only to cases of:
>
> ...
>
> (3) Disobedience or resistance by any officer of the courts, party, juror, witness, or other person or persons to any lawful writ, process, order, rule, decree, or command of the courts.

Here, based on attorney Oles' conduct regarding the Court's Order and the complete lack of any legal authority supporting attorney Oles' offered explanation, the Court finds

beyond a reasonable doubt that attorney Oles directly and intentionally violated the Court's Order. Thus, the Court had the power, though not exercised in this case, to summarily adjudicate and punish attorney Oles for such direct (i.e., commited in the judge's presence) criminal (i.e., punitive rather than remedial) contempt of court.

> The power to summarily adjudicate and punish for direct criminal contempt is derived from the court's authority to maintain courtroom order and decorum. "During trial, a trial judge has the power, when necessary to maintain order in the courtroom, to declare conduct committed in his presence and observed by him to be contemptuous, and, after affording the contemnor an opportunity to speak in his or her own behalf, to announce punishment summarily and without further notice or hearing."

In re: Schafer, 216 Ga. App. 725, 725 (1995) (quoting *Dowdy v. Palmour*, 251 Ga. 135, 141-142, (1993)). Instead, the Court allowed Mr. Oles a hearing on the contempt which resulted in the above findings.

For all the above and foregoing reasons, the Court finds beyond a reasonable doubt that Attorney Oles willfully violated the Court's orders of October 6, 2006, March 5, 2007 and May 21, 2007.

This Court, therefore, finds Attorney Oles to be in CONTEMPT. He is hereby fined in the amount of $500.00, and is directed to pay said fine into the Registry of the Court within thirty (30) days of the date of this Order.

SO ORDERED this 6th day of May, 2009.

C. LaTain Kell
Judge, Superior Court of Cobb County
Cobb Judicial Circuit

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served a copy of the within and foregoing order (Civil Action File No. 06-1-3175-49) upon all parties by sending a true and correct copy via facsimile and through the Cobb County Mail System addressed to the following:

Barbara Lassiter, Esq.
1700 Water Place, Suite 306
Atlanta, GA 30339

David Edward Oles, Esq.
Law Offices of David E. Oles, LLC
480 Tumbling Creek Drive
Alpharetta, GA 30005

Diane Woods, Esq.
Huff, Woods & Hamby
707 Whitlock Avenue, S.W., Suite G-5
Marietta, GA 30064-3033

This 6th day of May, 2009.

Natalie C. Bloodworth
for C. LaTain Kell, Judge
Superior Court of Cobb County
Cobb Judicial Circuit

EXHIBIT I

Pickens County BOE - Hand Recount Request Timeline

It has come to my attention that it would be helpful if we could provide some insight into what has been going on with the BOE and the citizens of Pickens County since June 8th when we requested the hand recount of the Republican Governor and Secretary of State races. What has transpired since we started our journey is very confusing. The below timeline will provide some clarity. However, keep in mind what we are attempting to do has never been done. There are many gray areas in the election code, and much is left to interpretation. Next up our case (Mora Lawsuit) will be heard by a Superior Court Judge in Cobb County on September 19th, 2022.

Wednesday June 8th
Citizens of Pickens County requested a hand recount of the Governor and SOS races. The purpose in doing so was to provide confidence in the election process. All BOE members stated our request was reasonable and would be supportive, but needed time to discuss the legal aspects plus review the process to ensure the recount was done correctly.

Tuesday June 14th
During the Pickens County GOP meeting Mr. Rick Jasperse stated he had talked to the SOS and Governor and they both told him to put a foot on it. However, Mr. Jasperse stated he supported the citizens with moving ahead and would assist with the court order.

Friday June 17th
Pickens County Attorney, Phil Landrum, met with Chris Mora to discuss moving ahead with the process to get a judge to unseal the ballots. Mr. Landrum advised Chris Mora that he would assist, and the best way to move ahead was to file a friendly lawsuit, which is now being called the Mora Lawsuit.

Friday June 24th
Friendly lawsuit was filed in the AM to unseal the ballots in the Appalachian Superior Court. In the afternoon Chief Judge Weaver recused herself.

Tuesday June 28th
Appalachian Superior Court Judges Worcester and Priest recuse themselves.

June 30th
Pickens County BOE holds an executive session/meeting. Since this was an executive session, the agenda was unknown.

Thursday July 7th
We started an email campaign directed to all the BOE members requesting them to move forward with a hand recount.

Tuesday July 12th
Pickens County GOP meeting. Mr. Rick Jasperse stated that he didn't say he had talked to the Governor and SOS about putting a foot on it. Videos were shown.

Thursday July 19th
Republican BOE member, Mr. Mike Carver, stated during the meeting that the Pickens County BOE had the authority to write a court order requesting a hand recount/audit. After Mr. Carver's statement the Pickens County BOE voted 3 to 1 in favor to move ahead with a hand recount. After the meeting Mr. Landrum advised Mr. David Oles that the BOE should have the order written by Friday July 22nd.

Tuesday July 26th
We learn that Mr. Landrum would not write a petition for the court order to unseal the ballots. We can speculate on the change, but we don't know the true reason.

Monday August 1st
We learn that Cherokee County BOE was advised and threatened with high fines and lawsuits if the BOE moved forward with their hand recount tentatively scheduled for August 8th. Cherokee County BOE then voted 3 to 1 against moving ahead with their hand recount. Future action is unknown.

Tuesday August 2nd
Pickens County BOE meeting to determine the status of the Pickens County BOE hand recount. We learned in this meeting that neither the BOE nor the County Attorney, Phil Landrum, would respond to any questions due to the pending Mora Lawsuit.

Monday September 19th
Mora Lawsuit to be heard in the Superior Count in Cobb County. The case number is 2022SUCV0327 filed June 24th, 2022 at 09:18 AM.

EXHIBIT J

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

TATYANA ELLIS,	)	
	)	
Plaintiff,	)	
	)	**CIVIL ACTION**
v.	)	
	)	**FILE NO. 2019CV316544**
DAVID EDWARD OLES and	)	
LAW OFFICES OF	)	
DAVID E. OLES, LLC,	)	
	)	
Defendants.	)	

MOTION FOR SANCTIONS TO DISMISS DEFENDANTS' COUNTERCLAIM

COMES NOW, Tatyana Ellis, Plaintiff, and pursuant to OCGA 9-11-41(b) hereby moves this Honorable Court to Dismiss Defendants' Counterclaim. Ellis is entitled to relief because Oles, by and through counsel, willfully and intentionally refused to comply with the pre-trial order and intentionally seeks to subvert a lawful order of this court and deprive Ellis of due process in an effort to obtain property (i.e. money).

Contemporaneously herewith, Ellis files:

A. PLAINTIFF'S MOTION FOR ORAL HEARING ON SANCTIONS TO DISMISS DEFENDANTS' COUNTERCLAIM
B. PLAINTIFF'S RESPONSE IN SUPPORT OF PLAINTIFF'S OMNIBUS MOTION FOR LEAVE TO AMEND THE PRE TRIAL ORDER AND TO SUPPLEMENT AFFIDAVIT AND RECONSIDER SUMMARY JUDGEMENT. Ellis incorporates this Response herein its entirety, as if restated verbatim, as argument in support of this motion.

FACTS

1. Ellis sued Oles for fraud. Oles counterclaimed for breach of contract, money owed, and for the costs and expense of litigation. **EXHIBIT A**
2. The pre-trial order was entered February 18, 2020.[1] The pre-trial order plainly indicates both parties demanded trial by jury.[2]
    a. Oles expressly demands a trial by jury as to any amounts of attorney fees incurred in pursuing litigation. "Are Defendants contractually entitled to recover the

[1] (V6—139-140)
[2] (V6—139-140)

attorney fees and costs of collection incurred by them in pursuing amounts contractually owed to them by Plaintiff? If so, what amount? [3]

3. This court granted partial summary judgment and Ellis directly appealed the partial summary judgment. **EXHIBIT A**
4. The remittitur was signed by this court on March 13, 2023. **EXHIBIT A**
5. On April 26, 2023 Oles informed Ellis that she was liable for his attorney fees totaling $291,000. **EXHIBIT B**
6. On April 26, 2023 Oles filed into the record a Rule 5.2 Certificate indicating he had served upon Ellis "Post-Judgment Interrogatories and Requests for Production of Documents and Things". (Envelope number 12099738)
7. On May 30, 2023 Ellis filed into the record a Rule 5.2 Certificate that she had responded to Oles's Post-judgment interrogatories. (Envelope number 12347725)
8. On June 8, 2023 Oles responded to Ellis's 6.4B letter sent with her responsive interrogatories. Oles stated he is entitled to post-judgment discovery pursuant to OCGA 9-11-69 and that "Our post-judgment discovery requests were served to assist my clients in enforcing the judgment against you and are in absolute compliance with the statute… Please provide complete responses to the requests by June 13, 2023, or we will file a Motion to Compel and seek my clients' fees and costs incurred in filing the Motion. We also reserve the right to ask the Court to hold you in contempt for your willful failure to respond to post-judgment discovery." **EXHIBIT C**
9. On July 6, 2023 Ellis filed a Rule 5.2 certificate supplementing discovery and filed into the record the expert affidavit of Matthew D. McMaster dated July 1 2023. (Envelope number 12603561)
10. On July 6, 2023 Ellis has supplemented the record with an expert opinion evidence that Oles engaged in intentional breach of fiduciary duty[4] and intentionally over-billed Ellis with citation to the record matter relied upon.[5] The expert affidavit opines solely upon the existing facts, existing record matter, and existing theory of recovery.[6] (Envelope number 12608467)

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[3] (V6—140)
[4] (McMaster Affidavit P 18-22, 23-50, 51-56, *passim*)
[5] (McMaster Affidavit P 57-65, *passim*)
[6] (McMaster Affidavit P 6, 9-10, *passim*)

11. On August 8, 2023 Oles filed a brief plainly stating in clear plain language that this case is "over" and Oles demands there is no need for a trial as to the issue of the amount of litigation expenses. (Oles brief at 9). (Envelope number 12854476)
12. Oles cannot point to any evidence in the record that Oles has filed a motion with the court seeking to modify or amend the pretrial order. Meanwhile, Oles is actively seeking post-judgment discovery in aid of filing liens, OCGA 9-11-69.
13. Oles has expressly threatened to violate Ellis's legal rights in an effort to obtain money. (V7—332-334)
14. Oles has history of being held in criminal contempt of court orders in his capacity as an attorney. **EXHIBIT D (Certified Court Record)**
15. Ellis has never waived her right to a jury trial on any matter.
16. Ellis demands a trial by jury on any and all issues.

PRAYER

WHEREFORE, Ellis prays this Honorable Court:

1) As sanction for willful violation of a court order, dismiss Oles's counterclaim with prejudice;
2) For any just and equitable relief this court finds appropriate under the specific facts, including but not limited to finding Oles and his counsel in criminal contempt of court.

Dated: August 22, 2023

Respectfully submitted,

/s/Tatyana Ellis
Tatyana Ellis
Pro Se

Address:

Tatyana Ellis
1530 Aurelia Drive
Cumming, GA 30040
404-468-0597

EXHIBIT A

REMITTUR

REMITTITUR

Court of Appeals of Georgia

Atlanta, May 16, 2022

Case No. A22A0440. TATYANA ELLIS v. DAVID EDWARD OLES et al.

Upon consideration of this case, which came before this Court on appeal from the Superior Court of Fulton County, this Court rendered the following decision:

Judgment affirmed.

McFadden, P. J., Gobeil and Pinson, JJ., concur.

LC NUMBERS:
2019CV316544

Costs paid in the Court of Appeals: $300

COURT OF APPEALS OF THE STATE OF GEORGIA
1906

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, March 10, 2023.

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.

Stephen E. Castlen, *Clerk.*

FIFTH DIVISION
MCFADDEN, P. J.,
GOBEIL and PINSON, JJ.

May 16, 2022

In the Court of Appeals of Georgia

A22A0440. ELLIS v. OLES et al.

MCFADDEN, Presiding Judge.

This case arises from a dispute about an attorney's representation of the appellant in a domestic relations matter. Appellant Tatyana Ellis appeals from an order granting summary judgment to her former attorney, David Oles, and his law firm, rejecting her tort claims against them and entering a judgment against her on their counterclaim for fees. Ellis has not shown reversible error. So we affirm.

1. *Factual background.*

Ellis hired Oles to represent her in certain domestic relations matters. The engagement was terminated less than six months later.

Ellis filed the instant action against Oles and his law practice (together "Oles"), alleging intentional breaches of fiduciary duty and fraud. Oles filed a counterclaim

for breach of contract, seeking more than $25,000 in unpaid fees as well as the recovery of litigation expenses.

The parties filed cross-motions for summary judgment. The trial court granted Oles's motion and denied Ellis's motion. Ellis then filed this direct appeal.

2. *The order granting summary judgment was subject to direct appeal.*

Ellis argues that the trial court erred by labeling the summary judgment order "final" because an issue remains pending below: the amount of litigation expenses to be awarded to Oles. And because the summary judgment order is not a final order, Ellis argues, the order was not subject to direct appeal, we lack jurisdiction, and we must remand the case to the trial court. We disagree.[1]

Regardless of whether the order was final, we nonetheless have jurisdiction over the appeal. Under OCGA § 9-11-56 (h), orders granting summary judgment, even if issues remain pending, are directly and immediately appealable. *Nugent v. Myles*, 350 Ga. App. 442, 444 (1) n.4 (829 SE2d 623) (2019). See also *Edokpolor*, 302 Ga. at 735 n.1 ("It is undisputed that the plaintiffs could have immediately

[1]We previously denied Ellis's motions to remand or dismiss her appeal on this ground. We noted that should Ellis choose not to pursue her appeal, she could file a motion for permission to withdraw it pursuant to Court of Appeals Rule 41 (g) (1), which we would consider in due course after allowing Oles time to respond. As of March 14, 2022, Ellis had not filed a motion for permission to withdraw her appeal.

appealed the order that granted summary judgment to [defendant] even though the issue of expenses remained pending.") (emphasis omitted). Contrary to Ellis's assertion, we have jurisdiction over this appeal.

3. *Lack of a hearing.*

Ellis argues that the trial court erred by ruling on the summary judgment motions without conducting a hearing. We disagree.

In March 2020, Ellis filed a pleading entitled, "Motion to Request Leave of Court to File a Sur Reply to Defendants['] Reply to Plaintiff's Opposition to Summary Judgment or in the Alternative Grant an Oral Hearing on the Matter of Summary Judgment," in which she requested "leave of court to request an oral hearing" on the cross-motions for summary judgment. After postponements, the trial court ultimately scheduled a hearing on the cross-motions for summary judgment for December 14, 2020. But on December 9, Ellis filed a notice of appeal of an earlier order, so the trial court, with the parties' consent, stayed all proceedings effective that date and cancelled the scheduled hearing.

We dismissed that appeal because of Ellis's failure to follow the interlocutory appeal procedure. Less than three months later, without having conducted a hearing, the trial court entered the order on the cross-motions for summary judgment.

> A trial court shall permit oral argument on a motion for summary judgment upon written request made in a separate pleading bearing the caption of the case and entitled "Request for Oral Hearing." Uniform Superior Court Rule 6.3. We have held before that the failure to hold a hearing on a motion for summary judgment is not error if the party requesting a hearing fails to comply with Uniform Superior Court Rule 6.3, which requires that any such request be made by a separate and distinct pleading.

Grot v. Capital One Bank (USA), 317 Ga. App. 786, 792 (5) (732 SE2d 305) (2012) (citation and punctuation omitted). Ellis has not shown by the record that, after the trial court cancelled the scheduled hearing—in accordance with the parties' consent to stay all proceedings—she complied with Uniform Superior Court Rule 6.3 by filing a "written request made in a separate pleading bearing the caption of the case and entitled 'Request for Oral Hearing' . . . . " *Grot*, 317 Ga. App. at 792 (5) (citation and punctuation omitted). So she has not shown that the trial court erred by failing to conduct a hearing on the cross-motions for summary judgment. Cf. *Holladay v. Cumming Family Medicine*, 348 Ga. App. 354, 355 (823 SE2d 45) (2019) (appellant had the right to rely on a summary judgment hearing date, scheduled in trial court's rule nisi upon appellee's request for a hearing, until the trial court vacated or withdrew the rule nisi).

4. *Motion for recusal.*

Ellis argues that the trial court erred by construing her motion to recuse, filed three days after the trial court had denied her original motion to recuse, as a motion for reconsideration. Had the trial court properly considered the motion as a motion to recuse, according to Ellis, the trial court would have considered new facts. Ellis does not describe what facts she contends the trial court should have, but did not, consider. She has not shown reversible error.

Ellis also enumerates that the trial court erred by failing to take "all of [her] arguments as true and [to] evaluat[e] them pursuant to a fair-minded person in ruling on [her] motion for recusal." Uniform Superior Court Rule 25.3 does require a judge, when determining whether recusal is warranted, to assume as true the facts alleged in an affidavit accompanying a motion to recuse. Unif. Sup. Ct. R. 25.3. But Ellis fails to describe the facts alleged in the affidavit that she contends the trial court did not consider as true. And in accordance with the presumption of regularity, we must presume that the trial court properly performed her duty. *Westmoreland v. State*, 287 Ga. 688, 696-697 (10) (699 SE2d 13) (2010). Ellis has not rebutted this presumption. Ellis's "enumeration[] and brief do not point to distinct errors of law and do not set forth cogent argument and citation of authorities." *Austin v. Cohen*, 251 Ga. App. 548

(554 SE2d 312) (2001) (citations and punctuation omitted). So Ellis has not shown reversible error. Id. at 548-549.

5. *Trial court's alleged argumentative conduct.*

Ellis enumerates that the trial court erred when "it engaged in argumentative conduct in responding to summary [judgment]." She argues that "[w]hen the [t]rial [c]ourt responded to [her] first motion for summary [judgment], by altering, omitting, and/or recasting [her] pleadings/allegations in her [o]rder on recusal, the [c]ourt engaged in argumentative conduct contrary to the Rules of USCR 25." Ellis does not explain how the trial court's order denying her motion to recuse had any bearing on the order on summary judgment. She has not shown reversible error.

6. *Expert affidavit.*

Ellis argues that the trial court erred by striking her expert affidavit absent a finding that she had failed to comply with a court order or had failed to supplement her discovery responses. Pretermitting whether the trial court erred by failing to consider the affidavit, Ellis has not shown harm.

The trial court declined to consider Ellis's expert affidavit because Oles "had no opportunity to respond," and because Ellis submitted the affidavit after she had filed her motions for summary judgment and without obtaining leave of court.

But Ellis filed the affidavit as an exhibit to her brief "*in opposition* of Oles's motion for summary judgment" in which she argued that Oles was not entitled to summary judgment on either her claims or his counterclaims. (Emphasis supplied.) We are not aware of a deadline for filing affidavits in opposition to summary judgment when no hearing is scheduled. Cf. *SJN Properties, LLC v. Fulton County Bd. of Assessors*, 296 Ga. 793, 796 (1) (770 SE2d 832) (2015) ("OCGA § 9-11-56 (c) authorizes a party against whom a summary judgment motion has been filed to serve affidavits in opposition to the motion at any time 'prior to the day of hearing.'"). And a trial court abuses "its discretion by excluding a witness solely because the witness was identified after the deadline set in a scheduling, discovery, and/or case management order," including in the context of summary judgment. *Lee v. Smith*, 307 Ga. 815, 823 (2) (838 SE2d 870) (2020) (overruling *Moore v. Cottrell, Inc.*, 334 Ga. App. 791, 794 (2) (780 SE2d 442) (2015), to the extent it held that the trial court did not abuse its discretion by striking an expert affidavit submitted in opposition to summary judgment solely because the plaintiffs identified the expert witness after the deadline in the trial court's scheduling order).

But assuming for purposes of this appeal that the trial court erred in excluding the affidavit of her expert witness, Ellis has not shown that the exclusion was

harmful. The affidavit concerned two issues: Oles's alleged breach of the minimum requisite standard of care in handling a deposition and Oles's alleged overbilling.

As for the expert's averments about the breach of the standard of care relating to the deposition, in her amended complaint, Ellis alleged that Oles committed intentional breaches of fiduciary duties (aggravated by fraud) by failing to attend the scheduled deposition without obtaining a protective order from the court. (Ellis consistently has asserted that all of her allegations of breaches of fiduciary duty are allegations of intentional torts, not malpractice, and she did not file an expert affidavit as required under OCGA § 9-11-9.1 to support malpractice complaints.)

But Oles and his law practice presented evidence—attorney Oles's own testimony—that he never acted with the intent to breach any duties owed to Ellis. And in his affidavit, Ellis's expert does not testify whatsoever about Oles's intent. See generally *SJN Properties*, 296 Ga. at 796 (1) (considering erroneously struck affidavits in de novo appellate review of the evidence in affirming summary judgment). So Ellis has not shown that the expert affidavit created a question of material fact on her claims for intentional breaches of fiduciary duties.

Nor does the affidavit create a question of material fact on Ellis's claim that Oles overbilled her. The expert refers in his affidavit to having reviewed

"documentation," including "the billing and evidence provided by [Ellis]," and concludes that the amount of time Oles spent on certain, specific tasks is unreasonable. But he attaches to his affidavit none of the documentation, billing, or evidence upon which he relied to reach his conclusion; he does not refer to specific documents; and there is no indication that the documents upon which he relied were served with the affidavit. (We observe that included in Ellis's 817-page filing in opposition to Oles's summary judgment motion—the filing that included the expert's affidavit—are some documents that may be billing statements and invoices, but they are included without context or identifying information; it is not clear that they are the documents to which the expert refers.)

OCGA § 9-11-56 (e) requires that copies of all papers referred to in an affidavit shall be attached to the affidavit or served therewith. "Where records relied upon and referred to in an affidavit are neither attached to the affidavit nor included in the record and clearly identified in the affidavit, the affidavit is insufficient." *Taquechel v. Chattahoochee Bank*, 260 Ga. 755, 756 (2) (400 SE2d 8) (1991) (citation omitted). "Since the records were not attached to the [expert's] affidavit or otherwise identified by their location in the evidence admitted of record, the references to these records cannot be used to contest the summary judgment motion." *Lance v. Elliott*, 202 Ga.

App. 164, 167 (413 SE2d 486) (1991). "While the documents and information reviewed by [the expert] may be part of the record, the specific documents and information relied upon were not listed or otherwise identified in [the] affidavit. Accordingly, the affidavit[ ] lack[s] probative value [on this issue]." *Demere Marsh Assocs., LLC v. Boatright Roofing & Gen. Contracting*, 343 Ga. App. 235, 244 (1) n.6 (808 SE2d 1) (2017).

So the expert's affidavit does not create an issue of fact sufficient to defeat Oles's entitlement to summary judgment, and any trial court error in refusing to consider the affidavit was not harmful.

7. *Alleged failure to incorporate facts.*

Ellis argues the trial court erred by failing to incorporate any of the facts asserted in her verified "Plaintiff's Sur Reply to Defendants Response to Plaintiff's Opposition to Defendants Motion for Summary Judgment." She fails to point to record citations of specific items of evidence that she contends create a question of material fact. She has thus not shown error.

8. *Summary judgment.*

Ellis argues that the trial court erred in awarding Oles attorney fees because Oles "never apprised her of her legal rights regarding attorney fees in Georgia." She

does not dispute that she signed a binding contract engaging Oles, which outlined the fees that would be charged for representing her and explicitly stated that she would be obligated to pay attorney fees and costs Oles incurred in pursuing collection efforts. And she points to no law imposing a requirement upon an attorney to "apprise[a client] of her legal rights regarding attorney fees" in order for a contract for legal services to be enforceable. Ellis has not shown reversible error.

Judgment affirmed. Gobeil and Pinson, JJ., concur.

EXHIBIT B

STITES & HARBISON PLLC
ATTORNEYS

303 Peachtree Street, N.E.
Suite 2800
Atlanta, GA 30308
(404) 739-8800
(404) 739-8870 FAX

William D. Newcomb
(404) 739-8873
jkingma@stites.com

April 26, 2023

VIA E-MAIL AND CERTIFIED MAIL

Tatyana Ellis
1530 Aurelia Drive
Cumming, Georgia 30041

RE: Tatyana Ellis v. David Edward Oles *et al.*
Superior Court of Fulton County
Civil Action File Number: 2019CV316544
S&H File No.: 220861

Dear Ms. Ellis:

As you're aware, all of your appeals in your lawsuit bearing Civil Action Number 2019CV316544 (the "2019 Lawsuit") have failed, and the case has been remanded back to the trial court. Per the Court's July 30, 2021 Amended Final Order Granting Defendants' Motion for Summary Judgment and Denying Plaintiff's Motions for Summary Judgment, you are now required to pay my client $23,453.35, plus the contractual service charges on that amount which, as of today, amount to over $17,000. This amount continues to increase daily.

The Court also ordered you to pay my client its litigation expenses incurred in pursuing collection of these amounts from you. In order for my client to have prevailed on its collection claims against you, it was necessarily required to prevail on your claims against it.[1] Thus, all of the expenses incurred by my client in your lawsuits against it were incurred in pursuing payment of the amount you contractually owe it. As of today, those expenses amount to approximately $291,000.00.

Finally, in the lawsuit bearing Civil Action File Number 2020CV342206 (the "2020 Lawsuit"), the Court granted our Motion to Dismiss your claims against all Defendants. As shown in our Motion for Fees and Expenses of Litigation Pursuant to O.C.G.A. 9-11-11.1(b.1), we are entitled to a mandatory fee award in excess of $22,557.15.

[1] See Jones v. Brawner, 160 Ga.App. 314, 314 (1981) ("A [party] seeking to enforce an alleged contract has the burden and must show performance on his part; otherwise, he is not entitled to a verdict against the [other party].").

On August 5, 2021, I relayed a settlement proposal to you in hopes of resolving all disputes among the parties to the lawsuits you filed. You failed to accept this offer. Nonetheless, in lieu of pursuing collection and engaging in post-judgment discovery on your financials, and in the interests of ending all litigation with you, I am authorized to re-extend a settlement offer to you. The terms of the settlement offer are outlined in the attached Settlement Agreement. **This offer will remain open until May 1, 2023 at 5p EDT, at which point it will automatically terminate.** If you fail to accept this offer, my client will pursue collection of the full amounts owed by you.

I strongly recommend you discuss our offer with an attorney who can advise you as to your best interests.

Sincerely,

STITES & HARBISON PLLC

William D. Newcomb

Enclosure (1)

cc (via e-mail):

Jeff Hoffmeyer
Eric Frisch

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release (the "Settlement Agreement") is entered into between Tatyana Ellis ("Claimant"), on one hand, and David E. Oles and Law Offices of David E. Oles, LLC (the "Oles Respondents") and Copeland, Stair, Valz & Lovell, LLP (f/k/a Copeland, Stair, Kingma & Lovell, LLP), William D. Newcomb, and Jeffrey C. Hoffmeyer (collectively, the "CSKL Respondents") (the Oles Respondents and the CSKL Respondents shall be collectively referred to as the "Respondents" unless otherwise indicated), on the other hand (Claimant and Respondents shall be referred to individually as a "Party" or collectively as the "Parties" unless otherwise indicated).

RECITALS

WHEREAS, the Oles Respondents previously represented Claimant in connection with various legal matters (the "Underlying Engagement");

WHEREAS, on February 12, 2019, Claimant filed a lawsuit against the Oles Respondents in the Superior Court of Fulton County bearing Civil Action File Number 2019CV316544 (the "2019 Lawsuit") in which she asserts claims against the Oles Respondents arising out of the Underlying Engagement;

WHEREAS, the Oles Respondents filed a counterclaim against Claimant in the 2019 Lawsuit pursuant to which they seek outstanding fees, costs, and other amounts they claim Claimant owes them for legal services they rendered to her in connection with the Underlying Engagement;

WHEREAS, the Oles Respondents retained the CSKL Respondents to represent them in the 2019 Lawsuit;

WHEREAS, on November 5, 2020, Claimant filed a lawsuit against Respondents in the Superior Court of Fulton County bearing Civil Action File Number 2020CV342206 (the "2020 Lawsuit") in which she asserts claims against them arising out of the Underlying Engagement and their handling of the 2019 Lawsuit;

WHEREAS, to avoid the burdens and distractions of further litigation, the Parties hereby dispose of and fully and completely resolve any and all claims and disputes among them as set forth below.

1. **Terms of the Settlement.** In consideration of the releases and promises contained in this Settlement Agreement and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

a) Claimant shall pay, or shall cause to be paid, Twenty-Five Thousand Dollars ($25,000.00) (the "Settlement Sum") to the Oles Respondents within fourteen (14) days of Claimant's written notification to counsel for the Oles Defendants that she has accepted Respondents' settlement proposal. Payment shall be made in cash or via certified bank check.

b) Claimant, on behalf of herself, her agents, administrators, trustees, executors, assigns, and successors, hereby completely releases and forever discharges Respondents and all of their past, present, and future agents, officers, directors, owners, employees, shareholders, affiliates, joint venturers, members, partners, insurers, insurance plans, representatives, principals, servants, attorneys, heirs, executors, administrators, beneficiaries, assigns, predecessors, and successors from any and all claims, causes of action, liabilities, obligations, losses, actual, punitive, exemplary, and all other type of damages, attorney's fees, costs, expenses of litigation, and compensation of any nature whatsoever, whether known or unknown, seen or unforeseen, accrued or unaccrued, fixed or contingent, liquidated or non-liquidated, which have been or could have been asserted and/or sought in any forum, whether based on a claim of negligence, breach of contract, breach of fiduciary duty, intentional tort, and/or any other theory of recovery, arising out of or relating in any way to the Underlying Engagement, the 2019 Lawsuit, the 2020 Lawsuit, and any and all services the Oles Respondents have ever rendered to Claimant and which Claimant contends the Oles Respondents ever should have rendered to her. This release is intended to be construed as broadly as the law allows.

c) Respondents, on behalf of themselves, their agents, administrators, trustees, executors, assigns, and successors, hereby completely release and forever discharge Claimant from any and all claims, causes of action, liabilities, obligations, losses, actual, punitive, exemplary, and all other type of damages, attorney's fees, costs, expenses of litigation, and compensation of any nature whatsoever, whether known or unknown, seen or unforeseen, accrued or unaccrued, fixed or contingent, liquidated or non-liquidated, which have been or could have been asserted and/or sought in any forum, whether based on a claim of negligence, breach of contract, breach of fiduciary duty, intentional tort, and/or any other theory of recovery, arising out of or relating in any way to the Underlying Engagement, the 2019 Lawsuit, the 2020 Lawsuit, and any and all services the Oles Respondents have ever rendered to Claimant and which Claimant contends the Oles Respondents ever should have rendered to her. This release is intended to be construed as broadly as the law allows.

d) Within seven (7) days of Claimant tendering the Settlement Sum to the Oles Respondents' attorneys, Claimant will execute and file Dismissals With Prejudice of all claims she has asserted against the Oles Respondents in the 2019 Lawsuit and all claims she has asserted against Respondents in the 2020 Lawsuit. Within seven (7) days of Claimant's filing of the Dismissal With Prejudice in the 2019 Lawsuit, the Oles Respondents will execute and file a Dismissal With Prejudice of all claims they have asserted against Claimant in the 2019 Lawsuit.

e) The Parties agree to be solely responsible for the payment of their respective attorney's fees, costs, expert witness fees, and any and all other expenses incurred on their behalf as a result of or arising out of the Underlying Engagement, the 2019 Lawsuit, the 2020 Lawsuit, and any and all services the Oles Respondents have ever rendered to Claimant and which Claimant contends the Oles Respondents ever should have rendered to her. This Paragraph does not apply to any subsequent disputes over the enforceability of this Settlement Agreement.

f) The Parties agree this Settlement Agreement is supported by sufficient and adequate consideration.

2. **Non-Disparagement.** Claimant agrees not to make any statements or cause or encourage others to make any statements that defame, disparage, malign, demean, or in any way criticize the reputation, practices, or conduct of the Oles Respondents or that attack the Oles Respondents, whether orally or in writing, and including, but not limited to, in the press, publicly, on the internet, or on any form of social media. Claimant shall not, directly or indirectly, initiate or engage in any publicity of any kind concerning the Oles Respondents, nor shall Claimant contact or respond to any other person or entity about or concerning the Oles Respondents, or publish, share, or distribute to any other person any communication, report, statement, filing or document of or concerning the Oles Respondents. It is expressly understood that this Paragraph is a substantial and material provision of the Settlement Agreement, and a breach of this Paragraph would support a cause of action for breach of contract and would entitle the aggrieved Party to recover damages flowing from such breach. In any litigation arising from Claimant's breach of this Paragraph, the non-prevailing Party shall be liable to the prevailing Party for her/his/its reasonable attorney's fees and expenses incurred in connection with that litigation.

3. **Enforceability.** Should any term or provision of this Settlement Agreement be declared invalid by a court of competent jurisdiction (except those contained in Paragraph 1), the Parties agree that all of the other terms and provisions of this Settlement Agreement are valid and binding and shall have full force and effect as if the invalid portion had not been included.

4. **Amendment and Waiver.** This Settlement Agreement and its terms may be amended, modified, or waived only by the written consent of each of the Parties and/or their attorneys. The waiver of any breach of this Settlement Agreement shall not operate or be construed as a waiver of any similar, prior, or subsequent breach of this Settlement Agreement.

5. **Choice of Law and Venue.** This Settlement Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Georgia in all respects, including matters of construction, validity, enforcement, and interpretation. Any lawsuit filed to enforce the terms of this Settlement Agreement shall be filed in the Superior Court of Fulton County, Georgia.

6. **Construction.** This Settlement Agreement shall be construed as if the Parties jointly prepared it, and any uncertainty or ambiguity in this Settlement Agreement shall not be interpreted or construed against the drafter.

7. **Contract.** Statements and representations contained in this Settlement Agreement are to be considered contractual in nature and not merely recitations of fact.

8. **Multiple Counterparts.** This Settlement Agreement may be executed in identical counterparts, each of which shall collectively constitute one agreement; but in making proof of this Settlement Agreement, it shall not be necessary to produce or account for more than one such counterpart containing the signature of the Party against whom enforcement is sought. A signed counterpart received by a Party via facsimile or via e-mail shall suffice in lieu of an original in making proof of this Settlement Agreement.

9. **Claimant's Representations.** Claimant represents and warrants she a) is unaware of the existence of any actual or potential claim, demand, suit, cause of action, complaint, charge, or grievance possessed by her against Respondents which is not subject to and fully released by this Settlement Agreement; b) owns the claims being released; c) has not sold, assigned, or otherwise transferred to any other person or entity any interest in any claim, account, motion, demand, action, and/or cause of action she has or may claim to have against Respondents; and d) has entered into and executed this Settlement Agreement of her own choice and free will and in accordance with her own judgment.

10. **Advice of Counsel.** The Parties acknowledge and agree they have given mature and careful thought to this Settlement Agreement and have been given the opportunity to review and discuss this Settlement Agreement independently with legal counsel.

11. **Denial of Liability.** By executing this Settlement Agreement, Respondents do not admit the truth of any of allegations of wrongful conduct asserted by Claimant, and in fact expressly deny any liability to her. The Parties agree the execution of this Settlement Agreement shall not constitute or ever be offered by them as an admission of any fact or allegation asserted in any lawsuit or other legal or administrative proceeding, except in a legal or administrative proceeding initiated to enforce the terms herein.

12. **Entire Agreement.** This Settlement Agreement embodies the complete agreement between the Parties and nullifies any prior agreement concerning the subject matter hereof.

13. **Tax Consequences.** The Parties make no representations regarding this Settlement Agreement's tax consequences, if any, and this Settlement Agreement is enforceable regardless of same. Each Party shall be solely responsible for any and all of her/his/its own taxes, interest, and/or penalties due and owing, if any, should any aspect of this Settlement Agreement be considered taxable to that Party, and are advised to obtain their own tax advice from a tax or accounting professional.

14. **No Reliance.** In signing this Settlement Agreement, no Party has relied on or been induced to execute this Settlement Agreement by any statement, representation, agreement, or promise, oral or written, made by any other Party, other than those set forth in this Settlement Agreement.

15. **Paragraph Headings.** The paragraph headings utilized in this Settlement Agreement are for purposes of convenience of reference only, and shall not be used to construe, modify, alter, or supplement the language following such headings.

_____
Tatyana Ellis

Date: _____

_____
David E. Oles

Date: _____

_____
Law Offices of David E. Oles, LLC

By: _____

Date: _____

_____
William D. Newcomb

Date: _____

_____
Jeffrey C. Hoffmeyer

Date: _____

_____
Copeland, Stair, Valz & Lovell, LLP

By: _____

Date: _____

EXHIBIT C

From: tatyanaellis2014@gmail.com
To: Troy
Subject: Fwd: Ellis v. Oles - your discovery responses
Date: Thursday, June 8, 2023 6:00:10 PM

Sent from my iPhone

Begin forwarded message:

From: "Newcomb, William" <wnewcomb@stites.com>
Date: June 8, 2023 at 1:36:08 PM EDT
To: tatyanaellis2014@gmail.com
Cc: "Hoffmeyer, Jeff" <jhoffmeyer@stites.com>
Subject: Ellis v. Oles - your discovery responses

Ms. Ellis: I am in receipt of your responses to my client's post-judgment discovery requests. You object to and refuse to answer the requests because "there has been no final order entered in the case." You are wrong. Judge Adams' July 30, 2021 "Amended **Final Order** Granting Defendants' Motion for Summary Judgment and Denying Plaintiff's Motions for Summary Judgment" (the "Amended Final Order") is, on its face, a "Final Order." And even if it didn't say, on its face, that it was a "Final Order," it would constitute a "Final Order" under Georgia law. Paine v. Nations, 301 Ga.App. 97, 99 (2009) ("Even if a trial court's order does not state that it is a grant of final judgment, 'it nevertheless constitutes a final judgment within the meaning of OCGA § 5–6–34(a)(1) where it leaves no issues remaining to be resolved, constitutes the court's final ruling on the merits of the action, and leaves the parties with no further recourse in the trial court.'"). In fact, you wouldn't have been able to appeal the Amended Final Order as a matter of right had it not been a "Final Order." For the same reason, the Amended Final Order is not interlocutory.

Moreover, to the extent you contend that post-judgment discovery is premature because the Amended Final Order is not a final order, you are also wrong. Under O.C.G.A. § 9-11-54(a), a "judgment" is defined to "include[] a decree and **any order from which an appeal lies**."

O.C.G.A. § 9-11-69 expressly provides that "[i]n aid of the judgment…, the judgment creditor…may do any or all of the following: (1) Examine any person, including the judgment debtor by…propounding interrogatories; (2) Compel the production of documents and things…" Our post-judgment discovery requests were served to assist my clients in enforcing the judgment against you and are in absolute compliance with the statute. Nowhere does the statute – or any other Georgia law – require the filing of a "final case disposition form" as a prerequisite to serving post-judgment discovery requests.

Finally, your suggestion that you are somehow relieved of your obligation to respond to discovery because the Clerk has not created a new case number and we have not filed a case disposition form are without merit. First, there is nothing in the Georgia Code, case law, or Uniform Rules of Superior Court that relieves you of your obligation to respond to discovery if it was served more than six months after the final order. See Wyatt Processing, LLC v. Bell Irrigation, Inc., 298 Ga. App. 35, 36-37 (2009) (affirming order holding judgment debtor in contempt for failing to respond to post judgment discovery served more than six months after the judgment). Second, you unsuccessfully appealed the Amended Final Order, unsuccessfully attempted to pursue cert review by the Georgia Supreme Court, and the remittitur was only received by the trial court on March 13, 2023. During the time you were pursuing your appeals, the trial court lacked jurisdiction to do anything in the case. We promptly served post-judgment discovery on April 26, 2023, which is well within six months after entry of remittitur.

Please provide complete responses to the requests by June 13, 2023, or we will file a Motion to Compel and seek my clients' fees and costs incurred in filing the Motion. We also reserve the right to ask the Court to hold you in contempt for your willful failure to respond to post-judgment discovery.

William D. Newcomb, III
Member
Direct: 404-739-8873
Fax: 404-739-8870
wnewcomb@stites.com

STITES&HARBISON PLLC
303 Peachtree Street, N.E., Suite 2800, Atlanta, GA 30308

EXHIBIT D

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

IN RE: DAVID E. OLES,	*	
	*	
CONTEMPT CITATION.	*	
	*	
	*	**CIVIL ACTION**
KAREN GOTTSCHALK,	*	
Plaintiff,	*	**FILE NO.: 06-1-03175-49**
	*	
vs.	*	
	*	
DEAN GOTTSCHALK,	*	
	*	
Defendant.	*	
	*	

ORDER OF CONTEMPT
RE: DAVID E. OLES, ATTORNEY

This matter came before the Court on April 17, 2009 for hearing on a contempt against Respondent, David E. Oles, for matters arising and revealed during the Court's trial of the underlying case on October 3, 2008. At that time, Respondent was serving as counsel for the Defendant in an action for modification of visitation. The contempt concerned a violation of the Court's orders protecting the confidentiality of a report by Dr. Sheri Siegel, the custody evaluator in the case. Mr. Oles chose to represent himself with respect to the contempt and presented evidence and argument on his own behalf, including the testimony of one witness, Dr. Monty Weinstein. After having heard counsel's evidence presented on his own behalf, having reviewed his argument, and having reviewed the entire record in this matter including the official transcript of the prior proceedings, the Court hereby finds

counsel, Mr. Oles, in contempt of the Court's order of October 5, 2006 (and as affirmed by the subsequent orders of March 5, 2007 and May 21, 2007), as follows:

On October 5, 2006, the previous judge in this action, the Honorable Adele Grubbs, entered an order (that was subsequently filed on October 6, 2006), concerning the appointment of a custody evaluator in this action. The order was prepared by the guardian ad litem, Diane Woods, appointing Sheri Siegel, Ph.D., as the custody evaluator. One of the provisions of that order, states as follows:

> Upon the completion of the custody evaluation, Dr. Siegel will forward a written report to the Court, to counsel for the parties, and to the Guardian ad Litem. The parties shall be entitled to review the written report. The Court hereby ORDERS, however, that *any unauthorized distribution of the contents of Dr. Siegel's report by a party or by counsel to any person shall be subject to sanctions, including a finding of contempt by the Court.* Furthermore, if Dr. Siegel's report is filed, it shall be filed under seal by the Clerk of Court.

Order of October 5, 2006, par. 3 (emphasis supplied).

Subsequent to the issuance of this order, a copy of Dr. Siegel's custody evaluation was authorized to be released to the Defendant's psychologist, Emmett Fuller. At that time, on March 5, 2007, the Court entered a subsequent order stating, in pertinent part, as follows:

> IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendant's attorney may release a copy of the report completed by Dr. Sheri Siegel to Defendant's psychologist, EMMETT FULLER. No further release of this report is authorized or granted by this Court and the parties and their respective counsel are hereby instructed to strictly adhere to the conditions set forth in this Court's order of October 6, 2006 entered in this action.

Again, on May 21, 2007, the Court permitted a copy of Dr. Siegel's report to be released to Dr. Susan Volentine, the minor children's psychologist. The Court's order of

May 21, 2007 authorizing such release contained language identical to the March 5, 2007 order quoted above.

In addition to the above-referenced orders, the Court also issued an order appointing the guardian ad litem on June 6, 2007. In that order, the Court specifically allowed the parties to distribute the contents of the guardian's report to experts in the case without further order of the Court. No similar language was contained in the Court's order regarding Dr. Siegel's report, and other than the two orders mentioned above, no party ever requested to be relieved of the confidentiality provisions of the October 6, 2006 order issued by the Court.

During the trial in the underlying action, Defendant presented the testimony of an expert witness, Dr. Monty Weinstein. In the course of Dr. Weinstein's testimony, Dr. Weinstein revealed that he had reviewed Dr. Siegel's report as a part of his preparation in the case. At that time, counsel for the Plaintiff moved to exclude Dr. Weinstein's testimony due to the violation of the Court's order of October 6, 2006. The Court made some inquiries of Dr. Weinstein with respect to how he came to review this report, and, in opposition to the Plaintiff's motion to exclude Dr. Weinstein's testimony, counsel for the Defendant also offered his version of the facts with regard to how Dr. Weinstein came to review the report. The Court ruled that Dr. Weinstein could not testify with respect to his review of Dr. Siegel's report, and the Court made clear that the matter of whether there had been an express violation of the Court's order would be taken up at a later date.

Subsequent to issuing an order in the underlying matter, the Court issued a Rule Nisi on the contempt, informing Mr. Oles of his opportunity to address the issue of the disclosure of the contents of Dr. Sheri Siegel's report to his expert and whether this disclosure violated

the Court's orders of October 6, 2006, March 5, 2007, and May 21, 2007. That hearing was held on April 17, 2009.

During the course of the trial of the underlying case, while Dr. Weinstein was testifying, he revealed that he had reviewed Dr. Siegel's report and that the report was shown to him by Mr. Oles. Mr. Oles responded that it was not his understanding that anything contained in the Court's order would prohibit him from showing the order to his expert in order to have the expert assist him in the preparation of his case. Mr. Oles stated as follows: "It has never been my understanding that there is any rule or law out there in the State of Georgia that overrides my right to enlist, within the protection of attorney-client privilege, a trial consultant to help me do that." T., pp. 657-658. Mr. Oles further affirmatively stated "We have not disseminated that report. The review of that report was limited to our office, solely in assisting us to prepare the case. *That report did not leave our custody or possession.*" T., pp. 658-659 (emphasis added). Mr. Oles further stated "I don't believe or perceive that it was the Court's intention to restrict me from having a trial expert look at this, just like it would be a trial expert in any other case. Certainly, it is a confidential document and was restricted from circulation. And we absolutely understand and respect that." T., p. 661, ll. 4-10.

On October 3, 2008, following the revelation that Dr. Weinstein had reviewed the report, the Court found that such review was in violation of the Court's order of October 6, 2006 (as reiterated in the Court's two subsequent orders) and excluded Dr. Weinstein's testimony regarding Dr. Siegel's report. Following this ruling, Dr. Weinstein reiterated that he had reviewed the report in Mr. Oles's office, but insisted that he did not have a copy of it

and did not have a file on the case at all. *See* Transcript, p. 685, ll. 1-4, 11. In fact, he indicated that he had returned all the materials relating to the Gottschalk matter to Mr. Oles. T., p.685.

After affirmatively stating that he had no file in the case, Dr. Weinstein was questioned by counsel for the Plaintiff as to whether he had administered any tests to the Defendant. He admitted that he had administered such tests and that he had a copy of the report with him. When he was asked by Plaintiff's counsel if she could review the report, Dr. Weinstein proceeded to produce a file that contained the report of test findings relative to the Defendant. When Dr. Weinstein was asked about that "file," he admitted that it also contained other documents relating to the case. Upon inquiry, he admitted that the guardian ad litem report was also in it. Since DR. Weinstein had previously denied possessing any fine on the case, the Plaintiff's attorney asked if the Court would conduct an in camera review of Dr. Weinstein's file to determine what other documents were in that file and whether they could be reviewed by Plaintiff's counsel. T., p. 691.

Upon conducting the in camera inspection, the Court found that the other document that was contained in Dr. Weinstein's file was, in fact, a copy of Dr. Sheri Siegel's report. T., p. 690. At the time the Court located Dr. Siegel's report in Dr. Weinstein's file, the following exchange took place:

JUDGE KELL:	I was explicitly told this report was only reviewed in your office, Mr. Oles, and that a copy was not given to this witness.
ATTORNEY OLES:	Yes, your Honor. That's absolutely my testimony.
JUDGE KELL:	Dr. Weinstein, where did you get this?

WITNESS DR. WEINSTEIN: I got this today from Mr. Oles. Again, I believe he showed it to me in his office. I gave it back to him last night, and he gave -- you know and I have a copy today.

JUDGE KELL: Who made this copy?

WITNESS DR. WEINSTEIN: I didn't make copies.

ATTORNEY OLES: Your Honor, that's my copy.

...

ATTORNEY OLES: We reviewed it. And how it got -- I don't know. That is all.

T., pp. 690-691.

The witness, Dr. Weinstein, asserted at several points in his testimony that he had first seen Dr. Siegel's report in Mr. Oles' office under Mr. Oles' supervision approximately a month and a half prior to trial. *See, e.g.*, T. pp. 717, 718, 719. Dr. Weinstein testified as follows: "I saw it in Mr. Oles' office under his supervision approximately a month and a half ago. I saw it in – and then I saw it afterwards. But maybe I should have returned it to Mr. Oles – or not. I can't remember." T. p. 717. The witness was then asked where he obtained the copy that was found in his file. He stated as follows: "The copy was – it was given to me last night in his office. I didn't take – I don't take this type - ... the answer is I got it last night. I looked at it in his supervision. ... I may have taken a copy." T., p. 717. A further exchange on the subject took place with Plaintiff's counsel as follows:

Q: But that's when you got it, last night?

A: I got it in his office.

Q: Not today, last night.

A: And today, I looked at it.

Q: So you reviewed it last night?

A: No, I didn't review it last night. I didn't review it last night. Did not.

As the Court indicated, after the completion of the trial on the underlying case, the Court issued a Rule Nisi to allow this matter to be further explored to determine whether or not any contempt or other violation of the Court's orders had occurred. The Court indicated that the matters that had occurred at the hearing of October 3, 2008 were the basis for the Court's *sua sponte* issuance of the Rule Nisi concerning the contempt. Mr. Oles was allowed to present evidence with respect to how Dr. Weinstein came into possession of the Sheri Siegel report.

Mr. Oles indicated from the outset that he had showed the report to his expert the night before the expert testified but that it had not been his intention to give a copy of the report to the expert witness. He denied that this was in violation of the Court's orders because he believed that it was "necessary" in order to properly prepare for his client's case. His position was that requiring him to obtain a court order before showing the document to his expert would require him to reveal the identity of a consulting expert before he had determined whether or not to use such expert at the trial. Thus, he determined that it "could not have been" the Court's intention to prevent him from showing the report to a consulting expert.

A plain reading of the Court's order of October 6, 2006, coupled with the subsequent orders of the Court, make such a tortured reading of the Court's order disingenuous.

Mr. Oles called Dr. Weinstein as a witness to describe the circumstances under which Dr. Weinstein reviewed the report. The Court finds Dr. Weinstein's testimony with regard to this matter to be, at best, confused and at worst an outright fabrication. For example, when initially questioned about how and when he came into possession of or first reviewed Dr. Siegel's report, Dr. Weinstein testified that he first reviewed Dr. Siegel's report a month and a half prior to trial. *See, e.g.,* T., pp. 717, 718, 719. When called to testify at the contempt hearing, however, he recanted this testimony and indicated that, in fact, the first time that he ever reviewed the Siegel report was the evening prior to his testimony on October 3, 2008. If he reviewed this report upon which he intended to opine at trial for the first time the evening before he testified at the trial, the Court finds it impossible to comprehend how the witness might have been "mistaken", as he claims, when he initially testified that he had seen the report a month and a half prior to trial. If the report was presented to him for the first time the night before his testimony, the Court finds it difficult to believe that he would have been repeatedly mistaken in testifying that he had, in fact, seen it a month and a half prior to trial.

Likewise, the witness' testimony with respect to how he obtained the copy of the report found in his file makes no sense. At the hearing on this matter in April 2009, Mr. Oles and the witness both indicated that the witness "accidentally" took the report from Mr. Oles' office. This, however, contradicts the witness' statement when the report was discovered in his possession on October 8, 2008. At that time, Dr. Weinstein testified as follows: "I got this [report] today from Mr. Oles. Again, I believe he showed it to me in his office. I gave it back to him last night, and he gave – you know and I have a copy today." T., p. 691. The

witness later testified:

> A: The copy was – it was given to me last night in his office. I didn't take – I don't take this type - ... the answer is I got it last night. I looked at it in his supervision.
>
> Q: And he gave you a copy of it?
>
> A: No. I may have taken a copy. I don't remember him saying, "here is the copy. Keep it," because I looked at it in the office. I didn't look at anything –
>
> Q: But that's when you got it, last night?
>
> A: I got it in his office.
>
> Q: Not today, last night.
>
> A: And today, I looked at it.
>
> Q: So you reviewed it last night?
>
> A: No, I didn't review it last night. I didn't review it last night. Did not.

T., p. 717.

In response to this line of questioning, the Court asked a question for clarification:

> JUDGE KELL: Let me ask this. Again, I'm confused: When you originally saw this report a month and a half ago in Mr. Oles' office, did you actually receive a copy of it at that time?
>
> WITNESS DR. WEINSTEIN: No, I didn't. That, I would remember.

T., p. 718.

When called to testify at the hearing on the contempt matter, however, Dr. Weinstein gave confusing and conflicting testimony with respect to when he actually obtained the copy of the report. He affirmatively stated, however, that he did not review the report at all a

month and a half prior to the trial as he stated in his prior testimony. He stated that he reviewed the report in Mr. Oles' office the night prior to his testimony on October 3, 2008 and did not review it again on the day of his testimony of October 3, 2008. Such testimony conflicts with testimony in the transcript quoted above.

In any event, the Court finds that Defendant's attorney, Mr. Oles, is in willful contempt of the Court's order of October 6, 2006, and as reiterated and restated in the subsequent orders of March 5, 2007 and May 21, 2007. It was clear from these orders that the contents of Dr. Siegel's report were not to be distributed in any fashion to any person other than the parties and their counsel. Mr. Oles admits that he purposely distributed the contents of the confidential report to his expert, Dr. Weinstein, in order to facilitate his client's case. *See* T. pp. 655-659, 661.

The Court finds Mr. Oles' arguments that the order *should not* have precluded his sharing the report with a consulting expert unpersuasive. If there was any question with respect to the scope of the order, the party could have sought clarification from the Court. In fact, however, a reading of the subsequent orders in March and May 2007 clarified the issue, if any such clarification was needed. In addition, the Court is convinced that the violation of the Court's order was a knowing violation which was perpetrated because Defendant's counsel thought it was more advantageous to prepare his expert without disclosing the expert's identity. Such a reckless strategy, however, constitutes contempt of this Court's authority and a willful violation of its order.

Criminal contempt is conduct which involves some form of "disrespectful or contumacious conduct" toward the Court. *In re: Mauldin*, 242 Ga. App. 350 (2000); *in re:*

Billy L. Spruell, 27 Ga. App. 324 (1997); *In re: Henritze*, 181 Ga. App. 560 (1987). This willful disrespect may involve either an intentional disregard for or disobedience of a court order, or conduct which interferes with the Court's ability to administer justice. *In re: Spruell, supra.* Both elements are present here.

In order to establish criminal contempt, there must be proof, beyond a reasonable doubt, that the alleged contemnor violated a court order and did so willingly. *See Thomas v. D.H.R.*, 228 Ga. App. 518 (1997). It is also essential to establish that the thing ordered to be done is within the power of the person against whom the order is directed. *Id.; see also In re: Heinritze, supra.*

Furthermore, whether attorney Oles believed his conduct was justified is irrelevant. *Barlow v. State*, 237 Ga. App. 152 (1999). Because attorney Oles refused to comply with the Court's orders, he "disrupted the court proceedings and interfered with the orderly administration of justice." *Id.* at 157.

Pursuant to O.C.G.A. § 15-6-8, the superior courts have the authority to punish contempt by imprisonment for not more than twenty days, or by a fine not exceeding $500.00. O.C.G.A. § 15-1-4(a) provides that

> [t]he powers of the several courts to issue attachments and inflict summary punishment for contempt of court shall extend only to cases of:
>
> ...
>
> (3) Disobedience or resistance by any officer of the courts, party, juror, witness, or other person or persons to any lawful writ, process, order, rule, decree, or command of the courts.

Here, based on attorney Oles' conduct regarding the Court's Order and the complete lack of any legal authority supporting attorney Oles' offered explanation, the Court finds

beyond a reasonable doubt that attorney Oles directly and intentionally violated the Court's Order. Thus, the Court had the power, though not exercised in this case, to summarily adjudicate and punish attorney Oles for such direct (i.e., commited in the judge's presence) criminal (i.e., punitive rather than remedial) contempt of court.

> The power to summarily adjudicate and punish for direct criminal contempt is derived from the court's authority to maintain courtroom order and decorum. "During trial, a trial judge has the power, when necessary to maintain order in the courtroom, to declare conduct committed in his presence and observed by him to be contemptuous, and, after affording the contemnor an opportunity to speak in his or her own behalf, to announce punishment summarily and without further notice or hearing."

In re: Schafer, 216 Ga. App. 725, 725 (1995) (quoting *Dowdy v. Palmour*, 251 Ga. 135, 141-142, (1993)). Instead, the Court allowed Mr. Oles a hearing on the contempt which resulted in the above findings.

For all the above and foregoing reasons, the Court finds beyond a reasonable doubt that Attorney Oles willfully violated the Court's orders of October 6, 2006, March 5, 2007 and May 21, 2007.

This Court, therefore, finds Attorney Oles to be in CONTEMPT. He is hereby fined in the amount of $500.00, and is directed to pay said fine into the Registry of the Court within thirty (30) days of the date of this Order.

SO ORDERED this 6th day of May, 2009.

C. LaTain Kell
Judge, Superior Court of Cobb County
Cobb Judicial Circuit

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served a copy of the within and foregoing order (Civil Action File No. 06-1-3175-49) upon all parties by sending a true and correct copy via facsimile and through the Cobb County Mail System addressed to the following:

Barbara Lassiter, Esq.
1700 Water Place, Suite 306
Atlanta, GA 30339

David Edward Oles, Esq.
Law Offices of David E. Oles, LLC
480 Tumbling Creek Drive
Alpharetta, GA 30005

Diane Woods, Esq.
Huff, Woods & Hamby
707 Whitlock Avenue, S.W., Suite G-5
Marietta, GA 30064-3033

This 6th day of May, 2009.

Natalie C. Bloodworth
for C. LaTain Kell, Judge
Superior Court of Cobb County
Cobb Judicial Circuit

CERTIFICATE OF SERVICE

This is to certify that I have this day caused the within and foregoing to be served upon all other parties in this action by electronic service upon:

William Newcomb & Jeff Hoffmeyer
Stites & Harbison
303 Peachtree St NE
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wnewcomb@stites.com
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Dated: August 22, 2023

Respectfully submitted,

/s/Tatyana Ellis
Tatyana Ellis
Pro Se

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EXHIBIT K

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

TATYANA ELLIS,	)	
	)	
Plaintiff,	)	
	)	**CIVIL ACTION**
v.	)	
	)	**FILE NO. 2019CV316544**
DAVID EDWARD OLES and	)	
LAW OFFICES OF	)	
DAVID E. OLES, LLC,	)	
	)	
Defendants.	)	

PLAINTIFF'S RESPONSE IN SUPPORT OF PLAINTIFF'S OMNIBUS MOTION FOR LEAVE TO AMEND THE PRE TRIAL ORDER AND TO SUPPLEMENT AFFIDAVIT AND RECONSIDER SUMMARY JUDGEMENT

COMES NOW, Tatyana Ellis, and hereby files this Plaintiff's Response in Support of Plaintiff's Omnibus Motion for Leave to Amend the Pre Trial Order and to Supplement Affidavit and Reconsider Summary Judgement. Filed contemporaneously herewith is Ellis's Motion to Dismiss Defendants' Counterclaim.

I. SUMMARY

This fraud case is not over. The Law of the Case Rule establishes that

> "an issue remains pending below: the amount of litigation expenses to be awarded to Oles…Under OCGA § 9-11-56(h), orders granting summary judgment, even if issues remain pending, are directly and immediately appealable. " Ellis v. Oles 364 Ga. App. 133, 873 S.E.2d 251 (2022).[1] **EXHIBIT A**

Remittitur was signed by this Court March 13, 2023. **EXHIBIT A.** The trial court must accept Appellate Court remitter as binding upon it as a matter of law.[2] Clearly, this case is still within the breast of the court and subject to revision. See OCGA 9-11-54(b), OCGA 15-1-3(6), and

[1] Also see Trademark Quality Homes, Inc. v. Damon Free Appeal No. A23I0172 (March 28, 2023). (Relying on Ellis v. Oles as precedent: "Because the defendant here challenges the trial court's grant of partial summary judgment to the plaintiff, the trial court's order is subject to direct appeal. See Ellis v. Oles, 364 Ga. App. 133, 133-134(2) (873 SE2d 251) (2022)."). Oles's claim the case is "over" is patently frivolous and vexatious.
[2] See generally Shadix et al, v. Carroll County et al., 274 Ga. 560, 554 S.E.2d 465 (2001) ("It is a jurisprudential axiom that Georgia's courts are required to adhere to the `law of the case' rule in all matters which they decide.")

OCGA 15-1-3(7). See generally Bragg v. Rent to Own, Inc 257 Ga. App. 234, 570 S.E.2d 671 (2002) (Grant of partial summary judgment previously affirmed on appeal reversed at trial because the evidentiary posture changed).

In addition to establishing that the trial court's order is not final, the Law of the Case Rule further establishes:

1. There was no time fixed for hearing Oles' motion for summary judgement;[3] **EXHIBIT A**
2. Ellis is required to provide expert opinion evidence that Oles acted intentionally with respect to Ellis's fraud claims against attorney Oles; [4] **EXHIBIT A**
3. Expert opinion must cite the location of the record matter evidence relied upon regarding Oles's over-billing.[5] **EXHIBIT A**

On July 6, 2023, pursuant to OCGA 9-11-60(h) and subsequent to entry of remittitur, Ellis supplemented the record with the expert affidavit of Matthew D. McMaster[6] providing the deficient *evidence* identified in the Remittitur. The expert affidavit expressly opines that Oles had acted intentionally with respect to Ellis's fraud claims and Oles' over-billing. This expert affidavit is filed prior to the time fixed for hearing Ole's motion for summary judgment and prior to entry of a final order. As a matter of law, Ellis is entitled to the relief sought.

Nothing in the final order indicates the amount of any alleged damages relating to the costs of litigation. The pretrial order entered February 18, 2020[7] shows both parties demanded a trial by jury.[8] In fact, in the pre-trial order Oles expressly demanded a trial by jury as to any amounts of attorney fees incurred in pursuing litigation.

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[3] Ellis v. Oles et al., 364 Ga. App. 133, 873 S.E.2d 251 (2022) ("We are not aware of a deadline for filing affidavits in opposition to summary judgment when no hearing is scheduled…'OCGA § 9-11-56(c) authorizes a party against whom a summary judgment motion has been filed to serve affidavits in opposition to the motion at any time `prior to the day of hearing.'").

[4] Ellis v. Oles et al., 364 Ga. App. 133, 873 S.E.2d 251 (2022) ("Ellis's expert does not testify whatsoever about Oles's intent…So Ellis has not shown that the expert affidavit created a question of material fact on her claims for intentional breaches of fiduciary duties").

[5] Ellis v. Oles et al., 364 Ga. App. 133, 873 S.E.2d 251 (2022) ("Since the records were not attached to the [expert's] affidavit or otherwise identified by their location in the evidence admitted of record, the references to these records cannot be used to contest the summary judgment motion.").

[6] Envelope Number 12608467

[7] (V6—132)

[8] (V6—139-140)

> "Are Defendants contractually entitled to recover the attorney fees and costs of collection incurred by them in pursuing amounts contractually owed to them by Plaintiff? If so, what amount? [9]

Despite remittitur making clear that issues remain pending, Oles disingenuously contends that this case is "over" and demands there is no need for a trial as to the issue of the amount of litigation expenses.

> "This case is over." (Oles brief at 1)
>
> "As the Summary Judgment Order disposed of all issues in the case, there **is no need for a trial**." (emphasis added) (Oles brief at 9).

However, despite the final order failing to provide a finding as to the amount of alleged costs of litigation, Oles not only disingenuously contends the case is "over", but on April 26, 2023 Oles, subsequent to remittitur, Oles's attorney expressly informed Ellis that she was liable for attorney fees amounting to $291,000.

> The Court also ordered you to pay my client its litigation expenses incurred in pursuing collection of these amounts from you. In order for my client to have prevailed on its collection claims against you, it was necessarily required to prevail on your claims against it.[1] Thus, all of the expenses incurred by my client in your lawsuits against it were incurred in pursuing payment of the amount you contractually owe it. As of today, those expenses amount to approximately $291,000.00.

EXHIBIT B

In the April 26, 2023 letter, Oles sought to use the alleged $291,000 of damages to negotiate a settlement of any future litigation, including any claims of abusive litigation. **EXHIBIT B.**

Oles has already commenced post-judgment discovery against Ellis in the aid of filing liens[10] and threatened Ellis with contempt.[11] See OCGA 9-11-69. Obviously, Oles intends subvert the orderly process of the court and has already commenced "post-litigation" discovery to pursue filing a lien for attorney fees. As further evidence of Oles's intent, Oles has instructed

[9] (V6—140)
[10] See Ole's April 26, 2023 Rule 5.2 Certificate indicating he had served upon Ellis "Post-Judgment Interrogatories and Requests for Production of Documents and Things". (Envelope number 12099738)
[11] **Exhibit C**

this court that its order is final as to all issues and instructed this court that there is no need for a trial on any issues. (Oles brief at 9, *passim*).[12]

Ellis has endured and continues to endure abuse and threats from Oles. And Oles has repeatedly maintained he intends to harm Ellis and violate her legal rights. For example, after Ellis fired Oles for cause, Oles began threatening and harassing Ellis – even threatening to use his apparent authority as her counsel to settle Ellis's case without her consent and permission:

Please note that if I have to sue you over the unpaid fees, I will be permitted to reveal your confidential information as needed in that litigation. See Georgia Rule Professional Conduct 1.6. In addition, as your current counsel of record in each of these four cases, I retain the right to take any action I deem appropriate in pursuit of your cases, including compromising and settling them with the other side with or without your approval. See Rule 1.2 Govern yourself accordingly.

Sincerely,

David Edward Oles, Esq.
GA Bar. # 551544

(V7—332-334)

Plainly, attorney Oles, attorney Newcomb, and attorney Hoffmeyer seek to undermine the integrity of this court's pre-trial order. Oles, in his capacity as an attorney, has a history of being held in criminal contempt for willful violation of a court order. Attached is the certified court order making findings of fact and conclusions of law that the trial court found Oles in criminal contempt of court.

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beyond a reasonable doubt that attorney Oles directly and intentionally violated the Court's Order. Thus, the Court had the power, though not exercised in this case, to summarily adjudicate and punish attorney Oles for such direct (i.e., commited in the judge's presence) criminal (i.e., punitive rather than remedial) contempt of court.

[12] Notably, if this case is "over", then Oles failed to appeal a final order that is a "zero damages" award with respect to his costs of litigation. Further, if the case is "over", attorney Oles, attorney Newcomb, and attorney Hoffmeyer, attempted to fraudulently induce Ellis into a binding settlement contract based on false pretense of consideration, the alleged $291,000. See generally Moore v. TCI Cablevision of Ga, 235 Ga. App. 796, 510 S.E.2d 96 (1998) ("This Court has consistently held that a verdict in favor of the [counterclaimant plaintiff] but awarding zero damages is, in legal effect, a [defendant to the counterclaimant's] verdict…Thus, when the trial court added the words 'and costs,' it was mere surplusage."); Pathfinder Payment Solutions, Inc. 344 Ga. App. at 492, 810 S.E.2d 653 (recognizing that "OCGA § 5-6-35(a)(6) applies to actions in which the judgment at issue is from one cent through $10,000, but does not apply to so-called `zero judgments' or situations of `zero recovery.'").

EXHIBIT D (Certified Court Order of Criminal Contempt)[13]

In Oles's criminal proceeding, the court not only found that Oles acted intentionally, but the trial court stated Oles's testimony under oath was "disingenuous" (i.e. that Oles is a liar).

A plain reading of the Court's order of October 6, 2006, coupled with the subsequent orders of the Court, make such a tortured reading of the Court's order disingenuous.

EXHIBIT D (Certified Court Order of Criminal Contempt)[14]

Filed contemporaneously herewith and pursuant to OCGA 9-11-41(b), Ellis files a motion to Strike Oles's Counterclaim as the only reasonable sanction appropriate for attorney Oles, attorney Newcomb, and attorney Hoffemeyer's intentional subversion of this Court's pre-trial order in an effort to intentionally deprive Ellis of property (i.e. money) and due process. To the extent that this court finds that attorney Oles, attorney Newcomb and attorney Hoffmeyer refused to comply with the terms of pre-trial order and "disrupted the court proceedings and interfered with the orderly administration of justice", Ellis shows that in addition to dismissing Oles's counterclaim, fines and imprisonment available pursuant to OCGA 15-6-8; but Ellis shows that standing alone a citation for criminal contempt is an insufficient remedy.

II. PROCEDURAL POSTURE AND RELEVANT FACTS

1. Ellis sued Oles for fraud. Oles counterclaimed for breach of contract, money owed, and for the costs and expense of litigation. **EXHIBIT A**
2. The pre-trial order was entered February 18, 2020.[15] The pre-trial order plainly indicates both parties demanded trial by jury.[16]
    a. Oles expressly demands a trial by jury as to any amounts of attorney fees incurred in pursuing litigation. "Are Defendants contractually entitled to recover the

[13] Oles appealed the criminal contempt ruling against him and it was affirmed in Gottschalk v. Gottschalk 311 Ga. App. 304, 715 S.E.2d 715 (2011)
[14] Oles appealed the criminal contempt ruling against him and it was affirmed in Gottschalk v. Gottschalk 311 Ga. App. 304, 715 S.E.2d 715 (2011)
[15] (V6—139-140)
[16] (V6—139-140)

attorney fees and costs of collection incurred by them in pursuing amounts contractually owed to them by Plaintiff? If so, what amount? [17]

3. This court granted partial summary judgment and Ellis directly appealed the partial summary judgment. **EXHIBIT A**
4. The remittitur was signed by this court on March 13, 2023. **EXHIBIT A**
5. On April 26, 2023 Oles informed Ellis that she was liable for his attorney fees totaling $291,000. **EXHIBIT B**
6. On April 26, 2023 Oles filed into the record a Rule 5.2 Certificate indicating he had served upon Ellis "Post-Judgment Interrogatories and Requests for Production of Documents and Things". (Envelope number 12099738)
7. On May 30, 2023 Ellis filed into the record a Rule 5.2 Certificate that she had responded to Oles's Post-judgment interrogatories. (Envelope number 12347725)
8. On June 8, 2023 Oles responded to Ellis's 6.4B letter sent with her responsive interrogatories. Oles stated he is entitled to post-judgment discovery pursuant to OCGA 9-11-69 and that "Our post-judgment discovery requests were served to assist my clients in enforcing the judgment against you and are in absolute compliance with the statute… Please provide complete responses to the requests by June 13, 2023, or we will file a Motion to Compel and seek my clients' fees and costs incurred in filing the Motion. We also reserve the right to ask the Court to hold you in contempt for your willful failure to respond to post-judgment discovery." **EXHIBIT C**
9. On July 6, 2023 Ellis filed a Rule 5.2 certificate supplementing discovery and filed into the record the expert affidavit of Matthew D. McMaster dated July 1 2023. (Envelope number 12603561)
10. On July 6, 2023 Ellis has supplemented the record with an expert opinion evidence that Oles engaged in intentional breach of fiduciary duty[18] and intentionally over-billed Ellis with citation to the record matter relied upon.[19] The expert affidavit opines solely upon the existing facts, existing record matter, and existing theory of recovery.[20] (Envelope number 12608467)

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[17] (V6—140)
[18] (McMaster Affidavit P 18-22, 23-50, 51-56, *passim*)
[19] (McMaster Affidavit P 57-65, *passim*)
[20] (McMaster Affidavit P 6, 9-10, *passim*)

11. On August 8, 2023 Oles filed a brief plainly stating in clear plain language that this case is "over" and Oles demands there is no need for a trial as to the issue of the amount of litigation expenses. (Oles brief at 9). (Envelope number 12854476)
12. Oles cannot point to any evidence in the record that Oles has filed a motion with the court seeking to modify or amend the pretrial order. Meanwhile, Oles is actively seeking post-judgment discovery in aid of filing liens, OCGA 9-11-69.
13. Oles has expressly threatened to violate Ellis's legal rights in an effort to obtain money. (V7—332-334)[21]
14. Oles has history of being held in criminal contempt of court orders in his capacity as an attorney. **EXHIBIT D (Certified Court Record)**
15. Ellis has never waived her right to a jury trial on any matter.
16. Ellis demands a trial by jury on any and all issues.

III. ARGUMENT

A. The Law of the Case Rule Establishes there is No Final Order

The trial court is bound by the rulings of the appellate court. See generally Shadix et al, v. Carroll County et al., 274 Ga. 560, 554 S.E.2d 465 (2001) (The `law of the case' rule is binding in all subsequent proceedings in that case in the lower court. "It is a jurisprudential axiom that Georgia's courts are required to adhere to the `law of the case' rule in all matters which they decide."). This case is not over.

> "[A]an issue remains pending below: the amount of litigation expenses to be awarded to Oles…Under OCGA § 9-11-56(h), orders granting summary judgment, even if issues remain pending, are directly and immediately appealable." Ellis v. Oles 364 Ga. App. 133, 873 S.E.2d 251 (2022).

Thus, the law of the case rule established the trial court's order was for partial summary judgment, and thus not a final order. In fact, to underscore how vexations, frivolous, and absurd Oles's claims are to the contrary, the appellate court even cites Ellis v. Oles as binding precedent that a party may directly appeal a grant of partial summary judgment. See generally, Trademark

[21] This letter is on file with the court and it is discussed in the expert affidavit of Matthew D. McMaster paragraph 62. Exhibit B of the McMaster affidavit includes a certification from Tatyana Ellis that the record matter she provided to McMaster is true and correct. Mr. McMaster specifically cites the location of the record matter relied upon.

Quality Homes, Inc. v. Damon Free Appeal No. A23I0172 (March 28, 2023) ("Regardless of whether the order was final, we nonetheless have jurisdiction over the appeal. Under OCGA § 9-11-56(h), orders granting summary judgment, ***even if issues remain pending***, are directly and immediately appealable. Ellis v. Oles et al., 364 Ga. App. 133, 873 S.E.2d 251 (2022).").

B. Non-Final Orders are Subject to Revision at any Time

Ellis is authorized under OCGA 9-11-54(b) to request this court reconsider the interlocutory order because it is still within the breast of the court as matter of law.

> "Summary judgment orders which do not dispose of the entire case are considered interlocutory and remain within the breast of the court until final judgment is entered. They are subject to revision at any time before final judgment *unless* the court issues an order upon express direction under OCGA § 9-11-54 (b)."[22]

Further, it is well-established law that:

> "`The rule limiting the power of courts over their judgments to the term at which they were rendered applies only to final judgments. An interlocutory decree does not pass out of control of the court with the end of the term. Until the pronouncement of the judge has assumed the form of a final judgment by being entered or otherwise properly made a matter of record, it is subject to modification, change or amendment even after the term in which it was made."[23] (emphasis added)

Clearly, Ellis's motion to reconsider an interlocutory order relies on a court's inherent powers, which are not constrained by OCGA 9-11-60(c) or OCGA 9-11-60(d). See OCGA 15-1-3(6) and OCGA 15-1-3(7). See Fiffee v. Jiggetts, 353 Ga. App. 730, 839 S.E.2d 224 (2020) (A motion for reconsideration "does not rely upon any of the statutory grounds set forth in OCGA § 9-11-60 and instead 'calls upon the court to exercise its inherent power to amend or modify those orders still within the breast of the court' and 'is simply a request for the trial court to reconsider its decision.'").

Further, and consistent with the interlocutory status, as matter of law, a grant of partial summary judgment affirmed by the Appellate Court can be reversed at a later stage of the proceedings if the evidentiary posture changes. See generally Bragg v. Rent to Own, Inc 257 Ga.

[22] Canoeside Properties v. Livsey, 277 Ga. 425, 427 (1), 589 S.E.2d 116 (2003)
[23] Hubbert v. Williams, 333 S.E.2d 425, 175 Ga. App. 393 (1985)

App. 234, 570 S.E.2d 671 (2002) (Grant of partial summary judgment previously affirmed on appeal reversed at trial because the evidentiary posture changed). Also see Mom Corp. v. Chattahoochee Bank, 203 Ga. App. 847, 418 S.E.2d 74 (1992) (Subsequent to Summary Judgement, evidentiary posture changed when an affidavit was submitted following a Supreme Court ruling that the prior affidavit addressing the same question was inadmissible).

C. Ellis has Supplemented the Record Prior to the Time Fixed for Hearing and Prior to Entry of a Final Order

OCGA 9-11-56(c) plainly states the non-movant has until a day prior to the "time fixed" for hearing to file affidavits. The court is not authorized to graft on restrictions to statutes. "We cannot add a line to the law." Etkind v. Suarez, 271 Ga. 352, 353(1), 519 S.E.2d 210 (1999). Further, the Law of the Case Rule[24] establishes that no time for the hearing was actually fixed by the trial court:

> "We are not aware of a deadline for filing affidavits in opposition to summary judgment when **no hearing is scheduled**. Cf. SJN Properties, LLC v. Fulton County Bd. of Assessors, 296 Ga. 793, 796(1), 770 S.E.2d 832 (2015) ("OCGA § 9-11-56(c) authorizes a party against whom a summary judgment motion has been filed to serve affidavits in opposition to the motion at any time `prior to the day of hearing.'")" (emphasis supplied) Ellis v. Oles 364 Ga. App. 133, 873 S.E.2d 251 (2022)

Thus, because the law of the case rule establishes that no time was fixed for hearing, Ellis has timely supplemented the record with expert testimony, with citation to the location of the record matter relied upon with respect to Oles over-billing[25] and provided expert opinion that Oles acted intentionally.[26] Ellis is entitled to the fair and impartial application of law.

[24] See generally Shadix et al, v. Carroll County et al., 274 Ga. 560, 554 S.E.2d 465 (2001) ("It is a jurisprudential axiom that Georgia's courts are required to adhere to the `law of the case' rule in all matters which they decide.")
[25] (McMaster Affidavit P 57-65, *passim*)
[26] (McMaster Affidavit P 18-22, 23-50, 51-56, *passim*)

D. The Law of the Case Rule Requires Expert Opinion on Intent & Requires the Location of Record Matter Relied Upon with Respect to Oles's Over-billing

The appellate court made an express ruling that Ellis is required to provide rebuttal expert testimony on the issue of intent as well as cite the location of the record matter relied upon in providing opinion that Oles over-billed Ellis.

> "But Oles and his law practice presented evidence—attorney Oles's own testimony— that he never acted with the intent to breach any duties owed to Ellis. And in his affidavit, Ellis's expert does not testify whatsoever about Oles's intent." Ellis v. Oles 364 Ga. App. 133, 873 S.E.2d 251 (2022)

> "Nor does the affidavit create a question of material fact on Ellis's claim that Oles overbilled her… But he attaches to his affidavit none of the documentation, billing, or evidence upon which he relied to reach his conclusion." Ellis v. Oles 364 Ga. App. 133, 873 S.E.2d 251 (2022)

These appellate court rulings are binding on this trial court.[27]

E. A Viable Legal Remedy Exists to Supplement the Evidentiary Record: Subsequent to Remittitur, the Evidentiary Posture of the Case has Changed

Ellis presented new expert testimony, which identified the location of record matter relied upon and provided expert testimony that Oles acted intentionally[28] and cited the record matter relied upon when concluding that Oles over-billed Ellis.[29]

Plainly, an expert opinion affidavit is evidence in a court of law. See OCGA 24-7-702. Also see Howard v. Walker, 249 S.E.2d 45, 242 Ga. 406 (1978) (Opinion testimony of an expert witness is evidence). Therefore, because Ellis's expert has provided opinion evidence on intent and cited the record matter relied upon in formulation opinion on over-billing, the evidentiary posture of the case has changed since the appellate court's ruling.

It is well-settled law that there is an exception to Law of the Case Rule:

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[27] See generally Shadix et al, v. Carroll County et al., 274 Ga. 560, 554 S.E.2d 465 (2001) (The `law of the case' rule is binding in all subsequent proceedings in that case in the lower court. "It is a jurisprudential axiom that Georgia's courts are required to adhere to the `law of the case' rule in all matters which they decide.")

[28] (McMaster Affidavit P 18-22, 23-50, 51-56, *passim*)

[29] (McMaster Affidavit P 57-65, *passim*)

> "An exception to the rule that will permit issues to be relitigated after appeal is when the evidentiary posture of the case changes.... The evidentiary posture of a case changes so as to bar application of the law of the case rule ... when the original evidence submitted is found to be insufficient, and the deficient evidence is later supplemented. Thus, if subsequent to an appellate decision, the evidentiary posture of the case changes in the trial court, the law of the case rule does not limit or negate the effect that such change would otherwise mandate." [30] (citations omitted)

As matter of law, a grant of partial summary judgment can be reversed at a later stage of the proceedings if the evidentiary posture changes. See generally Bragg v. Rent to Own, Inc 257 Ga. App. 234, 570 S.E.2d 671 (2002) (Grant of partial summary judgment previously affirmed on appeal reversed at trial because the evidentiary posture changed). Also see Mom Corp. v. Chattahoochee Bank, 203 Ga. App. 847, 418 S.E.2d 74 (1992) (Subsequent to Summary Judgement, evidentiary posture changed when an affidavit was submitted following a Supreme Court ruling that the prior affidavit addressing the same question was inadmissible). Thus, as a matter of law, Ellis shows that the evidentiary posture has changed with the inclusion of this new opinion affidavit filed after the appellate court ruling and remitter entered in this court.

Because there was no time fixed for hearing Oles motion and because all interlocutory orders are subject to revision, a viable legal remedy exists because Ellis supplemented the record with the deficient evidence. As matter of law, Ellis has *just cause* to exercise the legal rights afforded all citizens of this State and Ellis is entitled to equal protection under the law. See generally OCGA 9-11-60(h) and the evidentiary exception noted above.

F. As Respondent to Summary Judgment, Ellis Has Pointed to Specific Evidence Giving Rise to a Triable Issue

It is undisputed that Oles sought summary judgment as to Ellis's claims and Oles's counter claim. It is well established law that

> [t]o prevail at summary judgment under OCGA § 9-11-56, the moving party must demonstrate that there is no genuine issue of material fact and that the undisputed facts, viewed in the light most favorable to the nonmoving party, warrant judgment as a matter of law. OCGA § 9-11-56(c).

[30] In re Spruell, 237 Ga. App. 259, 515 S.E.2d 190 (1999)

Lau's Corp. v. Haskins., 261 Ga. 491, 405 S.E.2d 474 (1991)

Ellis, as non-movant to summary judgment, has pointed to expert opinion evidence and has thus pointed "to specific evidence giving rise to a triable issue. OCGA § 9-11-56(e)". Lau's Corp. v. Haskins., 261 Ga. 491, 405 S.E.2d 474 (1991). As our Georgia Supreme Court has made clear, Ellis's evidence, as the respondent to Oles's motion for summary judgment, is to be treated with **indulgence**.

> "`Where the evidence on motion for summary judgment is ambiguous or doubtful, the party opposing the motion must be given the benefit of all reasonable doubts and of all favorable inferences and such evidence construed most favorably to the party opposing the motion.' [Cit.]. Furthermore, while a movant's evidence is to be carefully scrutinized, a respondent's evidence is to be treated with indulgence. Whitehead v. Capital Auto. Co., 239 Ga. 460, 238 S.E.2d 104 (1977)." Northside Equities v. Hulsey, 275 Ga. 364, 567 S.E.2d 4 (2002).

This court made a choice not to set a time fixed for hearing Oles's motion for summary judgment. Ellis is entitled to the fair and impartial application of the law and Ellis shows Oles, a movant for summary judgement, has failed to meet his steep burden of showing he is entitle to summary judgement as a matter of law.

G. Oles Disingenuously Falsifies the Rule of the Case to Assert Sham Arguments

In a rambling and contradictory multi-faceted argument spanning three-pages, Oles seeks to establish a number of strawmen, each progressively more absurd and disingenuous.

Preliminarily, Oles, Newcomb, and Hoffmeyer have sought post-judgment discovery in aid of filing liens to recover the alleged costs of litigation and expressly instructed this court that this case is "over" and no trial is necessary. If this case is "over", then Oles failed to appeal a final order that is a "zero damages" award with respect to his costs of litigation. See generally Moore v. TCI Cablevision of Ga, 235 Ga. App. 796, 510 S.E.2d 96 (1998) ("This Court has consistently held that a verdict in favor of the [counterclaimant plaintiff] but awarding zero damages is, in legal effect, a [defendant to the counterclaimant's] verdict…Thus, when the trial court added the words 'and costs,' it was mere surplusage."); Pathfinder Payment Solutions, Inc. 344 Ga. App. at 492, 810 S.E.2d 653 (recognizing that "OCGA § 5-6-35(a)(6) applies to actions

in which the judgment at issue is from one cent through $10,000, but does not apply to so-called `zero judgments' or situations of `zero recovery.'").

Thus, if the case is "over", attorney Oles, attorney Newcomb, and attorney Hoffmeyer, attempted to fraudulently induce Ellis into a binding settlement contract based on false pretense of consideration, the alleged $291,000; Oles has made overt acts to obtain discovery in aid of filing liens to obtain the costs/attorney fees, has threatened Ellis of contempt, and has demanded a superior court judge (a public official), to withhold action by depriving Ellis of due process.[31] Judges must not allow officers of the court to intentionally subvert the truth-seeking process via legal sleight of hand. See generally Anderson v. Bruce[32] ("We will not permit truth to be defeated by such legal sleight of hand.").

1. *Oles falsely asserts that the case is final and alleges Ellis cannot support facts supporting a motion for new trial or a motion to set aside.*

Ellis has filed a motion for reconsideration of an interlocutory order, a motion for reconsideration of an interlocutory order is not taken pursuant to OCGA 9-11-60(c). The trial court's order is interlocutory, as established by Ellis above. This appellate court ruling is binding on this trial court.[33] Oles requires a finding that the case if final because he relies on Horizon Credit Corp,[34] which deals with a ***final order*** and ***OCGA 9-11-60(d)***. No final order has been entered in this case and interlocutory orders are subject to revision at any time. See OCGA 9-11-54(b). OCGA 9-11-54(b) is clear and unambiguous that absent a clear mandate of finality, an order that does not dispose of all matters is interlocutory and subject to ***revision*** at any time. See Hodges Plumbing & Electric Co. v. ITT Grinnell Co., 347 S.E.2d 257, 179 Ga. App. 521 (1986) (Absent an express determination to the contrary, partial Summary Judgment is interlocutory within the meaning of OCGA 9-11-54(b) and subject to revision at any time).

Further, as a matter of law, Ellis has not filed a motion for new trial (OCGA 9-11-60(c)) or a motion to set aside (OCGA 9-11-60(d)). Pursuant to OCGA 9-11-54(b), Ellis has filed motion for a reconsideration of an interlocutory order. See Fiffee v. Jiggetts, 353 Ga. App. 730,

[31] See generally OCGA 16-4-1, OCGA 16-4-8, OCGA 16-8-3, and OCGA 16-8-16.
[32] 248 Ga. App. 733, 548 S.E.2d 368 (2001)
[33] See generally Shadix et al, v. Carroll County et al., 274 Ga. 560, 554 S.E.2d 465 (2001) (The `law of the case' rule is binding in all subsequent proceedings in that case in the lower court. "It is a jurisprudential axiom that Georgia's courts are required to adhere to the `law of the case' rule in all matters which they decide.")
[34] 202 Ga. App. At 364.

839 S.E.2d 224 (2020) (A motion for reconsideration "does not rely upon any of the statutory grounds set forth in OCGA § 9-11-60 and instead 'calls upon the court to exercise its inherent power to amend or modify those orders still within the breast of the court' and is simply a request for the trial court to reconsider its decision.'"). See generally Bragg v. Rent to Own, Inc 257 Ga. App. 234, 570 S.E.2d 671 (2002) (Grant of partial summary judgment previously affirmed on appeal reversed at trial because the evidentiary posture changed).

2. *Oles falsely asserts the evidentiary posture did not change and that Ellis was required to show a change in factual posture and procedural posture of the case. (Oles Brief 6-9 Section F).*

Incredulously, Oles contends that the evidentiary posture has not changed while pointing to the new expert testimony. (Oles Brief at 7). Oles sets up his strawman argument by stating that "none of the factual or procedural circumstances surrounding Oles Defendants' intent have changed." (Oles Brief at 9). After laying his strawman, argues that Ellis expert was required to opine on new facts and an alleged new procedural posture. (Oles Brief at 9).

Essentially, the crux of Oles's disappearing act is that he alleges the facts of the case have not changed and that Ellis's expert was required to introduce new facts and new procedural circumstances. The exception to the Law of the Case Rule relates to the *evidentiary posture* changing. See generally Mom Corp. v. Chattahoochee Bank, 203 Ga.App. 847, 418 S.E.2d 74 (1992) ("[T]he law of the case" rule does not limit or prohibit the trial court from *receiving new evidence* which changes the evidentiary posture of the case." (emphasis added)).

In the instant case, subsequent to the appellate ruling and remittitur filed with this court, Ellis introduced new *opinion evidence*. Thus, receiving new evidence in the record subsequent to remittitur can only occur via a change in the procedural posture of the case. Oles disingenuously, if not repugnantly, conflates *evidence* as meaning *facts*.

> **Evidence.** (n.) (14c) 1. Something (including testimony, documents, and tangible objects) that tends to prove or disprove the existence of an alleged fact.
> Black's Law Dictionary at 697 (11th ed. 2019):

Plainly, an expert affidavit is evidence in a court of law. See OCGA 24-7-702.[35] Subsequent to remitter, the Ellis supplemented the record with expert opinion on Oles's intent and opinion evidence on Oles's over-billing with citation to the record matter relied upon. The expert opinion merely supplements the deficient evidence relating to the Ellis's alleged facts that Oles acted intentionally to defraud her and acted intentionally to over-bill her. See generally Sponlser:

> "An exception to the rule that will permit issues to be relitigated after appeal is when the evidentiary posture of the case changes.... The **evidentiary posture** of a case changes so as to bar application of the law of the case rule ... when the original evidence submitted is found to be insufficient, and the deficient evidence is later supplemented. **Thus, if subsequent to an appellate decision, the evidentiary posture of the case changes in the trial court**, the law of the case rule does not limit or negate the effect that such change would otherwise mandate." Sponlser[36] (citations omitted) (emphasis added)

In Ellis v. Oles, the appellate court plainly ruled that evidence submitted by Ellis in opposition to Oles's motion for summary judgment was insufficient in two ways and these rulings are binding on this trial court.[37] Ellis plainly submitted the deficient evidence subsequent to the filing of remittitur. Ellis's expert properly limited his expert opinion to supplement that which was ruled "insufficient" evidence – i.e. opinion on intent and an opinion on billing citing the record matter relied upon. The expert affidavit relies solely on existing record matter, the existing facts, the existing claims, and the existing legal theories. Thus, as a matter of law, the evidentiary posture has changed. See Sponlser.[38]

As matter of law, a grant of partial summary judgment can be reversed at a later stage of the proceedings if the evidentiary posture changes. See generally Bragg v. Rent to Own, Inc 257 Ga. App. 234, 570 S.E.2d 671 (2002) (Grant of partial summary judgment previously affirmed on appeal reversed at trial because the evidentiary posture changed). Ellis is entitled to the fair application of the law from an impartial court and shows that, as a matter of law, the evidentiary posture has changed. Ellis submitted new expert evidence specifically as it relates to deficiencies

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[35] Also see Howard v. Walker, 249 S.E.2d 45, 242 Ga. 406 (1978) (Opinion testimony of an expert witness is evidence)

[36] In re Spruell, 237 Ga. App. 259, 515 S.E.2d 190 (1999)

[37] See generally Shadix et al, v. Carroll County et al., 274 Ga. 560, 554 S.E.2d 465 (2001) (The `law of the case' rule is binding in all subsequent proceedings in that case in the lower court. "It is a jurisprudential axiom that Georgia's courts are required to adhere to the `law of the case' rule in all matters which they decide.")

[38] In re Spruell, 237 Ga. App. 259, 515 S.E.2d 190 (1999)

ruled upon by the Appellate Court by providing expert opinion that Oles acted intentionally and by providing citing the record matter relied upon in providing expert opinion that Oles over-billed Ellis.

3. *Oles falsely asserts the Appellate Court did not rule Ellis had to provide expert opinion on intent while simultaneously arguing such expert opinion is not admissible. (*Oles Brief at 7*).*

The Appellate Court plainly ruled that Ellis's expert failed to opine on intent, which therefore failed to create a fact issue for trial.

> But Oles and his law practice presented evidence—attorney Oles's own testimony— that he never acted with the intent to breach any duties owed to Ellis. And in his affidavit, Ellis's expert does not testify whatsoever about Oles's intent…So Ellis has not shown that the expert affidavit created a question of material fact on her claims for intentional breaches of fiduciary duties.[39] (emphasis added)

Thus, the Appellate Court ruled Oles's conduct arose from "specialized knowledge, skill, or experience" requiring rebuttal expert testimony.[40] Because the Appellate Court so ruled, the ruling is now the Rule of the Case.[41] "Whether [Ellis v. Oles] is right or wrong, it is binding on the parties." Braner v. Southern Trust Ins. Co., 335 SE2d 547, 255 Ga. 117 (1985). In fact, the ruling is equally binding on the appellate court in future proceedings. OCGA § 9-11-60 (h); Gober v. Hosp. Auth. of Gwinnett, 191 Ga. App. 498, 499 (382 SE2d 106); Redmond v. Blau, 153 Ga. App. 395, 396 (265 SE2d 329).

[39] Ellis v. Oles, 364 Ga. App. 133, 133-134(2) (873 SE2d 251) 2022

[40] See generally Pointer v. State, 299 Ga. App. 249,251 (2009) (Expert testimony required when evidence is beyond the ken of the jurors); Also see generally Howard v. Walker, 249 S.E.2d 45, 242 Ga. 406 (1978) (Opinion testimony of an expert witness is evidence. We hold that in those cases where the plaintiff must produce an expert's opinion in order to prevail at trial, when the defendant produces an expert's opinion in his favor on motion for summary judgment and the plaintiff fails to produce a contrary expert opinion in opposition to that motion, then there is no genuine issue to be tried by the jury and it is not error to grant summary judgment to the defendant.")

[41] See generally Shadix et al, v. Carroll County et al., 274 Ga. 560, 554 S.E.2d 465 (2001) (The `law of the case' rule is binding in all subsequent proceedings in that case in the lower court. "It is a jurisprudential axiom that Georgia's courts are required to adhere to the `law of the case' rule in all matters which they decide.")

H. Pretrial Orders are to be Liberally Construed.

Preliminarily, the amendment of the pre-trial order has no direct impact on Ellis's rights to her motion for reconsideration in opposition to summary judgment. In her brief in opposition to summary judgment, Ellis has not asserted any new claims, has not asserted new legal theories of recovery, and the expert opinion relies solely on the existing record matter. A point that Oles' expressly acknowledges. (Oles Brief at 9). The Rule of the Case[42] is established that because no time was fixed for hearing, Ellis is not precluded from filing her expert affidavit.

> We are not aware of a deadline for filing affidavits in opposition to summary judgment when **no hearing is scheduled**. Cf. SJN Properties, LLC v. Fulton County Bd. of Assessors, 296 Ga. 793, 796(1), 770 S.E.2d 832 (2015) ("OCGA § 9-11-56(c) authorizes a party against whom a summary judgment motion has been filed to serve affidavits in opposition to the motion at any time `**prior to the day of hearing**.'")" (emphasis supplied) Ellis v. Oles 364 Ga. App. 133, 873 S.E.2d 251 (2022).

Because Oles cannot prevail on his motion for summary judgement, Ellis is entitled to amend the pre-trial order. As our Georgia Supreme Court stated in 1974, "[a] pre-trial order should be liberally construed to allow the consideration of all questions fairly within the ambit of the contested issues."[43] Indeed, it is established law that a pre-trial order may be "modified at trial to prevent a manifest injustice."[44]

I. Ellis is Entitled to a Jury Trial On All Matters Including a Determination of the Amount of any Alleged Damages

Subsequent to remittitur, Oles began threatening Ellis with further litigation and demands that Ellis submit to "post-judgment" discovery, using legal process to serve post-judgment interrogatories. When Ellis addressed that there had not been a trial on the damages, Oles threatened to have Ellis held in contempt and pay his attorney fees. **EXHIBIT C**.

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[42] See generally Shadix et al, v. Carroll County et al., 274 Ga. 560, 554 S.E.2d 465 (2001) (The `law of the case' rule is binding in all subsequent proceedings in that case in the lower court. "It is a jurisprudential axiom that Georgia's courts are required to adhere to the `law of the case' rule in all matters which they decide.")

[43] Cooper v. Rosser, 207 S.E.2d 513, 232 Ga. 597 (1974)

[44] Appling v. State Farm Fire & Casualty Ins. Co., 348 Ga. App. 369, 823 S.E2d 61 (2019)

Very plainly, Oles was attempting to coerce Ellis into submitting to payment of his attorney fees without any determination of the amount of damages by a jury. Ellis subsequently filed leave to supplement the record with her expert affidavit and filed a motion to reconsider summary judgment (collectively the "Omnibus Motion"). In response to Ellis's Omnibus motion, Oles very nakedly demands, if not instructs, this court that Ellis is not even entitled to a trial on damages.

> "As the Summary Judgment Order disposed of all issues in the case, there is no need for a trial…" (Oles Brief at 9)

The pre-trial order plainly indicates both parties demanded a jury trial. (Pretrial Order dated February 18, 2020 paragraph 8). Oles explicitly states a trial by jury to determine the amount attorney fee and expense damages Oles is entitled to with respect to his counter claim. (Pretrial Order dated February 18, 2020 paragraph 8). At no time has Ellis be affirmative conduct, waived her right to a jury trial. See OCGA 9-11-38 ("The right of trial by jury as declared by the Constitution of the state or as given by a statute of the state shall be preserved to the parties inviolate."). While a demand is not a motion, see generally OCGA 9-11-7(b)(1), a demand in a pretrial order is binding and after entry the pre-trial order ""controls the subsequent course of the action, unless modified *at the trial to prevent manifest injustice."* Ambler v. Archer.[45]

However, it is axiomatic that a pretrial order may not be amended to purposely ***inflict injustice***, as Oles, Newcomb, and Hoffmeyer demand via brief and confirmed by their actions seeking discovery in aid of liens. Obviously, Oles intends to subvert the orderly process of this court. Because the pre-trial order is controlling, Oles can't argue by brief that the trial court may disregard its own order. Further, Oles argument in a brief is not a motion. See generally *Ndlovu v Pham.*, 314 Ga. App. 337, 723 S.E.2d 729 (2012) ("Most lawyers understand that briefs and motions are different creatures."). See OCGA 9-11-7(b)(1). Plainly, Oles has intentionally sought to circumvent the Pre-trial Order through abusive discovery process and threats involving actions plainly for use in filing liens. Further, Oles has expressly instructed this court to ignore the court's own orders and violate Ellis's due process by demanding the trial court's order is final for all purposes and denying Ellis has a right to trial by jury as to the amount of alleged damages.

[45] 196 S.E.2d 858, 230 Ga. 281 (1973)

Ellis has endured and continues to endure abuse and threats from Oles. And Oles has repeatedly maintained he intends to harm Ellis and violate her legal rights. For example, after Ellis fired Oles for cause, Oles began threatening and harassing Ellis – even threatening to use his apparent authority as her counsel to settle or compromise Ellis's case without her consent and permission:[46]

> Please note that if I have to sue you over the unpaid fees, I will be permitted to reveal your confidential information as needed in that litigation. See Georgia Rule Professional Conduct 1.6. In addition, as your current counsel of record in each of these four cases, I retain the right to take any action I deem appropriate in pursuit of your cases, including compromising and settling them with the other side with or without your approval. See Rule 1.2 Govern yourself accordingly.
>
> Sincerely,
>
> 
>
> David Edward Oles, Esq.
> GA Bar. # 551544

(V7—332-334)

Ellis shows that Oles and his counsel are acting intentionally and deliberately to deprive Ellis of property via unlawful means and intentionally attempting to deprive Ellis of due process while knowingly undermining this court's pre-trial order. Oles has previously been found in criminal contempt of court with respect to his duties as an attorney. **EXHIBIT B**. In Oles's criminal contempt proceeding, the trial court made a finding of fact and conclusion of law that Oles was disingenuous. (i.e. that Oles is a liar). **EXHIBIT B**

J. Oles's Assaults on the Judicial Process And Willful Intent to Undermine this Court's Pre-trial Order and Deprive Ellis of Due Process Are the Reasons Why Courts are Empowered to Take Actions Necessary to Protect the Integrity of their Proceedings and to Control the Conduct of Counsel and Litigants.

It is a matter of law that Oles, in his capacity as an attorney, has been held in criminal contempt for violating court orders. **EXHIBIT D (Certified Court Record)**. Ellis has filed an expert affidavit stating that Oles acted intentionally as to Ellis's substantial claims that Oles

[46] Ellis subsequently filed entry of appearance pro se, but Oles continued to inform opposing counsel he was counsel of record and Oles continued billing Ellis.

engaged in intentional breach of fiduciary duty[47] and intentionally over-billed Ellis[48] with citation to the record matter relied upon. After Oles was fired for cause, Oles expressly threatened Ellis in writing that he will violate her legal rights in an effort to obtain money and / or as a punishment.

> Please note that if I have to sue you over the unpaid fees, I will be permitted to reveal your confidential information as needed in that litigation. See Georgia Rule Professional Conduct 1.6. In addition, as your current counsel of record in each of these four cases, I retain the right to take any action I deem appropriate in pursuit of your cases, including compromising and settling them with the other side with or without your approval. See Rule 1.2 Govern yourself accordingly.
>
> Sincerely,
>
> David Edward Oles, Esq.
> GA Bar. # 551544

(V7—332-334)

Oles, Newcomb, and Hoffmeyer enacted a scheme to deprive Ellis of due process in an effort to obtain property (i.e. money) while knowingly and intentionally seeking to violate this court's pre-trial order. Now Oles, Newcomb, and Hoffmeyer expect this court to knowingly facilitate their scheme and ignore its own orders and actually deprive Ellis of due process for the purpose of obtaining property (i.e. money).

Time-honored principles of our judicial system for the resolution of disputes, and most importantly our Society's dependency on courts, absolutely demand that the judicial process be transparently, fairly, and honestly conducted, in order that it results be trusted and held in the highest regard. These principles under-pin and pervade the judicial process, shaping all of its aspects, including but not limited to the procedural and substantive civil and criminal jurisprudence, and the rules of conduct applicable to members of the Bar and litigants availing themselves of the court. These principles are the foundational sources from which the courts of this State and of this Nation draw their inherent power to act to protect the integrity of their proceedings. See *Wilkins v. City of Conyers*, 347 Ga. App. 469, 472 (2018), cert. denied (May 20, 2019) (recognizing "the trial court's inherent power to control the behavior of litigants and to maintain the integrity of the judicial process"): *State v. Lewis*, 298 GA. 125, 134 (2015) ("The parties, by contract or acquiescence, simply cannot eliminate….[the trial court's] inherent power to protect the integrity of the judicial system."); *Williams v. State*, 250 Ga. 463, 466 (1983

[47] (McMaster Affidavit P 18-22, 23-50, 51-56, *passim*)
[48] (McMaster Affidavit P 57-65, *passim*)

("[W]e cannot and will not approve corruption of the truth-seeking function of the trial process.").

The public's respect for, and willingness to act in compliance with, orders rendered by courts exists only so long as the public has trust and faith in the fairness and integrity of the judicial proceedings. See *State v. Thackston*, 289Ga. 412,419 (2011) ("Public confidence in our system of justice is of utmost importance. The uniform application of established rules of law both within and outside the context of…proceedings engenders not only the public's faith and trust in our system of justice, but also respect for an cooperation with the law.")

In sacrifice of these principles, Oles, Newcomb, and Hoffmeyer spit in this court's eye and seek to undermine this court's orders and to thwart the truth seeking process. In fact, they demand this court aid and abet their scheme. A pre-trial order is an order of the court and it reflects the court's authority to control the ebb and flow of the proceedings.

K. Oles, Newcomb, and Hoffmeyer's Undermined the Integrity and Orderly Process of this Court Warrants Stiking Oles's Counterclaim

This court's pretrial order mandates a jury trial.[49] Gamesmanship and attempts to undermine the judicial process by litigants should not be tolerated, particularly when the conduct so directly spits in the eye of this honorable court's orders. Here Oles plainly states the case is "over" and is entitled to attorney fees without the necessity of a jury trial to determine the amount of fees. Oles, Newcomb, and Hoffmeyer knowingly and intentionally attempt to deprive Ellis of due process, contrary to a pre-trial order of this court, in an effort to obtain property (i.e. money). Ellis requests that this Court exercise its inherent authority and strike Oles's counterclaim as a sanction.

Oles, Newcomb, and Hoffmeyer are officers of the court who have sought to undermine the integrity of the judicial proceedings. On the one-hand, Oles intend not to prosecute his counterclaim claim through the orderly process of the court. On the other hand, Oles sought to undermine and circumvent an order of the court in an attempt to deprive Ellis of due process while seeking to obtain property from her (i.e. money). Under OCGA 9-11-41(b), this Court is authorized to strike Oles's counterclaim.

[49] (V6—139-140)

> "For failure of the [counterclaimant][50] plaintiff to prosecute or to comply with this chapter or any order of court, a defendant may move for dismissal of an action or of any claim against him…" (in pertinent part)
> OCGA 9-11-41(b)

See Weeks v. Weeks, 243 Ga. 416, 254 S.E.2d 366 (1979) (OCGA § 9-11-41 (b) "authorizes the trial court, upon motion, to dismiss any action for failure of the plaintiff to comply with an order of the court"). Because Oles intentionally seeks to deprive Ellis of due process and prevent her from defending against the amount of attorney fees, it would not be too drastic of sanction to impose upon Oles a taste of his own medicine, particularly when Oles has also spit in the eye of this court. For an example of appropriate remedies for intentionally misconduct see Resurgens P.C. v. Elliott, 800 S.E.2d 580 (2017) ("Intentionally false response to a written discovery request, particularly when it concerns a pivotal issue in the litigation, equates to a total failure to respond, triggering OCGA § 9-11-37 (d) sanctions"). Thus, in *context*, Oles, Newcomb, and Hoffmeyer have engaged in one or more *intentional* acts to thwart the trial court's pre-trial order with the clear intent to use judicial process to deprive Ellis of property (i.e. money) without due process. Now Oles, Newcomb, and Hoffmeyer demand that this court simply ignore its own order and ignore the rulings of the appellate court. Oles, Newcomb, and Hoffmeyer have flagrantly acted in bad faith and in a total disregard to this court's pre-trial order. Under the facts of this case, Striking Oles's counterclaim is the only appropriate sanction for such egregious intentional misconduct. See Weeks v. Weeks, 243 Ga. 416, 254 S.E.2d 366 (1979) (OCGA § 9-11-41 (b) "authorizes the trial court, upon motion, to dismiss any action for failure of the plaintiff to comply with an order of the court")

Indeed, there is no less drastic action available to address the severity of Oles, Newcomb, and Hoffemeyer's conduct. In fact, any lesser sanction would inform the public that the appellate court's rulings and this court's own orders governing process and inherent power are virtually meaningless; that proceedings before this court are totally void of orderly process and lacking integrity of proceedings. This court must vindicate its authority and inform the public that officers of the court are not above the law and may not use process involving the court for subversive and intentionally oppressive ends. See generally Ambler v. Archer 196 S.E.2d 858,

[50] "Dismissal of counterclaim, cross-claim, or third-party claim. This Code section also applies to the dismissal of any counterclaim, cross-claim, or third-party claim." OCGA 9-11-41(c).

230 Ga. 281 (1973) ("It, undoubtedly, must lie within the power of the court to impose appropriate sanctions to make effective its pre-trial orders").

L. Oles, Newcomb, and Hoffmeyer's Deplorable Conduct Warrants Criminal Sanctions

This court's pretrial order mandates a jury trial.[51] It is undisputed that Oles, Newcomb, and Hoffmeyer have sought to utilize post-judgment proceedings to obtain discovery from Ellis after this Court signed remittitur. There is no ambiguity in the remittitur that an issue remains pending – the amount of alleged attorney fee damages. In fact, to conclude otherwise would hold that the alleged final order made no determination on the amount of this damage, thus finding the amount due as $0. Oddly, Oles never appealed that alleged transgression because Oles and counsel have intentionally fabricated a sham.[52] Plainly, Oles knows there is an issue remaining. Further, Oles, Newcomb, and Hoffmeyer have actual knowledge of the pre-trial order they participated in preparing.

This Court is authorized, upon a hearing of the matter, to find Oles, Newcomb, and Hoffmeyer in criminal contempt pursuant to OCGA 15-6-8. Criminal contempt is conduct which involves some form of "disrespectful or contumacious conduct" toward the Court. *In re: Mauldin*, 242 Ga. App. 350 (2000); in re: *Billy L. Suprell,* 27 Ga. App. 324 (1997); *in re: Hentrize*, 181 Ga. App. 560 (1987). This willful disrespect may involve either an intentional disregard for or disobedience of a court order, or conduct which interferes with the Court's ability to administer justice. *In re: Spruell, supra.* Both elements are present here.

In order to establish criminal contempt, there must be proof, beyond a reasonable doubt, that the alleged contemnor violated a court order and did so willingly. *See Thomas v. D.H.R.,* 228 Ga. App. 518 (1997). It is also essential to establish that the thing ordered to be done is

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[51] (V6—139-140)

[52] Notably, if this case is "over", then Oles failed to appeal a final order that is a "zero damages" award with respect to his costs of litigation. Further, if the case is "over", attorney Oles, attorney Newcomb, and attorney Hoffmeyer, attempted to fraudulently induce Ellis into a binding settlement contract based on false pretense of consideration, the alleged $291,000. See generally Moore v. TCI Cablevision of Ga, 235 Ga. App. 796, 510 S.E.2d 96 (1998) ("This Court has consistently held that a verdict in favor of the [counterclaimant plaintiff] but awarding zero damages is, in legal effect, a [defendant to the counterclaimant's] verdict…Thus, when the trial court added the words 'and costs,' it was mere surplusage."); Pathfinder Payment Solutions, Inc. 344 Ga. App. at 492, 810 S.E.2d 653 (recognizing that "OCGA § 5-6-35(a)(6) applies to actions in which the judgment at issue is from one cent through $10,000, but does not apply to so-called `zero judgments' or situations of `zero recovery.'").

within the power of the person against whom the order is directed. *Id; see also In re: Heinritz, supra.* Plainly, it is within Oles's power to abide by the pre-trial order and obtain final judgement prior to attempting to use legal process to aide in discovery necessary to file a lien that cannot be ripe.

Furthermore, whether attorney Oles, attorney Newcomb, or attorney Hoffmeyer believed their conduct was justified is irrelevant. *Barlow v. State*, 237 Ga. App. 152 (1999). Attorney Oles, attorney Newcomb, and attorney Hoffmeyer not only intentionally refused to comply with the court's pre-trial order, they have intentionally undermined this order in an attempt to deprive Ellis of due process in the pursuit of property (i.e. money). Thus, attorney Oles, attorney Newcomb, and attorney Hoffmeyer conspired to and committed overt acts that "disrupted the court proceedings and interfered with the orderly administration of justice." *Id* at 157.

Pursuant to OCGA 15-6-8, the superior courts have the authority to punish contempt by imprisonment for not more than twenty days or by a fine not exceeding $1,000, or both. OCGA 15-1-4(a) provides that

> [t]he powers of the several courts to issue attachments and inflict summary punishment for contempt of court shall extend only to cases of:
> (3) Disobedience or resistance by any officer of the courts, party, juror, witness, or other person or persons to any lawful writ, process, order, rule, decree, or command of the courts.

See generally Gottschalk v. Gottschalk 311 Ga. App. 304, 715 S.E.2d 715 (2011) (Upholding a finding of criminal contempt against attorney David E. Oles for willfully violating a court order relating to dissemination of a sealed report to his client's expert witness. In addition, the court struck expert testimony and affirming a sanction of striking expert opinion.)

Here, based on attorney Oles, attorney Newcomb, and attorney Hoffmeyer's conduct seeking to disregard and undermine this Court's Pre-trial Order while plainly seeking to obtain from Ellis attorney fees and costs of litigation proves, beyond a reasonable doubt, that Oles, Newcomb, and Hoffmeyer directly and intentionally violated the Court's pre-trial. In fact Oles, Newcomb, and Hoffmeyer directly instruct this Court that the case is "over" and not to grant Ellis a trial.

Ellis, shows that, standing alone, a finding of criminal contempt would be an insufficient remedy. In fact, Oles's prior conviction of criminal contempt for violating an order of the court has done nothing to persuade him to adhere to a lawful order of the court. In fact, Oles boldly

demands this court subvert its own order and deprive Ellis of due process. See generally Gottschalk v. Gottschalk 311 Ga. App. 304, 715 S.E.2d 715 (2011).

IV. CONCLUSION

Oles is a disgruntled attorney who abused his client and demands that this court assist him in his swindle and intentionally deprive Ellis of due process and her right to a jury determination as to any alleged liability.

Because the amount of the alleged damages remains pending, the Appellate Court properly ruled that the trial court's order was for partial summary judgement subject to direct appeal under OCGA 9-11-56(h). Because the appellate court ruled there was no time set for hearing Oles's motion for summary judgment and as non-movant Ellis had until the day prior to hearing to submit affidavits in opposition to summary judgment, Ellis has timely supplemented the record with the deficient expert opinion. As a matter of law, Ellis shows that material facts exist precluding Oles from obtaining summary judgment.

Because Oles can't prevail on his motion for summary judgment, Ellis is entitled to amend the pretrial order. Ellis request to amend the pre-trial order has no direct bearing on her ability to rebut Oles's motion for summary judgment. Thus, as a matter of law, Ellis is entitled to the relief sought to amend the pretrial order.

Ellis has never waived the right to a jury trial on any matter. Contrary to good morals and conscience, Oles plainly demands this court to ignore the higher court's ruling and ignore this court's own pre-trial orders solely to deprive Ellis of property without due process. Such deplorable conduct is sanctionable. Ellis has filed a contemporaneous motion to strike Oles's counterclaim as the appropriate sanction for such intentional, repugnant, and unlawful conduct. Ellis shows that, standing alone, criminal contempt of court is an insufficient remedy or deterrent.

Dated: August 22, 2023

Respectfully submitted,

/s/Tatyana Ellis
Tatyana Ellis
Pro Se

Address:

Tatyana Ellis
1530 Aurelia Drive
Cumming, GA 30040
404-468-0597

EXHIBIT A

REMITTUR

REMITTITUR

Court of Appeals of Georgia

Atlanta, May 16, 2022

Case No. A22A0440. TATYANA ELLIS v. DAVID EDWARD OLES et al.

Upon consideration of this case, which came before this Court on appeal from the Superior Court of Fulton County, this Court rendered the following decision:

Judgment affirmed.

McFadden, P. J., Gobeil and Pinson, JJ., concur.

LC NUMBERS:
2019CV316544

Costs paid in the Court of Appeals: $300

COURT OF APPEALS OF THE STATE OF GEORGIA
1906

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, March 10, 2023.

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.

Stephen E. Castlen, *Clerk.*

FIFTH DIVISION
MCFADDEN, P. J.,
GOBEIL and PINSON, JJ.

May 16, 2022

In the Court of Appeals of Georgia

A22A0440. ELLIS v. OLES et al.

MCFADDEN, Presiding Judge.

This case arises from a dispute about an attorney's representation of the appellant in a domestic relations matter. Appellant Tatyana Ellis appeals from an order granting summary judgment to her former attorney, David Oles, and his law firm, rejecting her tort claims against them and entering a judgment against her on their counterclaim for fees. Ellis has not shown reversible error. So we affirm.

1. *Factual background.*

Ellis hired Oles to represent her in certain domestic relations matters. The engagement was terminated less than six months later.

Ellis filed the instant action against Oles and his law practice (together "Oles"), alleging intentional breaches of fiduciary duty and fraud. Oles filed a counterclaim

for breach of contract, seeking more than $25,000 in unpaid fees as well as the recovery of litigation expenses.

The parties filed cross-motions for summary judgment. The trial court granted Oles's motion and denied Ellis's motion. Ellis then filed this direct appeal.

2. *The order granting summary judgment was subject to direct appeal.*

Ellis argues that the trial court erred by labeling the summary judgment order "final" because an issue remains pending below: the amount of litigation expenses to be awarded to Oles. And because the summary judgment order is not a final order, Ellis argues, the order was not subject to direct appeal, we lack jurisdiction, and we must remand the case to the trial court. We disagree.[1]

Regardless of whether the order was final, we nonetheless have jurisdiction over the appeal. Under OCGA § 9-11-56 (h), orders granting summary judgment, even if issues remain pending, are directly and immediately appealable. *Nugent v. Myles*, 350 Ga. App. 442, 444 (1) n.4 (829 SE2d 623) (2019). See also *Edokpolor*, 302 Ga. at 735 n.1 ("It is undisputed that the plaintiffs could have immediately

[1]We previously denied Ellis's motions to remand or dismiss her appeal on this ground. We noted that should Ellis choose not to pursue her appeal, she could file a motion for permission to withdraw it pursuant to Court of Appeals Rule 41 (g) (1), which we would consider in due course after allowing Oles time to respond. As of March 14, 2022, Ellis had not filed a motion for permission to withdraw her appeal.

appealed the order that granted summary judgment to [defendant] even though the issue of expenses remained pending.") (emphasis omitted). Contrary to Ellis's assertion, we have jurisdiction over this appeal.

3. *Lack of a hearing.*

Ellis argues that the trial court erred by ruling on the summary judgment motions without conducting a hearing. We disagree.

In March 2020, Ellis filed a pleading entitled, "Motion to Request Leave of Court to File a Sur Reply to Defendants['] Reply to Plaintiff's Opposition to Summary Judgment or in the Alternative Grant an Oral Hearing on the Matter of Summary Judgment," in which she requested "leave of court to request an oral hearing" on the cross-motions for summary judgment. After postponements, the trial court ultimately scheduled a hearing on the cross-motions for summary judgment for December 14, 2020. But on December 9, Ellis filed a notice of appeal of an earlier order, so the trial court, with the parties' consent, stayed all proceedings effective that date and cancelled the scheduled hearing.

We dismissed that appeal because of Ellis's failure to follow the interlocutory appeal procedure. Less than three months later, without having conducted a hearing, the trial court entered the order on the cross-motions for summary judgment.

> A trial court shall permit oral argument on a motion for summary judgment upon written request made in a separate pleading bearing the caption of the case and entitled "Request for Oral Hearing." Uniform Superior Court Rule 6.3. We have held before that the failure to hold a hearing on a motion for summary judgment is not error if the party requesting a hearing fails to comply with Uniform Superior Court Rule 6.3, which requires that any such request be made by a separate and distinct pleading.

Grot v. Capital One Bank (USA), 317 Ga. App. 786, 792 (5) (732 SE2d 305) (2012) (citation and punctuation omitted). Ellis has not shown by the record that, after the trial court cancelled the scheduled hearing—in accordance with the parties' consent to stay all proceedings—she complied with Uniform Superior Court Rule 6.3 by filing a "written request made in a separate pleading bearing the caption of the case and entitled 'Request for Oral Hearing' . . . . " *Grot*, 317 Ga. App. at 792 (5) (citation and punctuation omitted). So she has not shown that the trial court erred by failing to conduct a hearing on the cross-motions for summary judgment. Cf. *Holladay v. Cumming Family Medicine*, 348 Ga. App. 354, 355 (823 SE2d 45) (2019) (appellant had the right to rely on a summary judgment hearing date, scheduled in trial court's rule nisi upon appellee's request for a hearing, until the trial court vacated or withdrew the rule nisi).

4. *Motion for recusal.*

Ellis argues that the trial court erred by construing her motion to recuse, filed three days after the trial court had denied her original motion to recuse, as a motion for reconsideration. Had the trial court properly considered the motion as a motion to recuse, according to Ellis, the trial court would have considered new facts. Ellis does not describe what facts she contends the trial court should have, but did not, consider. She has not shown reversible error.

Ellis also enumerates that the trial court erred by failing to take "all of [her] arguments as true and [to] evaluat[e] them pursuant to a fair-minded person in ruling on [her] motion for recusal." Uniform Superior Court Rule 25.3 does require a judge, when determining whether recusal is warranted, to assume as true the facts alleged in an affidavit accompanying a motion to recuse. Unif. Sup. Ct. R. 25.3. But Ellis fails to describe the facts alleged in the affidavit that she contends the trial court did not consider as true. And in accordance with the presumption of regularity, we must presume that the trial court properly performed her duty. *Westmoreland v. State*, 287 Ga. 688, 696-697 (10) (699 SE2d 13) (2010). Ellis has not rebutted this presumption. Ellis's "enumeration[] and brief do not point to distinct errors of law and do not set forth cogent argument and citation of authorities." *Austin v. Cohen*, 251 Ga. App. 548

(554 SE2d 312) (2001) (citations and punctuation omitted). So Ellis has not shown reversible error. Id. at 548-549.

5. *Trial court's alleged argumentative conduct.*

Ellis enumerates that the trial court erred when "it engaged in argumentative conduct in responding to summary [judgment]." She argues that "[w]hen the [t]rial [c]ourt responded to [her] first motion for summary [judgment], by altering, omitting, and/or recasting [her] pleadings/allegations in her [o]rder on recusal, the [c]ourt engaged in argumentative conduct contrary to the Rules of USCR 25." Ellis does not explain how the trial court's order denying her motion to recuse had any bearing on the order on summary judgment. She has not shown reversible error.

6. *Expert affidavit.*

Ellis argues that the trial court erred by striking her expert affidavit absent a finding that she had failed to comply with a court order or had failed to supplement her discovery responses. Pretermitting whether the trial court erred by failing to consider the affidavit, Ellis has not shown harm.

The trial court declined to consider Ellis's expert affidavit because Oles "had no opportunity to respond," and because Ellis submitted the affidavit after she had filed her motions for summary judgment and without obtaining leave of court.

But Ellis filed the affidavit as an exhibit to her brief "*in opposition* of Oles's motion for summary judgment" in which she argued that Oles was not entitled to summary judgment on either her claims or his counterclaims. (Emphasis supplied.) We are not aware of a deadline for filing affidavits in opposition to summary judgment when no hearing is scheduled. Cf. *SJN Properties, LLC v. Fulton County Bd. of Assessors*, 296 Ga. 793, 796 (1) (770 SE2d 832) (2015) ("OCGA § 9-11-56 (c) authorizes a party against whom a summary judgment motion has been filed to serve affidavits in opposition to the motion at any time 'prior to the day of hearing.'"). And a trial court abuses "its discretion by excluding a witness solely because the witness was identified after the deadline set in a scheduling, discovery, and/or case management order," including in the context of summary judgment. *Lee v. Smith*, 307 Ga. 815, 823 (2) (838 SE2d 870) (2020) (overruling *Moore v. Cottrell, Inc.*, 334 Ga. App. 791, 794 (2) (780 SE2d 442) (2015), to the extent it held that the trial court did not abuse its discretion by striking an expert affidavit submitted in opposition to summary judgment solely because the plaintiffs identified the expert witness after the deadline in the trial court's scheduling order).

But assuming for purposes of this appeal that the trial court erred in excluding the affidavit of her expert witness, Ellis has not shown that the exclusion was

harmful. The affidavit concerned two issues: Oles's alleged breach of the minimum requisite standard of care in handling a deposition and Oles's alleged overbilling.

As for the expert's averments about the breach of the standard of care relating to the deposition, in her amended complaint, Ellis alleged that Oles committed intentional breaches of fiduciary duties (aggravated by fraud) by failing to attend the scheduled deposition without obtaining a protective order from the court. (Ellis consistently has asserted that all of her allegations of breaches of fiduciary duty are allegations of intentional torts, not malpractice, and she did not file an expert affidavit as required under OCGA § 9-11-9.1 to support malpractice complaints.)

But Oles and his law practice presented evidence—attorney Oles's own testimony—that he never acted with the intent to breach any duties owed to Ellis. And in his affidavit, Ellis's expert does not testify whatsoever about Oles's intent. See generally *SJN Properties*, 296 Ga. at 796 (1) (considering erroneously struck affidavits in de novo appellate review of the evidence in affirming summary judgment). So Ellis has not shown that the expert affidavit created a question of material fact on her claims for intentional breaches of fiduciary duties.

Nor does the affidavit create a question of material fact on Ellis's claim that Oles overbilled her. The expert refers in his affidavit to having reviewed

"documentation," including "the billing and evidence provided by [Ellis]," and concludes that the amount of time Oles spent on certain, specific tasks is unreasonable. But he attaches to his affidavit none of the documentation, billing, or evidence upon which he relied to reach his conclusion; he does not refer to specific documents; and there is no indication that the documents upon which he relied were served with the affidavit. (We observe that included in Ellis's 817-page filing in opposition to Oles's summary judgment motion—the filing that included the expert's affidavit—are some documents that may be billing statements and invoices, but they are included without context or identifying information; it is not clear that they are the documents to which the expert refers.)

OCGA § 9-11-56 (e) requires that copies of all papers referred to in an affidavit shall be attached to the affidavit or served therewith. "Where records relied upon and referred to in an affidavit are neither attached to the affidavit nor included in the record and clearly identified in the affidavit, the affidavit is insufficient." *Taquechel v. Chattahoochee Bank*, 260 Ga. 755, 756 (2) (400 SE2d 8) (1991) (citation omitted). "Since the records were not attached to the [expert's] affidavit or otherwise identified by their location in the evidence admitted of record, the references to these records cannot be used to contest the summary judgment motion." *Lance v. Elliott*, 202 Ga.

App. 164, 167 (413 SE2d 486) (1991). "While the documents and information reviewed by [the expert] may be part of the record, the specific documents and information relied upon were not listed or otherwise identified in [the] affidavit. Accordingly, the affidavit[ ] lack[s] probative value [on this issue]." *Demere Marsh Assocs., LLC v. Boatright Roofing & Gen. Contracting*, 343 Ga. App. 235, 244 (1) n.6 (808 SE2d 1) (2017).

So the expert's affidavit does not create an issue of fact sufficient to defeat Oles's entitlement to summary judgment, and any trial court error in refusing to consider the affidavit was not harmful.

7. *Alleged failure to incorporate facts.*

Ellis argues the trial court erred by failing to incorporate any of the facts asserted in her verified "Plaintiff's Sur Reply to Defendants Response to Plaintiff's Opposition to Defendants Motion for Summary Judgment." She fails to point to record citations of specific items of evidence that she contends create a question of material fact. She has thus not shown error.

8. *Summary judgment.*

Ellis argues that the trial court erred in awarding Oles attorney fees because Oles "never apprised her of her legal rights regarding attorney fees in Georgia." She

does not dispute that she signed a binding contract engaging Oles, which outlined the fees that would be charged for representing her and explicitly stated that she would be obligated to pay attorney fees and costs Oles incurred in pursuing collection efforts. And she points to no law imposing a requirement upon an attorney to "apprise[a client] of her legal rights regarding attorney fees" in order for a contract for legal services to be enforceable. Ellis has not shown reversible error.

Judgment affirmed. Gobeil and Pinson, JJ., concur.

EXHIBIT B

STITES & HARBISON PLLC
ATTORNEYS

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William D. Newcomb
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April 26, 2023

VIA E-MAIL AND CERTIFIED MAIL

Tatyana Ellis
1530 Aurelia Drive
Cumming, Georgia 30041

RE: Tatyana Ellis v. David Edward Oles *et al.*
Superior Court of Fulton County
Civil Action File Number: 2019CV316544
S&H File No.: 220861

Dear Ms. Ellis:

As you're aware, all of your appeals in your lawsuit bearing Civil Action Number 2019CV316544 (the "2019 Lawsuit") have failed, and the case has been remanded back to the trial court. Per the Court's July 30, 2021 Amended Final Order Granting Defendants' Motion for Summary Judgment and Denying Plaintiff's Motions for Summary Judgment, you are now required to pay my client $23,453.35, plus the contractual service charges on that amount which, as of today, amount to over $17,000. This amount continues to increase daily.

The Court also ordered you to pay my client its litigation expenses incurred in pursuing collection of these amounts from you. In order for my client to have prevailed on its collection claims against you, it was necessarily required to prevail on your claims against it.[1] Thus, all of the expenses incurred by my client in your lawsuits against it were incurred in pursuing payment of the amount you contractually owe it. As of today, those expenses amount to approximately $291,000.00.

Finally, in the lawsuit bearing Civil Action File Number 2020CV342206 (the "2020 Lawsuit"), the Court granted our Motion to Dismiss your claims against all Defendants. As shown in our Motion for Fees and Expenses of Litigation Pursuant to O.C.G.A. 9-11-11.1(b.1), we are entitled to a mandatory fee award in excess of $22,557.15.

[1] See Jones v. Brawner, 160 Ga.App. 314, 314 (1981) ("A [party] seeking to enforce an alleged contract has the burden and must show performance on his part; otherwise, he is not entitled to a verdict against the [other party].").

On August 5, 2021, I relayed a settlement proposal to you in hopes of resolving all disputes among the parties to the lawsuits you filed. You failed to accept this offer. Nonetheless, in lieu of pursuing collection and engaging in post-judgment discovery on your financials, and in the interests of ending all litigation with you, I am authorized to re-extend a settlement offer to you. The terms of the settlement offer are outlined in the attached Settlement Agreement. **This offer will remain open until May 1, 2023 at 5p EDT, at which point it will automatically terminate.** If you fail to accept this offer, my client will pursue collection of the full amounts owed by you.

I strongly recommend you discuss our offer with an attorney who can advise you as to your best interests.

Sincerely,

STITES & HARBISON PLLC

William D. Newcomb

Enclosure (1)

cc (via e-mail):

Jeff Hoffmeyer
Eric Frisch

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release (the "Settlement Agreement") is entered into between Tatyana Ellis ("Claimant"), on one hand, and David E. Oles and Law Offices of David E. Oles, LLC (the "Oles Respondents") and Copeland, Stair, Valz & Lovell, LLP (f/k/a Copeland, Stair, Kingma & Lovell, LLP), William D. Newcomb, and Jeffrey C. Hoffmeyer (collectively, the "CSKL Respondents") (the Oles Respondents and the CSKL Respondents shall be collectively referred to as the "Respondents" unless otherwise indicated), on the other hand (Claimant and Respondents shall be referred to individually as a "Party" or collectively as the "Parties" unless otherwise indicated).

RECITALS

WHEREAS, the Oles Respondents previously represented Claimant in connection with various legal matters (the "Underlying Engagement");

WHEREAS, on February 12, 2019, Claimant filed a lawsuit against the Oles Respondents in the Superior Court of Fulton County bearing Civil Action File Number 2019CV316544 (the "2019 Lawsuit") in which she asserts claims against the Oles Respondents arising out of the Underlying Engagement;

WHEREAS, the Oles Respondents filed a counterclaim against Claimant in the 2019 Lawsuit pursuant to which they seek outstanding fees, costs, and other amounts they claim Claimant owes them for legal services they rendered to her in connection with the Underlying Engagement;

WHEREAS, the Oles Respondents retained the CSKL Respondents to represent them in the 2019 Lawsuit;

WHEREAS, on November 5, 2020, Claimant filed a lawsuit against Respondents in the Superior Court of Fulton County bearing Civil Action File Number 2020CV342206 (the "2020 Lawsuit") in which she asserts claims against them arising out of the Underlying Engagement and their handling of the 2019 Lawsuit;

WHEREAS, to avoid the burdens and distractions of further litigation, the Parties hereby dispose of and fully and completely resolve any and all claims and disputes among them as set forth below.

1. **Terms of the Settlement.** In consideration of the releases and promises contained in this Settlement Agreement and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

a) Claimant shall pay, or shall cause to be paid, Twenty-Five Thousand Dollars ($25,000.00) (the "Settlement Sum") to the Oles Respondents within fourteen (14) days of Claimant's written notification to counsel for the Oles Defendants that she has accepted Respondents' settlement proposal. Payment shall be made in cash or via certified bank check.

b) Claimant, on behalf of herself, her agents, administrators, trustees, executors, assigns, and successors, hereby completely releases and forever discharges Respondents and all of their past, present, and future agents, officers, directors, owners, employees, shareholders, affiliates, joint venturers, members, partners, insurers, insurance plans, representatives, principals, servants, attorneys, heirs, executors, administrators, beneficiaries, assigns, predecessors, and successors from any and all claims, causes of action, liabilities, obligations, losses, actual, punitive, exemplary, and all other type of damages, attorney's fees, costs, expenses of litigation, and compensation of any nature whatsoever, whether known or unknown, seen or unforeseen, accrued or unaccrued, fixed or contingent, liquidated or non-liquidated, which have been or could have been asserted and/or sought in any forum, whether based on a claim of negligence, breach of contract, breach of fiduciary duty, intentional tort, and/or any other theory of recovery, arising out of or relating in any way to the Underlying Engagement, the 2019 Lawsuit, the 2020 Lawsuit, and any and all services the Oles Respondents have ever rendered to Claimant and which Claimant contends the Oles Respondents ever should have rendered to her. This release is intended to be construed as broadly as the law allows.

c) Respondents, on behalf of themselves, their agents, administrators, trustees, executors, assigns, and successors, hereby completely release and forever discharge Claimant from any and all claims, causes of action, liabilities, obligations, losses, actual, punitive, exemplary, and all other type of damages, attorney's fees, costs, expenses of litigation, and compensation of any nature whatsoever, whether known or unknown, seen or unforeseen, accrued or unaccrued, fixed or contingent, liquidated or non-liquidated, which have been or could have been asserted and/or sought in any forum, whether based on a claim of negligence, breach of contract, breach of fiduciary duty, intentional tort, and/or any other theory of recovery, arising out of or relating in any way to the Underlying Engagement, the 2019 Lawsuit, the 2020 Lawsuit, and any and all services the Oles Respondents have ever rendered to Claimant and which Claimant contends the Oles Respondents ever should have rendered to her. This release is intended to be construed as broadly as the law allows.

d) Within seven (7) days of Claimant tendering the Settlement Sum to the Oles Respondents' attorneys, Claimant will execute and file Dismissals With Prejudice of all claims she has asserted against the Oles Respondents in the 2019 Lawsuit and all claims she has asserted against Respondents in the 2020 Lawsuit. Within seven (7) days of Claimant's filing of the Dismissal With Prejudice in the 2019 Lawsuit, the Oles Respondents will execute and file a Dismissal With Prejudice of all claims they have asserted against Claimant in the 2019 Lawsuit.

e) The Parties agree to be solely responsible for the payment of their respective attorney's fees, costs, expert witness fees, and any and all other expenses incurred on their behalf as a result of or arising out of the Underlying Engagement, the 2019 Lawsuit, the 2020 Lawsuit, and any and all services the Oles Respondents have ever rendered to Claimant and which Claimant contends the Oles Respondents ever should have rendered to her. This Paragraph does not apply to any subsequent disputes over the enforceability of this Settlement Agreement.

f) The Parties agree this Settlement Agreement is supported by sufficient and adequate consideration.

2. **Non-Disparagement.** Claimant agrees not to make any statements or cause or encourage others to make any statements that defame, disparage, malign, demean, or in any way criticize the reputation, practices, or conduct of the Oles Respondents or that attack the Oles Respondents, whether orally or in writing, and including, but not limited to, in the press, publicly, on the internet, or on any form of social media. Claimant shall not, directly or indirectly, initiate or engage in any publicity of any kind concerning the Oles Respondents, nor shall Claimant contact or respond to any other person or entity about or concerning the Oles Respondents, or publish, share, or distribute to any other person any communication, report, statement, filing or document of or concerning the Oles Respondents. It is expressly understood that this Paragraph is a substantial and material provision of the Settlement Agreement, and a breach of this Paragraph would support a cause of action for breach of contract and would entitle the aggrieved Party to recover damages flowing from such breach. In any litigation arising from Claimant's breach of this Paragraph, the non-prevailing Party shall be liable to the prevailing Party for her/his/its reasonable attorney's fees and expenses incurred in connection with that litigation.

3. **Enforceability.** Should any term or provision of this Settlement Agreement be declared invalid by a court of competent jurisdiction (except those contained in Paragraph 1), the Parties agree that all of the other terms and provisions of this Settlement Agreement are valid and binding and shall have full force and effect as if the invalid portion had not been included.

4. **Amendment and Waiver.** This Settlement Agreement and its terms may be amended, modified, or waived only by the written consent of each of the Parties and/or their attorneys. The waiver of any breach of this Settlement Agreement shall not operate or be construed as a waiver of any similar, prior, or subsequent breach of this Settlement Agreement.

5. **Choice of Law and Venue.** This Settlement Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Georgia in all respects, including matters of construction, validity, enforcement, and interpretation. Any lawsuit filed to enforce the terms of this Settlement Agreement shall be filed in the Superior Court of Fulton County, Georgia.

6. **Construction.** This Settlement Agreement shall be construed as if the Parties jointly prepared it, and any uncertainty or ambiguity in this Settlement Agreement shall not be interpreted or construed against the drafter.

7. **Contract.** Statements and representations contained in this Settlement Agreement are to be considered contractual in nature and not merely recitations of fact.

8. **Multiple Counterparts.** This Settlement Agreement may be executed in identical counterparts, each of which shall collectively constitute one agreement; but in making proof of this Settlement Agreement, it shall not be necessary to produce or account for more than one such counterpart containing the signature of the Party against whom enforcement is sought. A signed counterpart received by a Party via facsimile or via e-mail shall suffice in lieu of an original in making proof of this Settlement Agreement.

9. **Claimant's Representations.** Claimant represents and warrants she a) is unaware of the existence of any actual or potential claim, demand, suit, cause of action, complaint, charge, or grievance possessed by her against Respondents which is not subject to and fully released by this Settlement Agreement; b) owns the claims being released; c) has not sold, assigned, or otherwise transferred to any other person or entity any interest in any claim, account, motion, demand, action, and/or cause of action she has or may claim to have against Respondents; and d) has entered into and executed this Settlement Agreement of her own choice and free will and in accordance with her own judgment.

10. **Advice of Counsel.** The Parties acknowledge and agree they have given mature and careful thought to this Settlement Agreement and have been given the opportunity to review and discuss this Settlement Agreement independently with legal counsel.

11. **Denial of Liability.** By executing this Settlement Agreement, Respondents do not admit the truth of any of allegations of wrongful conduct asserted by Claimant, and in fact expressly deny any liability to her. The Parties agree the execution of this Settlement Agreement shall not constitute or ever be offered by them as an admission of any fact or allegation asserted in any lawsuit or other legal or administrative proceeding, except in a legal or administrative proceeding initiated to enforce the terms herein.

12. **Entire Agreement.** This Settlement Agreement embodies the complete agreement between the Parties and nullifies any prior agreement concerning the subject matter hereof.

13. **Tax Consequences.** The Parties make no representations regarding this Settlement Agreement's tax consequences, if any, and this Settlement Agreement is enforceable regardless of same. Each Party shall be solely responsible for any and all of her/his/its own taxes, interest, and/or penalties due and owing, if any, should any aspect of this Settlement Agreement be considered taxable to that Party, and are advised to obtain their own tax advice from a tax or accounting professional.

14. **No Reliance.** In signing this Settlement Agreement, no Party has relied on or been induced to execute this Settlement Agreement by any statement, representation, agreement, or promise, oral or written, made by any other Party, other than those set forth in this Settlement Agreement.

15. **Paragraph Headings.** The paragraph headings utilized in this Settlement Agreement are for purposes of convenience of reference only, and shall not be used to construe, modify, alter, or supplement the language following such headings.

_____
Tatyana Ellis

Date: _____

_____
David E. Oles

Date: _____

_____
Law Offices of David E. Oles, LLC

By: _____

Date: _____

_____
William D. Newcomb

Date: _____

_____
Jeffrey C. Hoffmeyer

Date: _____

_____
Copeland, Stair, Valz & Lovell, LLP

By: _____

Date: _____

EXHIBIT C

From: tatyanaellis2014@gmail.com
To: Troy
Subject: Fwd: Ellis v. Oles - your discovery responses
Date: Thursday, June 8, 2023 6:00:10 PM

Sent from my iPhone

Begin forwarded message:

From: "Newcomb, William" <wnewcomb@stites.com>
Date: June 8, 2023 at 1:36:08 PM EDT
To: tatyanaellis2014@gmail.com
Cc: "Hoffmeyer, Jeff" <jhoffmeyer@stites.com>
Subject: Ellis v. Oles - your discovery responses

Ms. Ellis: I am in receipt of your responses to my client's post-judgment discovery requests. You object to and refuse to answer the requests because "there has been no final order entered in the case." You are wrong. Judge Adams' July 30, 2021 "Amended **Final Order** Granting Defendants' Motion for Summary Judgment and Denying Plaintiff's Motions for Summary Judgment" (the "Amended Final Order") is, on its face, a "Final Order." And even if it didn't say, on its face, that it was a "Final Order," it would constitute a "Final Order" under Georgia law. Paine v. Nations, 301 Ga.App. 97, 99 (2009) ("Even if a trial court's order does not state that it is a grant of final judgment, 'it nevertheless constitutes a final judgment within the meaning of OCGA § 5–6–34(a)(1) where it leaves no issues remaining to be resolved, constitutes the court's final ruling on the merits of the action, and leaves the parties with no further recourse in the trial court.'"). In fact, you wouldn't have been able to appeal the Amended Final Order as a matter of right had it not been a "Final Order." For the same reason, the Amended Final Order is not interlocutory.

Moreover, to the extent you contend that post-judgment discovery is premature because the Amended Final Order is not a final order, you are also wrong. Under O.C.G.A. § 9-11-54(a), a "judgment" is defined to "include[] a decree and **any order from which an appeal lies**."

O.C.G.A. § 9-11-69 expressly provides that "[i]n aid of the judgment…, the judgment creditor…may do any or all of the following: (1) Examine any person, including the judgment debtor by…propounding interrogatories; (2) Compel the production of documents and things…" Our post-judgment discovery requests were served to assist my clients in enforcing the judgment against you and are in absolute compliance with the statute. Nowhere does the statute – or any other Georgia law – require the filing of a "final case disposition form" as a prerequisite to serving post-judgment discovery requests.

Finally, your suggestion that you are somehow relieved of your obligation to respond to discovery because the Clerk has not created a new case number and we have not filed a case disposition form are without merit. First, there is nothing in the Georgia Code, case law, or Uniform Rules of Superior Court that relieves you of your obligation to respond to discovery if it was served more than six months after the final order. See Wyatt Processing, LLC v. Bell Irrigation, Inc., 298 Ga. App. 35, 36-37 (2009) (affirming order holding judgment debtor in contempt for failing to respond to post judgment discovery served more than six months after the judgment). Second, you unsuccessfully appealed the Amended Final Order, unsuccessfully attempted to pursue cert review by the Georgia Supreme Court, and the remittitur was only received by the trial court on March 13, 2023. During the time you were pursuing your appeals, the trial court lacked jurisdiction to do anything in the case. We promptly served post-judgment discovery on April 26, 2023, which is well within six months after entry of remittitur.

Please provide complete responses to the requests by June 13, 2023, or we will file a Motion to Compel and seek my clients' fees and costs incurred in filing the Motion. We also reserve the right to ask the Court to hold you in contempt for your willful failure to respond to post-judgment discovery.

William D. Newcomb, III
Member
Direct: 404-739-8873
Fax: 404-739-8870
wnewcomb@stites.com

STITES&HARBISON PLLC
303 Peachtree Street, N.E., Suite 2800, Atlanta, GA 30308

EXHIBIT D

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

IN RE: DAVID E. OLES,	*	
	*	
CONTEMPT CITATION.	*	
	*	
	*	**CIVIL ACTION**
KAREN GOTTSCHALK,	*	
Plaintiff,	*	**FILE NO.: 06-1-03175-49**
	*	
vs.	*	
	*	
DEAN GOTTSCHALK,	*	
	*	
Defendant.	*	
	*	

ORDER OF CONTEMPT
RE: DAVID E. OLES, ATTORNEY

This matter came before the Court on April 17, 2009 for hearing on a contempt against Respondent, David E. Oles, for matters arising and revealed during the Court's trial of the underlying case on October 3, 2008. At that time, Respondent was serving as counsel for the Defendant in an action for modification of visitation. The contempt concerned a violation of the Court's orders protecting the confidentiality of a report by Dr. Sheri Siegel, the custody evaluator in the case. Mr. Oles chose to represent himself with respect to the contempt and presented evidence and argument on his own behalf, including the testimony of one witness, Dr. Monty Weinstein. After having heard counsel's evidence presented on his own behalf, having reviewed his argument, and having reviewed the entire record in this matter including the official transcript of the prior proceedings, the Court hereby finds

counsel, Mr. Oles, in contempt of the Court's order of October 5, 2006 (and as affirmed by the subsequent orders of March 5, 2007 and May 21, 2007), as follows:

On October 5, 2006, the previous judge in this action, the Honorable Adele Grubbs, entered an order (that was subsequently filed on October 6, 2006), concerning the appointment of a custody evaluator in this action. The order was prepared by the guardian ad litem, Diane Woods, appointing Sheri Siegel, Ph.D., as the custody evaluator. One of the provisions of that order, states as follows:

> Upon the completion of the custody evaluation, Dr. Siegel will forward a written report to the Court, to counsel for the parties, and to the Guardian ad Litem. The parties shall be entitled to review the written report. The Court hereby ORDERS, however, that *any unauthorized distribution of the contents of Dr. Siegel's report by a party or by counsel to any person shall be subject to sanctions, including a finding of contempt by the Court.* Furthermore, if Dr. Siegel's report is filed, it shall be filed under seal by the Clerk of Court.

Order of October 5, 2006, par. 3 (emphasis supplied).

Subsequent to the issuance of this order, a copy of Dr. Siegel's custody evaluation was authorized to be released to the Defendant's psychologist, Emmett Fuller. At that time, on March 5, 2007, the Court entered a subsequent order stating, in pertinent part, as follows:

> IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendant's attorney may release a copy of the report completed by Dr. Sheri Siegel to Defendant's psychologist, EMMETT FULLER. No further release of this report is authorized or granted by this Court and the parties and their respective counsel are hereby instructed to strictly adhere to the conditions set forth in this Court's order of October 6, 2006 entered in this action.

Again, on May 21, 2007, the Court permitted a copy of Dr. Siegel's report to be released to Dr. Susan Volentine, the minor children's psychologist. The Court's order of

May 21, 2007 authorizing such release contained language identical to the March 5, 2007 order quoted above.

In addition to the above-referenced orders, the Court also issued an order appointing the guardian ad litem on June 6, 2007. In that order, the Court specifically allowed the parties to distribute the contents of the guardian's report to experts in the case without further order of the Court. No similar language was contained in the Court's order regarding Dr. Siegel's report, and other than the two orders mentioned above, no party ever requested to be relieved of the confidentiality provisions of the October 6, 2006 order issued by the Court.

During the trial in the underlying action, Defendant presented the testimony of an expert witness, Dr. Monty Weinstein. In the course of Dr. Weinstein's testimony, Dr. Weinstein revealed that he had reviewed Dr. Siegel's report as a part of his preparation in the case. At that time, counsel for the Plaintiff moved to exclude Dr. Weinstein's testimony due to the violation of the Court's order of October 6, 2006. The Court made some inquiries of Dr. Weinstein with respect to how he came to review this report, and, in opposition to the Plaintiff's motion to exclude Dr. Weinstein's testimony, counsel for the Defendant also offered his version of the facts with regard to how Dr. Weinstein came to review the report. The Court ruled that Dr. Weinstein could not testify with respect to his review of Dr. Siegel's report, and the Court made clear that the matter of whether there had been an express violation of the Court's order would be taken up at a later date.

Subsequent to issuing an order in the underlying matter, the Court issued a Rule Nisi on the contempt, informing Mr. Oles of his opportunity to address the issue of the disclosure of the contents of Dr. Sheri Siegel's report to his expert and whether this disclosure violated

the Court's orders of October 6, 2006, March 5, 2007, and May 21, 2007. That hearing was held on April 17, 2009.

During the course of the trial of the underlying case, while Dr. Weinstein was testifying, he revealed that he had reviewed Dr. Siegel's report and that the report was shown to him by Mr. Oles. Mr. Oles responded that it was not his understanding that anything contained in the Court's order would prohibit him from showing the order to his expert in order to have the expert assist him in the preparation of his case. Mr. Oles stated as follows: "It has never been my understanding that there is any rule or law out there in the State of Georgia that overrides my right to enlist, within the protection of attorney-client privilege, a trial consultant to help me do that." T., pp. 657-658. Mr. Oles further affirmatively stated "We have not disseminated that report. The review of that report was limited to our office, solely in assisting us to prepare the case. *That report did not leave our custody or possession.*" T., pp. 658-659 (emphasis added). Mr. Oles further stated "I don't believe or perceive that it was the Court's intention to restrict me from having a trial expert look at this, just like it would be a trial expert in any other case. Certainly, it is a confidential document and was restricted from circulation. And we absolutely understand and respect that." T., p. 661, ll. 4-10.

On October 3, 2008, following the revelation that Dr. Weinstein had reviewed the report, the Court found that such review was in violation of the Court's order of October 6, 2006 (as reiterated in the Court's two subsequent orders) and excluded Dr. Weinstein's testimony regarding Dr. Siegel's report. Following this ruling, Dr. Weinstein reiterated that he had reviewed the report in Mr. Oles's office, but insisted that he did not have a copy of it

and did not have a file on the case at all. *See* Transcript, p. 685, ll. 1-4, 11. In fact, he indicated that he had returned all the materials relating to the Gottschalk matter to Mr. Oles. T., p.685.

After affirmatively stating that he had no file in the case, Dr. Weinstein was questioned by counsel for the Plaintiff as to whether he had administered any tests to the Defendant. He admitted that he had administered such tests and that he had a copy of the report with him. When he was asked by Plaintiff's counsel if she could review the report, Dr. Weinstein proceeded to produce a file that contained the report of test findings relative to the Defendant. When Dr. Weinstein was asked about that "file," he admitted that it also contained other documents relating to the case. Upon inquiry, he admitted that the guardian ad litem report was also in it. Since DR. Weinstein had previously denied possessing any fine on the case, the Plaintiff's attorney asked if the Court would conduct an in camera review of Dr. Weinstein's file to determine what other documents were in that file and whether they could be reviewed by Plaintiff's counsel. T., p. 691.

Upon conducting the in camera inspection, the Court found that the other document that was contained in Dr. Weinstein's file was, in fact, a copy of Dr. Sheri Siegel's report. T., p. 690. At the time the Court located Dr. Siegel's report in Dr. Weinstein's file, the following exchange took place:

JUDGE KELL:	I was explicitly told this report was only reviewed in your office, Mr. Oles, and that a copy was not given to this witness.
ATTORNEY OLES:	Yes, your Honor. That's absolutely my testimony.
JUDGE KELL:	Dr. Weinstein, where did you get this?

WITNESS DR. WEINSTEIN: I got this today from Mr. Oles. Again, I believe he showed it to me in his office. I gave it back to him last night, and he gave -- you know and I have a copy today.

JUDGE KELL: Who made this copy?

WITNESS DR. WEINSTEIN: I didn't make copies.

ATTORNEY OLES: Your Honor, that's my copy.

...

ATTORNEY OLES: We reviewed it. And how it got -- I don't know. That is all.

T., pp. 690-691.

The witness, Dr. Weinstein, asserted at several points in his testimony that he had first seen Dr. Siegel's report in Mr. Oles' office under Mr. Oles' supervision approximately a month and a half prior to trial. *See, e.g.*, T. pp. 717, 718, 719. Dr. Weinstein testified as follows: "I saw it in Mr. Oles' office under his supervision approximately a month and a half ago. I saw it in – and then I saw it afterwards. But maybe I should have returned it to Mr. Oles – or not. I can't remember." T. p. 717. The witness was then asked where he obtained the copy that was found in his file. He stated as follows: "The copy was – it was given to me last night in his office. I didn't take – I don't take this type - ... the answer is I got it last night. I looked at it in his supervision. ... I may have taken a copy." T., p. 717. A further exchange on the subject took place with Plaintiff's counsel as follows:

Q: But that's when you got it, last night?

A: I got it in his office.

Q: Not today, last night.

A: And today, I looked at it.

Q: So you reviewed it last night?

A: No, I didn't review it last night. I didn't review it last night. Did not.

As the Court indicated, after the completion of the trial on the underlying case, the Court issued a Rule Nisi to allow this matter to be further explored to determine whether or not any contempt or other violation of the Court's orders had occurred. The Court indicated that the matters that had occurred at the hearing of October 3, 2008 were the basis for the Court's *sua sponte* issuance of the Rule Nisi concerning the contempt. Mr. Oles was allowed to present evidence with respect to how Dr. Weinstein came into possession of the Sheri Siegel report.

Mr. Oles indicated from the outset that he had showed the report to his expert the night before the expert testified but that it had not been his intention to give a copy of the report to the expert witness. He denied that this was in violation of the Court's orders because he believed that it was "necessary" in order to properly prepare for his client's case. His position was that requiring him to obtain a court order before showing the document to his expert would require him to reveal the identity of a consulting expert before he had determined whether or not to use such expert at the trial. Thus, he determined that it "could not have been" the Court's intention to prevent him from showing the report to a consulting expert.

A plain reading of the Court's order of October 6, 2006, coupled with the subsequent orders of the Court, make such a tortured reading of the Court's order disingenuous.

Mr. Oles called Dr. Weinstein as a witness to describe the circumstances under which Dr. Weinstein reviewed the report. The Court finds Dr. Weinstein's testimony with regard to this matter to be, at best, confused and at worst an outright fabrication. For example, when initially questioned about how and when he came into possession of or first reviewed Dr. Siegel's report, Dr. Weinstein testified that he first reviewed Dr. Siegel's report a month and a half prior to trial. *See, e.g.,* T., pp. 717, 718, 719. When called to testify at the contempt hearing, however, he recanted this testimony and indicated that, in fact, the first time that he ever reviewed the Siegel report was the evening prior to his testimony on October 3, 2008. If he reviewed this report upon which he intended to opine at trial for the first time the evening before he testified at the trial, the Court finds it impossible to comprehend how the witness might have been "mistaken", as he claims, when he initially testified that he had seen the report a month and a half prior to trial. If the report was presented to him for the first time the night before his testimony, the Court finds it difficult to believe that he would have been repeatedly mistaken in testifying that he had, in fact, seen it a month and a half prior to trial.

Likewise, the witness' testimony with respect to how he obtained the copy of the report found in his file makes no sense. At the hearing on this matter in April 2009, Mr. Oles and the witness both indicated that the witness "accidentally" took the report from Mr. Oles' office. This, however, contradicts the witness' statement when the report was discovered in his possession on October 8, 2008. At that time, Dr. Weinstein testified as follows: "I got this [report] today from Mr. Oles. Again, I believe he showed it to me in his office. I gave it back to him last night, and he gave – you know and I have a copy today." T., p. 691. The

witness later testified:

> A: The copy was – it was given to me last night in his office. I didn't take – I don't take this type - ... the answer is I got it last night. I looked at it in his supervision.
>
> Q: And he gave you a copy of it?
>
> A: No. I may have taken a copy. I don't remember him saying, "here is the copy. Keep it," because I looked at it in the office. I didn't look at anything –
>
> Q: But that's when you got it, last night?
>
> A: I got it in his office.
>
> Q: Not today, last night.
>
> A: And today, I looked at it.
>
> Q: So you reviewed it last night?
>
> A: No, I didn't review it last night. I didn't review it last night. Did not.

T., p. 717.

In response to this line of questioning, the Court asked a question for clarification:

> JUDGE KELL: Let me ask this. Again, I'm confused: When you originally saw this report a month and a half ago in Mr. Oles' office, did you actually receive a copy of it at that time?
>
> WITNESS DR. WEINSTEIN: No, I didn't. That, I would remember.

T., p. 718.

When called to testify at the hearing on the contempt matter, however, Dr. Weinstein gave confusing and conflicting testimony with respect to when he actually obtained the copy of the report. He affirmatively stated, however, that he did not review the report at all a

month and a half prior to the trial as he stated in his prior testimony. He stated that he reviewed the report in Mr. Oles' office the night prior to his testimony on October 3, 2008 and did not review it again on the day of his testimony of October 3, 2008. Such testimony conflicts with testimony in the transcript quoted above.

In any event, the Court finds that Defendant's attorney, Mr. Oles, is in willful contempt of the Court's order of October 6, 2006, and as reiterated and restated in the subsequent orders of March 5, 2007 and May 21, 2007. It was clear from these orders that the contents of Dr. Siegel's report were not to be distributed in any fashion to any person other than the parties and their counsel. Mr. Oles admits that he purposely distributed the contents of the confidential report to his expert, Dr. Weinstein, in order to facilitate his client's case. *See* T. pp. 655-659, 661.

The Court finds Mr. Oles' arguments that the order *should not* have precluded his sharing the report with a consulting expert unpersuasive. If there was any question with respect to the scope of the order, the party could have sought clarification from the Court. In fact, however, a reading of the subsequent orders in March and May 2007 clarified the issue, if any such clarification was needed. In addition, the Court is convinced that the violation of the Court's order was a knowing violation which was perpetrated because Defendant's counsel thought it was more advantageous to prepare his expert without disclosing the expert's identity. Such a reckless strategy, however, constitutes contempt of this Court's authority and a willful violation of its order.

Criminal contempt is conduct which involves some form of "disrespectful or contumacious conduct" toward the Court. *In re: Mauldin*, 242 Ga. App. 350 (2000); *in re:*

Billy L. Spruell, 27 Ga. App. 324 (1997); *In re: Henritze*, 181 Ga. App. 560 (1987). This willful disrespect may involve either an intentional disregard for or disobedience of a court order, or conduct which interferes with the Court's ability to administer justice. *In re: Spruell, supra.* Both elements are present here.

In order to establish criminal contempt, there must be proof, beyond a reasonable doubt, that the alleged contemnor violated a court order and did so willingly. *See Thomas v. D.H.R.*, 228 Ga. App. 518 (1997). It is also essential to establish that the thing ordered to be done is within the power of the person against whom the order is directed. *Id.; see also In re: Heinritze, supra.*

Furthermore, whether attorney Oles believed his conduct was justified is irrelevant. *Barlow v. State*, 237 Ga. App. 152 (1999). Because attorney Oles refused to comply with the Court's orders, he "disrupted the court proceedings and interfered with the orderly administration of justice." *Id.* at 157.

Pursuant to O.C.G.A. § 15-6-8, the superior courts have the authority to punish contempt by imprisonment for not more than twenty days, or by a fine not exceeding $500.00. O.C.G.A. § 15-1-4(a) provides that

> [t]he powers of the several courts to issue attachments and inflict summary punishment for contempt of court shall extend only to cases of:
>
> ...
>
> (3) Disobedience or resistance by any officer of the courts, party, juror, witness, or other person or persons to any lawful writ, process, order, rule, decree, or command of the courts.

Here, based on attorney Oles' conduct regarding the Court's Order and the complete lack of any legal authority supporting attorney Oles' offered explanation, the Court finds

beyond a reasonable doubt that attorney Oles directly and intentionally violated the Court's Order. Thus, the Court had the power, though not exercised in this case, to summarily adjudicate and punish attorney Oles for such direct (i.e., commited in the judge's presence) criminal (i.e., punitive rather than remedial) contempt of court.

> The power to summarily adjudicate and punish for direct criminal contempt is derived from the court's authority to maintain courtroom order and decorum. "During trial, a trial judge has the power, when necessary to maintain order in the courtroom, to declare conduct committed in his presence and observed by him to be contemptuous, and, after affording the contemnor an opportunity to speak in his or her own behalf, to announce punishment summarily and without further notice or hearing."

In re: Schafer, 216 Ga. App. 725, 725 (1995) (quoting *Dowdy v. Palmour*, 251 Ga. 135, 141-142, (1993)). Instead, the Court allowed Mr. Oles a hearing on the contempt which resulted in the above findings.

For all the above and foregoing reasons, the Court finds beyond a reasonable doubt that Attorney Oles willfully violated the Court's orders of October 6, 2006, March 5, 2007 and May 21, 2007.

This Court, therefore, finds Attorney Oles to be in CONTEMPT. He is hereby fined in the amount of $500.00, and is directed to pay said fine into the Registry of the Court within thirty (30) days of the date of this Order.

SO ORDERED this 6th day of May, 2009.

C. LaTain Kell
Judge, Superior Court of Cobb County
Cobb Judicial Circuit

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served a copy of the within and foregoing order (Civil Action File No. 06-1-3175-49) upon all parties by sending a true and correct copy via facsimile and through the Cobb County Mail System addressed to the following:

Barbara Lassiter, Esq.
1700 Water Place, Suite 306
Atlanta, GA 30339

David Edward Oles, Esq.
Law Offices of David E. Oles, LLC
480 Tumbling Creek Drive
Alpharetta, GA 30005

Diane Woods, Esq.
Huff, Woods & Hamby
707 Whitlock Avenue, S.W., Suite G-5
Marietta, GA 30064-3033

This 6th day of May, 2009.

Natalie C. Bloodworth
for C. LaTain Kell, Judge
Superior Court of Cobb County
Cobb Judicial Circuit

CERTIFICATE OF SERVICE

This is to certify that I have this day caused the within and foregoing to be served upon all other parties in this action by electronic service upon:

William Newcomb & Jeff Hoffmeyer
Stites & Harbison
303 Peachtree St NE
Atlanta, GA 30308
wnewcomb@stites.com
jhoffmeyer@stites.com

Dated: August 22, 2023

Respectfully submitted,

/s/Tatyana Ellis
Tatyana Ellis
Pro Se

Address:
Tatyana Ellis
1530 Aurelia Drive
Cumming, GA 30040
404-468-0597
Tatyanaellis2014@gmail.com

EXHIBIT L

IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

TATYANA ELLIS,

Plaintiff,

v.

DAVID OLES and LAW OFFICES OF DAVID E. OLES, LLC,

Defendants.

CIVIL ACTION FILE NO. 2019CV316544

HON. KIMBERLY M. ESMOND ADAMS

ORDER DENYING DEFENDANTS' MOTION TO DECLARE PLAINTIFF A VEXATIOUS LITIGANT AND DENYING PLAINTIFF'S MOTION STRIKING DEFENDANTS' MOTION TO DECLARE PLAINTIFF A VEXATIOUS LITIGANT

The above-style case came before the Court on Defendants' Motion to Declare Plaintiff a Vexatious Litigant, filed on May 18, 2020, and Plaintiff's Cross-Motion Striking Defendants' Motion to Declare Plaintiff a "Vexatious Litigant" pursuant to Georgia's anti-SLAPP statute, filed on June 15, 2020. Plaintiff, appearing *pro se*, and Counsel, appearing on behalf of Defendants, presented oral argument virtually before the Court on August 26, 2020. Upon consideration of the entire record, argument presented by the parties and applicable authority, the Court hereby **DENIES** Defendants' Motion to Declare Plaintiff a Vexatious Litigant ("Defendants' Motion") and **DENIES** Plaintiff's Cross-Motion Striking Defendants' Motion to Declare Plaintiff a "Vexatious Litigant" pursuant to Georgia's anti-SLAPP statute ("Plaintiff's Cross-Motion") for the reasons set forth below.

FACTUAL BACKGROUND

Defendants move for an Order declaring Plaintiff a vexatious litigant. In support of their request, they maintain that Plaintiff's Omnibus Motion, filed on April 15, 2020, is one of many

"shot-gun motions and briefs" Plaintiff has filed that "lack legal and factual merit, recycle arguments set forth in prior motions, and contain defamatory accusations that Defendants and their counsel have lied to the Court and committed other crimes." Defendants maintain that as a result of Plaintiff's filings, they have spent an incredible amount of time and expense responding to her motions. As a result, Defendants request the Court bar Plaintiff from filing any more motions or supplemental briefs without first obtaining leave of Court.

Plaintiff, in response to Defendants' Motion, moved for an Order striking Defendants' Motion pursuant to O.C.G.A. § 9-11-11.1. Plaintiff asserts that her Omnibus Motion is well founded in law and that all of her claims are meritorious. Further, Plaintiff maintains that Defendants have failed to establish a pattern of improper litigation and frivolous claims which would support a finding that Plaintiff is a vexatious litigant.

LEGAL ANALYSIS

To prevail on a motion to deem a *pro se* litigant vexatious and therefore bar a *pro se* plaintiff from filing legal actions, the moving party must demonstrate that the litigant is "vexatious, oppressive and ruinous." Oliver v. Field, 353 Ga. App. 891, 895, 840 S.E.2d 124, 127 (2020). Examples of litigation in Georgia where *pro se* plaintiffs were deemed vexatious include lawsuits where the plaintiff had filed over 17 lawsuits against over 29 separate defendants. See In re Lawsuits of Carter, 235 Ga.App. 551 (1998). On the contrary, in one instance a court found that a *pro se* litigant that had filed around 25 unsuccessful lawsuits against public officials, entities and employees was not unreasonable. See Smith v. Adamson, 226 Ga.App. 698 (1997). Here, the instant lawsuit is the only one Plaintiff has pending against these Defendants.

Therefore, Georgia law does not support a finding that Plaintiff is vexatious. Furthermore, the Court does not find that Plaintiff's actions in this lawsuit have risen to a level of antagonism

that warrants placing restrictions on her ability to file pleadings and responses. Id. The Court also finds Defendants have failed to prove that Plaintiff's claims and motions lack substantial justification and are an abuse of the law. As a result, Defendants' Motion is **DENIED**.

Not only did Plaintiff oppose Defendants' Motion, but Plaintiff also moved to strike Defendants' Motion pursuant to O.C.G.A. § 9-11-11.1. Georgia's anti-SLAPP statute is codified at O.C.G.A. § 9-11-11.1. The Court of Appeals has held that O.C.G.A. § 9-11-11.1 "involves a two-step process for determining whether a claim is subject to being stricken. In the first step, the defendant bringing an anti-SLAPP motion to dismiss must make a prima facie showing that the plaintiff's suit is subject to OCGA § 9–11–11.1 by showing that the defendant's challenged acts were taken in furtherance of his or her constitutional rights of petition or free speech in connection with an issue of public concern as defined by the statute." Neff v. McGee, 346 Ga. App. 522, 524–25, 816 S.E.2d 486, 490 (2018), cert. denied (Apr. 1, 2019). The stated purpose of the anti-SLAPP statute is "to encourage participation by the citizens of Georgia in matters of public significance through the exercise of their constitutional rights of freedom of speech and the right to petition government for redress of grievances." Hawks v. Hinely, 252 Ga. App. 510, 512, 556 S.E.2d 547, 549 (2001)(emphasis added). Ultimately, the statute "affords a procedural protection to acts of communication on public issues." See Rogers v. Dupree, 349 Ga.App. 777, 784 (2019)(emphasis added).

The Court finds that Defendants' Motion did not trigger O.C.G.A. § 9-11-11.1 because the filing itself did not "declare" Plaintiff a vexatious litigant; therefore, Defendants did not make a defaming or discrediting statement against Plaintiff intended to bar her freedom of speech. Even if Defendants' Motion had made such a defaming statement against Plaintiff, the pleading was not a lawsuit or a claim for relief initiated to hinder Plaintiff's freedom of speech. The anti-SLAPP

statute operates to *protect a person from lawsuits* that are initiated in response to statements that person made in good faith as a part of an act in furtherance of the right of free speech or the right to petition government for a redress of grievances under the Constitution of the United States or the Constitution of the State of Georgia. Harkins v. Atlanta Humane Soc., 273 Ga. App. 489, 490, 618 S.E.2d 16, 17–18 (2005). Here, Plaintiff initiated the instant lawsuit and Defendants' Motion did not constitute a separate lawsuit or claim against Plaintiff. Therefore, O.C.G.A. § 9-11-11.1 is not applicable to Defendants' Motion.

Secondly, Defendants' Motion was not an attempt to quell Plaintiff's right to free speech or right to petition the government in connection with an issue of *public interest or concern*. None of the issues raised by Defendants in their motion, nor the issues raised in the instant litigation are issues of public interest or concern as required by O.C.G.A. § 9-11-11.1(b). In Rosser, the Court of Appeals considered the question of whether the issues raised in that lawsuit could reasonably be construed as having been made in the interest of a public concern. Id., 348 Ga. App. 40, 43, 821 S.E.2d 140, 146 (2018), cert. denied (Apr. 1, 2019). In finding that there was a public concern, the Court of Appeals held that the controversy which prompted the former president's resignation involved the management and operation of Grady Electric Membership Corporation, a utility that included more than 13,000 members, that was a major employer in the community and a major factor in everyday life. Id. The instant lawsuit arises out of Defendants' legal representation of Plaintiff in divorce proceedings in Cobb County Superior Court between Plaintiff and Kenneth Seaver, Plaintiff's former husband, styled as *Tatyana Ellis v. Kenneth Seaver* (CAFN 16-1-08368-53) and *Tatyana Ellis v. Kenneth Seaver* (CAFN 16-1-08365-53). The Court finds that although one Defendant is a Georgia-licensed lawyer and the other is a Georgia-based law firm, an issue of

public concern has not been raised in this litigation; and therefore, O.C.G.A. § 9-11-11.1(b) is not triggered. As a result, Plaintiff's Cross-Motion is **DENIED**.

CONCLUSION

For the reasons discussed herein, Defendants' Motion to Declare Plaintiff a Vexatious Litigant is hereby **DENIED** and Plaintiff's Cross-Motion Striking Defendants' Motion to Declare Plaintiff a "Vexatious Litigant" pursuant to Georgia's anti-SLAPP statute is hereby **DENIED.**

SO ORDERED this 9th day of November, 2020.

HONORABLE KIMBERLY M. ESMOND ADAMS
SUPERIOR COURT OF FULTON COUNTY
ATLANTA JUDICIAL CIRCUIT

Distribution List:
Filed and Served Electronically via Odyssey e-FileGA
Service Electronically by email on Plaintiff at *tatyanaellis2014@gmail.com*

EXHIBIT M

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

TATYANA ELLIS,	)	
	)	
Plaintiff,	)	
	)	**CIVIL ACTION**
v.	)	
	)	**FILE NO. 2019CV316544**
DAVID EDWARD OLES and	)	
LAW OFFICES OF	)	
DAVID E. OLES, LLC,	)	
	)	
Defendants.	)	

AFFIDAVIT

1.

Personally appeared before me, Tatyana Ellis, after being duly sworn and under the penalty of perjury hereby states as follows:

2.

I am over the age of twenty-one years and otherwise competent to make this affidavit.

3.

Plaintiff's Disqualification of Counsel and Leave of Court to amend pleadings for invasion of privacy torts along with joinder of Counsel / Counsel's Firm is brought in good faith and is not brought for the purposes of delay or harassment and all statements herein and the sur-reply to which this affidavit is attached that are not based on personal knowledge are formed on information and belief and founded on reasonable inquiry.

4.

I have personal knowledge that Dona Webb called my husband, Troy Ellis, around 10:00 PM on Friday August 14, 2020 and left him a message, which I listened to that indicated Ms. Webb had information relevant to my case. I did witness my husband call her back shortly after receiving the message, but I was not present during the conversation. My husband's affidavit of facts is attached as **Exhibit I**.

5.

I have personal knowledge of the attachments in my husband's affidavit attached as **Exhibit I** and they are true and correct copies**.**

6.

On August 20, 2020 I sent Mr. Newcomb a 6.4B letter and OBGA 51-7-84 notice with the police report obtained by my husband and an overview of the conversation Troy had with Dona. Within approximately two hours of receipt of my e-mail, Mr. Newcomb responded stating "Mr. Oles has asked me to inform you that any attempt to smear him with such false claims will be dealt with in the most severe manner." I do not know what sort of severe manner Mr. Oles is threating me with pursuant to a discovery request, but is an unsavory statement to say the least and frankly alarming given Mr. Oles apparent mental health issues and access to a large cache of weapons, including ones with no serial number. Mr. Newcomb denied the claims that he threatened to disparage Ms. Webb's mental fitness if she came forward and that he did not intimidate her to withhold any information and stated the allegations are "completely fabricated and, quite frankly, nonsensical." It is not clear if he is alleging Ms. Webb fabricated the allegations or that either Troy or I fabricated the story. Either way his sole conclusion to these very serious allegations is that they would oppose discovery so that I cannot "conduct multiple fishing expeditions that have zero basis in reality." I find such a hostile attitude disturbing as Ms. Webb is a fact witness and one would think that they would wish to obtain full discovery over the matters before she got on the stand.

7.

I do not know if Ms. Webb actually has information damaging to my case and I have no proof that Mr. Oles savagely beat Ms. Webb in July 2020 or that Mr. Oles and Mr. Newcomb have threatened to disparage Ms. Webb's character if she divulged information pertinent to my case. What I do know is that she contacted my husband and informed him that she has information relevant to my case.

8.

The documents attached in **Exhibit II** are true and authentic copies of communications and a police report obtained from Pickens County. I also can confirm that the attachments Exhibit I are true and authentic copies of screen prints of call logs and text messages I have seen on my husband's phone, and the police report obtained from Pickens County.

~~~ SIGNATURE ON FOLLOWING PAGE ~~~
~~~

This 15th day of September 2020

Tatyana Ellis

Tatyana Ellis

Sworn to and subscribed before me this 15 day of September 2020

Notary Public

My Commission Expires: 01/19/2024

DANIEL J NATHANSON
NOTARY PUBLIC
GWINNETT CO., GEORGIA
MY COMMISSION EXPIRES
JAN 19 2024

EXHIBIT I

AFFIDAVIT OF TROY ELLIS FOR CAFN 2019CV316544 (Tatyana Ellis v. David Edward Oles and Law Offices of David E. Oles) and CAFN 2020CV337501 (Troy Ellis v David Edward Oles, LAW OFFICES OF DAVID E OLES, LLC)

1.

Personally appeared before me, Troy Ellis, after being duly sworn and under the penalty of perjury hereby states as follows:

2.

I am over the age of twenty-one years and otherwise competent to make this affidavit.

3.

This Affidavit is brought in good faith and is not brought for the purposes of delay or harassment and all statements herein that are not based on personal knowledge are formed on information and belief and founded on reasonable inquiry.

4.

On Friday August 14, 2020 at 9:46 PM I received a call and voice message from Dona Webb from phone number 404-935-1616 indicating that she had information relevant to the above styled-cases that she was willing to share with me. **EXHIBIT A.** Out of an abundance of caution, I responded at 10:00 PM with a text inquiring if it was too late to call back and Ms. Webb consented to the call-back. **EXHIBIT B**

5.

Ms. Webb is the landlord, paramour, and Paralegal of David Oles. According to Ms. Webb, she was fired from her position as Mr. Oles' paralegal sometime in July 2020 (the week Mr. Oles' granddaughter would be spending summer at the home Ms. Webb owns). Sometime in July or August 2020 Ms. Webb alleged that Mr. Oles viciously beat her all over her body and slammed her head into the kitchen island and left her lying on the floor unconscious for over an hour. She alleged after the beating the she informed Mr. Oles and Mr. William Newcomb, Mr. Oles' attorney, that she could no longer withhold information about how Mr. Oles allegedly damaged my wife's case and other clients as well. Ms. Webb alleged that both Mr. Oles and Mr. Newcomb repeatedly threatened if she disclosed anything that they would disparage her character and mental health. Ms. Webb did not disclose what information she had, but Ms. Webb repeatedly demanded that she needed to be deposed again and that she was pressured not to disclose information when my wife deposed her on September 17, 2019. Ms. Webb said she was in continued fear for her safety but was unwilling to involve the police out of embarrassment and shame. She indicated that if she was found dead that I know why.

6.

After she was allegedly beaten by Mr. Oles, Ms. Webb indicated that she had numerous conversations Mr. Newcomb about disclosing previously withheld facts and that Mr. Newcomb was allegedly aware of Mr. Oles' violence. However, she kept stating that Mr. Newcomb has Mr. Oles' back and that Mr. Newcomb allegedly repeatedly threatened Ms. Webb that he would attack her character and mental health very viciously if she disclosed anything adverse.

7.

Due to concern for Ms. Webb's safety my wife suggested that I provide her contact information of a crisis center. The following morning at 10:15 AM on August 15, 2020, I sent Ms. Webb the phone number and link to a crisis center (**Exhibit B**). That afternoon I called the police and requested a wellness check.

8.

On August 19, 2020 I received a police report from November 20, 2019 where officers were responding to a call form Ms. Webb indicating that Mr. Oles was threatening to shoot himself. According to the police report, Mr. Oles informed the police he was thinking about harming himself and the officers confiscated a cache of firearms, including a shotgun without a serial number. **EXHIBIT C**

9.

I do not have personal knowledge that Ms. Webb has information pertinent to our cases nor do I have personal knowledge that either Mr. Oles or Mr. Newcomb harmed (Mr. Oles) or threatened (Mr. Oles & Mr. Newcomb). However, I do have personal knowledge that Ms. Webb's voice expressed what would appear to me to be genuine fear for her safety and that she repeatedly expressed embarrassment and shame in being beaten by Mr. Oles and that she was extremely distressed about how Mr. Newcomb was going to handle Ms. Webb contacting me and she stated several times that she left Mr. Newcomb a message that evening informing him that she was calling me, which, if true, could easily be corroborated by obtaining phone records of Ms. Webb or Mr. Newcomb.

10.

I have personal knowledge that Mr. Newcomb is making knowing false statements of fact in an unverified summary judgement motion in my wife's case. Mr. Newcomb asserts his own statement that in the unverified brief that the court must strike Mr. Ney's expert affidavit because it was withheld during discovery. I personally was involved in hiring Mr. Ney as a rebuttal witness (at the time the Court had not ruled on my joinder in the case) and made the PDF copies of the documents my wife sent to the attention of Mr. Newcomb supplementing the discovery, which clearly shows Mr. New was hired February 26, 2020 as a rebuttal expert. We consulted numerous possible expert witnesses before choosing Mr. Ney and Mr. Ney is not a fact witness in the case. I also have personal knowledge that Mr. Oles did not disclose in interrogatory responses the fact that he would opine on standard of care (i.e. malpractice), judgmental immunity, and fiduciary duty as was required in the interrogatories.

11.

I have personal knowledge that my wife is very embarrassed by Defendants and Counsel's continued publication of the official court documents outside the public record that contain private, embarrassing facts that are neither material nor pertinent to the case. I have personal knowledge that the allegations asserted by Defendants and Counsel and published outside the official record are false.

~~~ SIGNATURE ON FOLLOWING PAGE ~~~
~~~

This 15TH day of September 2020

KAREN A ARTERBURN
NOTARY PUBLIC
Fulton County
State of Georgia
My Comm. Expires May 13, 2022

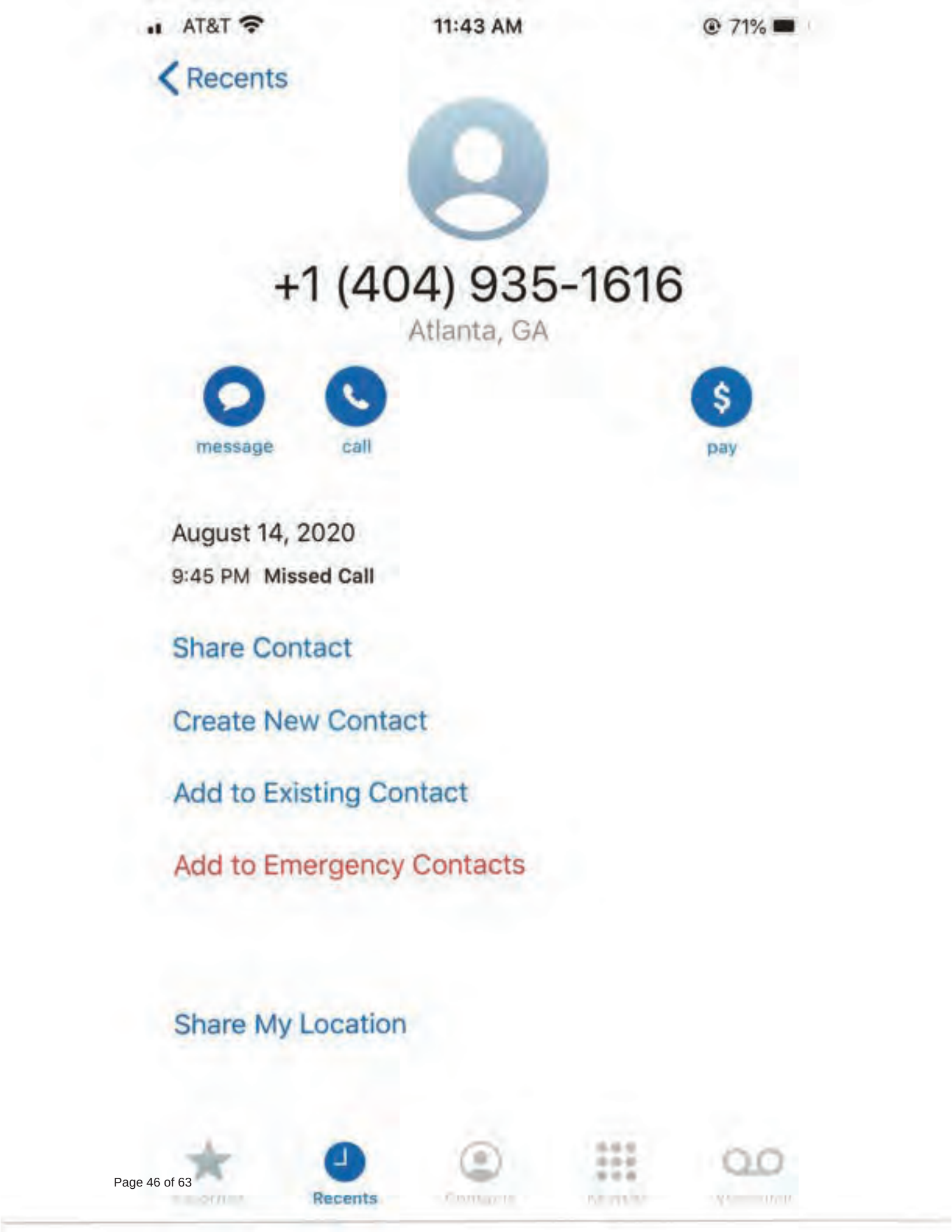
Troy Ellis

Sworn to and subscribed before me this 15TH day of September 2020

Notary Public

My Commission Expires: 5/13/2022

EXHIBIT A


AT&T
11:43 AM
71%
Recents
+1 (404) 935-1616
Atlanta, GA
message
call
pay
August 14, 2020
9:45 PM Missed Call
Share Contact
Create New Contact
Add to Existing Contact
Add to Emergency Contacts
Share My Location
Recents

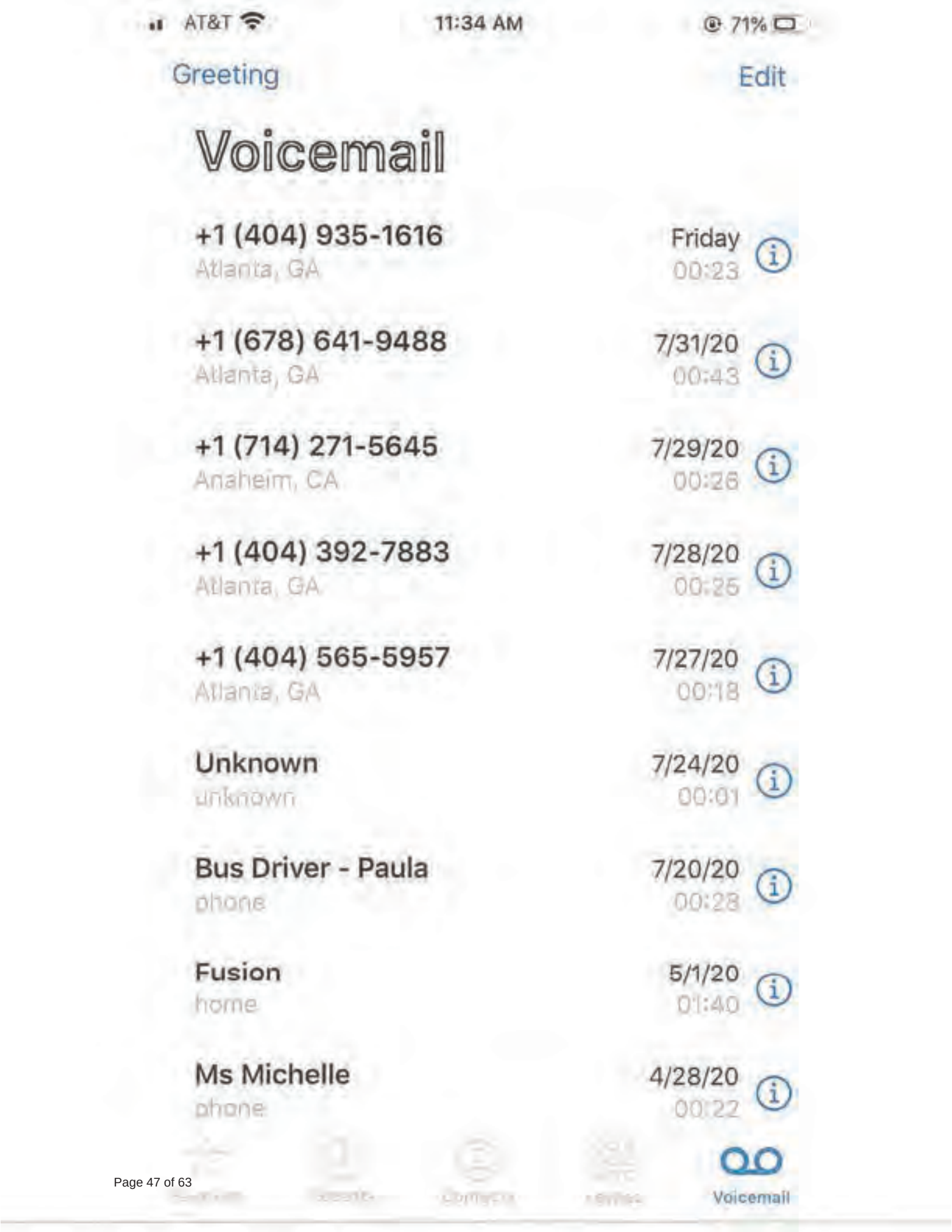

AT&T
11:34 AM
71%
Greeting
Edit
Voicemail
+1 (404) 935-1616
Atlanta, GA
Friday
00:23
+1 (678) 641-9488
Atlanta, GA
7/31/20
00:43
+1 (714) 271-5645
Anaheim, CA
7/29/20
00:26
+1 (404) 392-7883
Atlanta, GA
7/28/20
00:25
+1 (404) 565-5957
Atlanta, GA
7/27/20
00:18
Unknown
unknown
7/24/20
00:01
Bus Driver - Paula
phone
7/20/20
00:28
Fusion
home
5/1/20
01:40
Ms Michelle
phone
4/28/20
00:22
Voicemail

EXHIBIT B

AT&T
11:35 AM
71%
+1 (404) 935-1616
Text Message
Friday 10:00 PM
Hi Donna, this is Troy. It is 10 PM - is it too late for me to call you back?
Not at all
Saturday 10:15 AM
Dona,
Tatyana and I are saddened to hear what David did to you. Tatyana has lived through abuse as well.
We strongly recommend that you speak to someone at the Cherokee Family Violence Center. Everything is 100% confidential and they have excellent resources, including job placement, temporary housing, free counselors, etc.
https://cfvc.org/our-services
770-479-1708

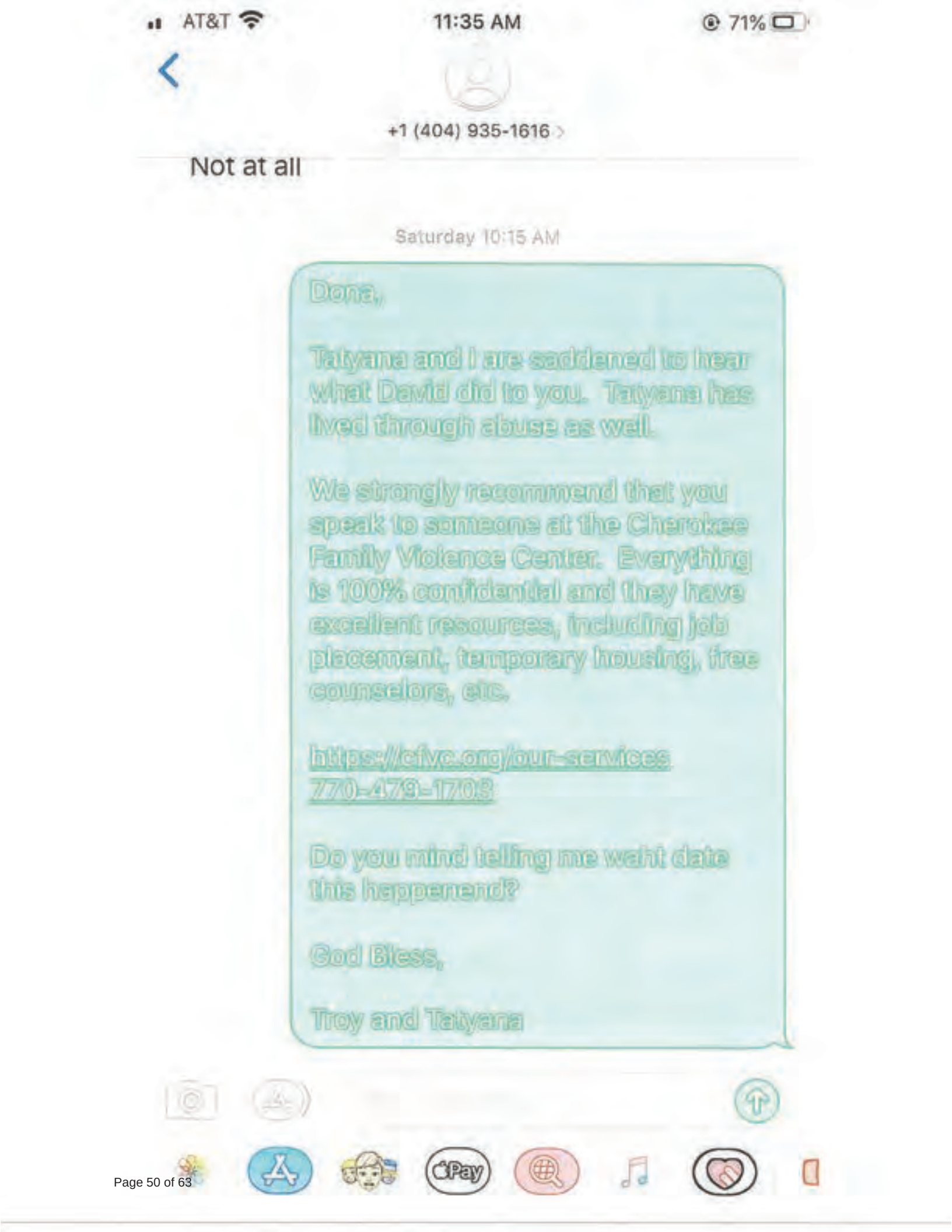

AT&T
11:35 AM
71%
+1 (404) 935-1616
Not at all
Saturday 10:15 AM
Dona,
Tatyana and I are saddened to hear what David did to you. Tatyana has lived through abuse as well.
We strongly recommend that you speak to someone at the Cherokee Family Violence Center. Everything is 100% confidential and they have excellent resources, including job placement, temporary housing, free counselors, etc.
https://cfvc.org/our-services
770-479-1703
Do you mind telling me wahi date this happenend?
God Bless,
Troy and Tatyana

EXHIBIT C

Troy Ellis

From: Sandi Bryant <sandi@landrumandlandrum.com>
Sent: Wednesday, August 19, 2020 2:57 PM
To: troyellis@bellsouth.net
Cc: Phil M. Landrum III; Robert Jones; Lesa Thomason; Donny Craig; Tina Head
Subject: Open Records Request to Pickens County
Attachments: open records response (Ellis, Troy).pdf; Incident Report (137 Tumbleweed Trail).pdf

Please see attached response to your Open Records Request to Pickens County on August 15, 2020.

Thank you,

Sandi Bryant for
Landrum & Landrum
Attorneys at Law
95 Stegall Drive
Jasper, GA 30143
telephone 706-692-6464
fax 706-692-6656
email: sandi@landrumandlandrum.com

] LANDRUM & LANDRUM

ATTORNEYS AT LAW
95 STEGALL DRIVE
POST OFFICE BOX 400
JASPER, GEORGIA 30143
(706) 692-6464
(706) 692-6656 (Facsimile)

PHIL M. LANDRUM, JR.
EMERITUS

PHIL M. LANDRUM, III

PHIL M. LANDRUM, SR.
1907 - 1990
Susan Landrum
1944 - 2001

August 19, 2020

via email troyellis@bellsouth.net

Troy Ellis
1530 Aurelia Drive
Cumming, GA 30041

RE: **August 15, 2020 Open Records Request**

Dear Mr. Ellis:

Please be advised that this firm represents Pickens County, Georgia.

Thank you for your Open Records Request to copy records of Pickens County, Georgia as described in your request dated August 15, 2020 (copy attached.)

With regards to the request, portions of the documents requested may be subject to redaction pursuant to O.C.G.A. §50-18-72(a)(20)(A) as it relates to "records that reveal an individual's social security number . . . insurance or medical records . . . personal e-mail address or cellular telephone number, day and month of birth." In addition, all or a portion of the records requested are not subject to Georgia's Open Records Act pursuant to O.C.G.A. 17-4-20.1(d) which provides:

> (d) The [Family Violence Report] provided for in...this Code Section shall be considered as being made for statistical purposes only and where no arrests are made shall not be subject to the provisions of Article 4 of Chapter 18 of Title 50. However, upon request, a defendant who has been arrested for an act of family violence or the victim shall be entitled to review and copy any report prepared in accordance with this Code section relating to the defendant.

With regard to the costs associated with making the copies of the records described above, O.C.G.A. 50-18-71(c)(1) provides that the County "may impose a reasonable charge for the search, retrieval, redaction, and production or copying costs for the production of records . . . [which] shall not exceed the total prorated hourly salary of the lowest paid full-time employee, who, in the reasonable discretion of the custodian of the records, has the necessary skill and training to perform the request; provided, however, that no charge shall be made for the first quarter

hour." O.C.G.A. 50-18-71(c)(2) provides that "In addition to a charge for the search, retrieval, or redaction of records, an agency may charge a fee for the copying of records or data, not to exceed 10 cents per page . . . in the case of other documents, the actual cost of producing the copy. In the case of electronic records, the agency may charge the actual cost of the media on which the records or data are produced."

In response to your request, please find attached hereto in electronic format an incident report provided by the Pickens County Sheriff's Office. Since the information is being provided in electronic format, there is no charge for providing the attached.

Please contact me at the letterhead address upon your receipt if you do not believe this letter is responsive to your request of August 15, 2020 or if it is otherwise non-compliant with Georgia's Open Records Law.

Sincerely,

LANDRUM & LANDRUM

Phil M. Landrum, III
Attorney for Pickens County

PMLIII/sfb
Attachments
cc: Robert Jones, Commission Chair

COUNTY OF PICKENS
OPEN RECORDS REQUEST

Date: 9/15/2020
Name: TROY ELLIS
Address: 1530 Aurelia Drive
City, State: Cumming, GA 30041
Zip Code: 30041
Home Phone: 404 310 6819
Work Phone:
Fax:
Email: troyellis@bellsouth.net

IMPORTANT NOTIFICATION:

In accordance with the Open Records Act, the County of Pickens has *three* business days to respond to your request. It is important to note that a response does not necessarily mean the records will be available within that timeframe because some records are not readily accessible. In these instances, a timeline will be provided as to when the records are expected to be available.

You will receive a written notice along with an estimated cost to fulfill this request giving an option to proceed, amend or withdraw your request. Proceeding with the request means you accept responsibility for all applicable charges, as allowed by the Open Records Act. The final cost will be provided when the request has been completed and it may include: ***copying charges of $.10 per page, administrative charges for search, retrieval,* and other direct administrative costs.** The County must provide at least fifteen (15) minutes free for search and retrieval and after that, the hourly charge, which is imposed, shall not exceed the salary of the lowest paid employee who has the necessary skill and training to carry out the request.

REQUEST: Pursuant to O.C.G.A. §50-18-70 et seq., I am formally requesting:

___ To Inspect/Review X To Obtain Copies

DETAILED DESCRIPTION OF INFORMATION REQUESTED

Copies of all police record and/or incident reports or wellness checks pertaining to Dana Webb or David Oles. Last known address is 137 Tumbleweed Trail, Jasper, GA 30143. Ms Webb is 64 years old. David Oles is 61 years old, 1959 SSN# [redacted].

Redacted Per law
1/20/2021

RETURN THIS FORM TO:
County Clerk's Office – County of Pickens
Attn: Lesa Thomason, Open Records Officer
1266 E. Church Street, Jasper, GA 30143
Telephone: 706-253-8809 FAX: 706-253-8814 Email: lthomason@pickenscountyga.gov

Pickens Sheriffs Office

Incident Report

2985 Camp Rd Jasper, GA 30143

Phone: (706) 253 - 8900 Fax: (706) 253 - 8913

ORI	County	Venue	Report #
GA1120000	Pickens County	Jasper	191103222
Report Date / Time	**Occurrence Date / Time**		**File Class**
11/20/2019 20:02 Hrs	11/20/2019 19:17 Hrs - 11/20/2019 20:00 Hrs		

(US/Eastern)

Nature of Incident	Supplements
Attempted Suicide	Approved Report (1)

Summary

Deputies responded to Tumbleweed Trail in reference to an adult male threatening to shoot himself. Upon arrival, Deputies made contact with the male who disarmed himself. The male refused medical attention. Deputies removed all firearms from the home. Deputies provided a number for the crisis hotline.

Incident Location

Address	City	State	ZIP	Country
137 Tumbleweed Trail	Jasper			United States of America

County:	Township of Occurrence	Clery Location
Pickens County		

Latitude	Longitude	Beat	Sub-Beat
34.429243	-84.539875		

Officers Involved

Role	Name	Agency	Supp #
Assisting	Deputy E. Holloway (#3668)	Pickens Sheriffs Office	0
Assisting	Deputy- UPD T. McIntyre (#3661)	Pickens Sheriffs Office	0
Reporting	C. Basting (#3578)	Pickens Sheriffs Office	0

Incident People

Roles	Supp #	
Victim	0	

Name	Title	Date of Birth
OLES, DAVID (Primary Name)		Redacted

Race	Sex	Age at Occurrence	DL #
White	M	60 Years Old	Redacted

Roles	Supp #	
Complainant,Interviewed	0	

Name	Title	Date of Birth
WEBB, DONNA (Alias)		Redacted
WEBB, DONA (Primary Name)		Redacted

Race	Sex	Age at Occurrence	DL #
White	F	64 Years Old	Redacted

Incident Narratives

Original Narrative

Author:	Date Created:	Supp #:
C. Basting #3578	11/20/2019 2112 Hrs	0

On November 20th, 2019, I Deputy C. Basting responded to 137 Tumbleweed Trail for an adult male threatening to shoot himself. Dispatch advised the caller, Donna Webb stated her boyfriend, David Oles, was in his upstairs bedroom with a handgun. I activated my patrol vehicles emergency equipment to quickly arrive on scene. Upon arrival I advised dispatch to have Ms. Webb meet me outside. Ms. Webb exited the back door and stated Mr. Oles was in the bedroom, and he would not answer her. I asked how many weapons he had. She stated he had a handgun and a rifle. Ms. Webb was very upset and stated Mr. Webb was arguing on the phone with his son over his living will. She stated when the call was over, he retreated upstairs stating he was going to shoot himself. Mrs. Webb led me to the back door and a hallway that lead to Mr. Webb's bedroom. She stated it was the only way in or out.

Deputies Holloway, and McIntyre responded as backup. At that time we made entry, and staged at the bottom of the steps that led to the bedroom. Deputy Holloway called out to Mr. Oles introducing himself as Estan with the Sheriff; s Office. Deputy Holloway asked Mr. Oles if he would come down and speak to us. Mr. Oles stated he would. At that time Mr. Oles walked down unarmed and not hostile. Mr Oles stated he was upset and was thinking about harming himself. Deputy McIntyre checked Mr. Webb for weapons and continued talking, while Deputy Holloway and I, proceed to the bedroom to recover the firearms. There was a .44 cal. Henry rifle serial #BB0059544 hanging on the wall in the hallway leading to the bedroom, it was not loaded. Deputy Holloway recovered a .45 cal Thunder 45 Handgun Serial #B98654 in the nightstand. It had a full magazine but nothing in the chamber. Both weapons were rendered safe, and I secured them in the trunk of my patrol vehicle.

After talking to Ms. Webb, she stated she had a .20 gauge Winchester pump shotgun in her room. I recovered the weapon, rendered it safe, and secured it in the back of my patrol vehicle. The shotgun had no serial number. Mr. Oles, and Ms. Webb were notified that we were taking the weapons for safe keeping until Mr. Webb got help. They both understood and were not upset. Mr. Webb was offered medical attention on several occasions but he stated he would see his Doctor in the morning. Mr. Webb stated the only medications he is taking is thyroid, and blood pressure medications. I provided Mr. Webb with information for the Crisis Center. I stated if he changed his mind, he could contact 911, and we would respond. Mr. Webb stated he was better, and he would follow up with his Doctor. Mr. Webb stated he had no further questions or concerns.

I then returned back to service.

All weapons recovered, and ammo were logged on property sheet # 150655 and stored in evidence locker # E1 for safe keeping.

Nothing further at this time.

EXHIBIT II

Troy Ellis

From: Tatyana Ellis <tatyanaellis2014@gmail.com>
Sent: Thursday, August 20, 2020 4:30 PM
To: Troy
Subject: Fwd: Urgent: Ellis v. Oles USCR 6.4B & OCGA 51-7-84 Abusive Litigation Notice

--------- Forwarded message ---------
From: **Newcomb, William D.** <wnewcomb@cskl.law>
Date: Thu, Aug 20, 2020, 16:00
Subject: RE: Urgent: Ellis v. Oles USCR 6.4B & OCGA 51-7-84 Abusive Litigation Notice
To: Tatyana Ellis <tatyanaellis2014@gmail.com>

Ms. Ellis: I have conferred with my client about the very serious accusations contained in your e-mail below. Mr. Oles adamantly denies 1) all of your allegations of domestic abuse; 2) all of your allegations of intimidating Ms. Webb; 3) all of your allegations that he damaged your case or any other clients' cases; and 4) all of your allegations of threatening to disparage Ms. Webb if she came forward with unspecified information. Mr. Oles has asked me to inform you that any attempt to smear him with such false claims will be dealt with in the most severe manner.

Furthermore, your allegations that I somehow "threatened" to disparage Ms. Webb's "mental fitness" if she came forward with unspecified information and that I have intimidated her to withhold **any** information **whatsoever** are completely fabricated and, quite frankly, nonsensical.

We will not agree to your request that the Court "open discovery" so that you can conduct multiple fishing expeditions that have zero bases in reality.

William D. Newcomb, III
Copeland, Stair, Kingma & Lovell, LLP

191 Peachtree Street NE, Suite 3600, Atlanta, Georgia 30303

d: 404.221.2210 / f: 404.523.2345 / wnewcomb@cskl.law

From: Tatyana Ellis <tatyanaellis2014@gmail.com>
Sent: Thursday, August 20, 2020 1:51 PM
To: Newcomb, William D. <wnewcomb@cskl.law>; Hoffmeyer, Jeffrey C. <jhoffmeyer@cskl.law>; Walker-Tsikudo, Toi L. <twalker@cskl.law>
Subject: Urgent: Ellis v. Oles USCR 6.4B & OCGA 51-7-84 Abusive Litigation Notice

August 20, 2020

Mr. Newcomb,

On Friday night, August 14, 2020, Ms. Dona Webb called my husband. She informed him that she had some very important information about my case and Troy's case and other bad acts of Mr. Oles against other clients. She apparently informed my husband that she was scared to reveal this information out of fear for her safety, but was willing to do so under oath. Apparently in July 2020 David, who lives in Dona's home as a tenant, fired her and then a few weeks ago David beat her up real bad and slammed her head in a kitchen Island. Ms. Webb informed Troy that she is tired of being afraid and intimidated by Mr. Oles and was no longer willing to remain silent about how he allegedly damaged my case and other clients' cases and that this violent beating was the last straw. Dona also informed Troy that she spoke to you and David several times about wanting to come forward with information and that both of you threatened to disparage her mental fitness if she did so. Ms. Webb repeatedly discussed her fear of Mr. Oles and that "Billy has his back" and that if she is found dead, then Troy knows why.

On August 15, 2020 Troy provided Ms. Webb with contact information for a shelter and had the police conduct a wellness check. On August 19, 2020 Troy obtained the attached police record from November 20, 2019 where apparently David was threating to shoot himself and the police confiscated a large cache of weapons, including a shotgun with no serial number. Under the circumstances, and upon reasonable diligence into the matter, I need to conduct additional discovery and depositions. Obviously, I would need your deposition testimony as it relates to you allegedly intimidating my witness not to divulge information. I also need discovery as it pertains to the repeated publication of pleadings to non-parties, your allegations about Mr. Ney and other statements you have made in pleadings apparently based on your personal knowledge. I will to depose Mr. Oles and Ms. Webb and I will have some discovery requests. Please let me know if you will cooperate with my request to open discovery.

As a former victim of domestic violence, I am extremely concerned about what I am hearing and alarmed that your client, who on its face has clear mental health issues, are badgering a woman under apparent threat of violence from providing information in a lawsuit under then threating to disparage her mental fitness to discredit her. Therefore, in addition to a USCR 6.4B letter, this is also an abusive litigation notice pursuant to OCGA 51-7-84 as it relates to intimidating my witness to withhold information and any refusal of Mr. Oles or any persona in your law firm to cooperate in discovery on this matter. I am very deeply concerned about

irreparable witness intimidation. This communication will also be sent via certified mail pursuant to OCGA 51-7-84.

Respectfully,

Tatyana Ellis

Pro Se

404-468-0597

Incident Narratives

Original Narrative

Author: C. Basting #3578 | Date Created: 11/20/2019 2112 Hrs | Supp #: 0

On November 20th, 2019, I Deputy C. Basting responded to 137 Tumbleweed Trail for an adult male threatening to shoot himself. Dispatch advised the caller, Donna Webb stated her boyfriend, David Oles, was in his upstairs bedroom with a handgun. I activated my patrol vehicles emergency equipment to quickly arrive on scene. Upon arrival I advised dispatch to have Ms. Webb meet me outside. Ms. Webb exited the back door and stated Mr. Oles was in the bedroom, and he would not answer her. I asked how many weapons he had. She stated he had a handgun and a rifle. Ms. Webb was very upset and stated Mr. Webb was arguing on the phone with his son over his living will. She stated when the call was over, he retreated upstairs stating he was going to shoot himself. Mrs. Webb led me to the back door and a hallway that lead to Mr. Webb's bedroom. She stated it was the only way in or out.

Deputies Holloway, and McIntyre responded as backup. At that time we made entry, and staged at the bottom of the steps that led to the bedroom. Deputy Holloway called out to Mr. Oles introducing himself as Estan with the Sheriff; s Office. Deputy Holloway asked Mr. Oles if he would come down and speak to us. Mr. Oles stated he would. At that time Mr. Oles walked down unarmed and not hostile. Mr Oles stated he was upset and was thinking about harming himself. Deputy McIntyre checked Mr. Webb for weapons and continued talking, while Deputy Holloway and I, proceed to the bedroom to recover the firearms. There was a .44 cal. Henry rifle serial #BB0059544 hanging on the wall in the hallway leading to the bedroom, it was not loaded. Deputy Holloway recovered a .45 cal Thunder 45 Handgun Serial #B98654 in the nightstand. It had a full magazine but nothing in the chamber. Both weapons were rendered safe, and I secured them in the trunk of my patrol vehicle.

After talking to Ms. Webb, she stated she had a .20 gauge Winchester pump shotgun in her room. I recovered the weapon, rendered it safe, and secured it in the back of my patrol vehicle. The shotgun had no serial number. Mr. Oles, and Ms. Webb were notified that we were taking the weapons for safe keeping until Mr. Webb got help. They both understood and were not upset. Mr. Webb was offered medical attention on several occasions but he stated he would see his Doctor in the morning. Mr. Webb stated the only medications he is taking is thyroid, and blood pressure medications. I provided Mr. Webb with information for the Crisis Center. I stated if he changed his mind, he could contact 911, and we would respond. Mr. Webb stated he was better, and he would follow up with his Doctor. Mr. Webb stated he had no further questions or concerns.

I then returned back to service.

All weapons recovered, and ammo were logged on property sheet # 150655 and stored in evidence locker # E1 for safe keeping.

Nothing further at this time.

Pickens Sheriffs Office

Incident Report

2985 Camp Rd Jasper, GA 30143

Phone: (706) 253 - 8900 Fax: (706) 253 - 8913

ORI	County	Venue	Report #
GA1120000	Pickens County	Jasper	191103222
Report Date / Time	**Occurrence Date / Time**		**File Class**
11/20/2019 20:02 Hrs (US/Eastern)	11/20/2019 19:17 Hrs - 11/20/2019 20:00 Hrs		

Nature of Incident	Supplements
Attempted Suicide	Approved Report (1)

Summary

Deputies responded to Tumbleweed Trail in reference to an adult male threatening to shoot himself. Upon arrival, Deputies made contact with the male who disarmed himself. The male refused medical attention. Deputies removed all firearms from the home. Deputies provided a number for the crisis hotline.

Incident Location

Address	City	State	ZIP	Country
137 Tumbleweed Trail	Jasper			United States of America

County:	Township of Occurrence	Clery Location
Pickens County		

Latitude	Longitude	Beat	Sub-Beat
34.429243	-84.539875		

Officers Involved

Role	Name	Agency	Supp #
Assisting	Deputy E. Holloway (#3668)	Pickens Sheriffs Office	0
Assisting	Deputy- UPD T. McIntyre (#3661)	Pickens Sheriffs Office	0
Reporting	C. Basting (#3578)	Pickens Sheriffs Office	0

Incident People

Roles	Supp #		
Victim	0		
Name	**Title**	**Date of Birth**	
OLES, DAVID (Primary Name)		Redacted	

Race	Sex	Age at Occurrence	DL #
White	M	60 Years Old	Redacted

Roles	Supp #		
Complainant,Interviewed	0		
Name	**Title**	**Date of Birth**	
WEBB, DONNA (Alias)		Redacted	
Name	**Title**	**Date of Birth**	
WEBB, DONA (Primary Name)		Redacted	

Race	Sex	Age at Occurrence	DL #
White	F	64 Years Old	Redacted

EXHIBIT N

CALL FOR THE 2023 GEORGIA REPUBLICAN PRECINCT CAUCUSES AND FOR COUNTY, CONGRESSIONAL DISTRICT AND STATE CONVENTIONS

The Georgia Republican Party, pursuant to the Rules of the Party, as adopted on June 17, 2020, hereby issues this Official Call ("Call") to all qualified registered resident voters in the State of Georgia who believe in the principles of the Republican Party and support its aims and purposes, to unite under this Call in the selection of Delegates and Alternates to County, Congressional District, and State Conventions.

The Georgia Republican Party seeks the broadest possible participation by such persons in Party affairs and delegate selection. Participation in all Precinct Caucuses and Conventions shall in no way be abridged for reasons of sex, race, religion, color, age, or national origin.

Precinct Caucuses in counties over 80,000 Population are hereby called to convene at **10:00 A.M.** on
(Or pursuant to an approved plan under Rule 9.2(A)(2) at any other date & time between February 1 – February 11, 2023)
February 11, 2023

Precinct Caucuses in Counties under 80,000 Population are hereby called to convene at **9:00 A.M.** on
(Or pursuant to an approved plan under Rule 9.2(A)(5) at any other date & time between March 1 – March 11, 2023)
March 11, 2023

County Conventions are hereby called to convene in each County in the State of Georgia at **10:00 A.M.** on
(***Or pursuant to an approved plan under Rule 9.2(A)(3) at any other date & time between March 1– March 11, 2023***)
March 11, 2023

Congressional District Conventions are hereby called to convene in each Congressional District of the State of Georgia at 10:00 A.M. on
(Or pursuant to an approved plan under Rule 9.3 at any other date & time between April 12 – April 22, 2023)
April 22, 2023

The **2023 State Convention** of the Georgia Republican Party is hereby called to convene in the city of Columbus in the County of Muscogee Georgia, commencing at **2:00 P.M.** on **June 9th** and continuing from day to day until adjournment
(Registrotion for Delegates and Alternates shall close at precisely 10:00 A.M. on Saturday, June 10, 2023).
June 9-10, 2023

1. Any plan adopted by a County Committee pursuant to Rule 9.2(A) for one or more of the purposes as set forth therein must be submitted in writing to the State Executive Committee not later than **January 5, 2023**. If the State Executive Committee does not act on the plan by January 10, 2023, such plan shall be deemed to be approved.

2. Any plan adopted by a Congressional District Committee pursuant to Rule 9.3(A) must be submitted in writing to the State Executive Committee not later than **January 5, 2023.** If the State Executive Committee does not act on the plan by January 10, 2023, such plan shall be deemed to be approved.

3. The notice of Precinct Caucuses and County & District Conventions required by Rule 9.4(A) shall be published not later than **January 17, 2023** (for Counties holding their Precinct Caucuses between **February 1 - 11, 2023**) or not later than **February 14, 2023** (for Counties holding their Precinct Caucuses between **March 1- 11, 2023**).

4. Pursuant to Rule 9.7(A), all lists of delegates and alternates to county conventions elected by precinct caucuses shall be entered into Excel format provided by the State Party. The lists shall include full legal name as registered to vote, residence address, voter registration number, full date of birth, telephone number, and email address. Said lists and lists of precinct officers duly elected shall be submitted to individuals as directed in this Rule.

5. Pursuant to Rule 9.7(B), all lists of delegates and alternates to district conventions and the State Convention shall be entered into Excel format provided by the State Party. The lists shall include full legal name as registered to vote, residence address, voter registration number, full date of birth, telephone number, and email address. Said lists and list of duly elected officers and county committee members shall be submitted to individuals as directed in this Rule within seven (7) business days of adjournment of the county convention.

6. Pursuant to Rule 9.7(C), a list of those duly elected by the district convention as members of the State Committee and as district officers and district committee members shall be entered into Excel format provided by the State Party. The lists shall include full legal name as registered to vote, residence address, voter registration number, full date of birth, telephone number, and email address. Said lists shall be submitted to individuals as directed in this Rule within seven (7) business days of adjournment of the district convention.

7. Pursuant to Rule 9.11(A), in order for a resolution or rule to be considered by the Resolutions Committee or Rules Committee and ultimately by the State Convention, it must be submitted in writing in editable electronic format to the State Secretary on or before **April 28, 2023**. Resolutions, other than the annual memorial resolution, shall be no more than **250 words** in length. Any resolution which contains any assertion of fact must be accompanied by sufficient documentation to allow the Resolutions Committee to verify the accuracy of any such assertions. No other resolutions or rules shall be considered by the State Convention.

8. Pursuant to Rule 9.11(B), in order to be eligible for consideration by the Nominating Committee and ultimately by the State Convention for election to the offices of Chairman, First Vice Chairman, Second Vice Chairman, Secretary, Assistant Secretary, Treasurer, and Assistant Treasurer, a candidate must

submit a notice of candidacy and a political resume to the State Secretary at GRP headquarters on or before **April 28, 2023.**

9. **Appendix A** lists the number of Delegates & Alternates to be elected by each County to the State Convention pursuant to Rule 9.6(A).

10. **Appendix B** lists the number of Delegates & Alternates to be elected by each County to the respective Congressional District Conventions pursuant to Rule 9.6(B).

11. **Appendix C** lists the population of Georgia Counties as determined by the 2020 Decennial U.S. Census.

12. **Appendix D** lists the number of members of the State Committee to be elected by each Congressional District Convention pursuant to Rule 2.2(O).

Appendices A – D are hereby incorporated into this Call by this reference. Appendix A is based on the 2020 Recount for the Office of President of the United State of America, while Appendix B, and D are based on the original votes cast as the Recounts did not break down by Precinct to allow for allocation to the appropriate Congressional Districts.

All Precinct Caucuses, County Conventions, Congressional District Conventions, and the State Convention shall be conducted in accordance with Rules 9.1 – 9.16 of the Rules of Georgia Republican Party as set forth below with the following exception: the dates set forth in the Georgia Republican Party Rules (9.2 B, 9.3 B, 9.7B, and 9.7C) are superseded by the dates in this call pursuant to GAGOP Rule 9.12.

GRP RULE 9. PRECINCT CAUCUSES AND CONVENTIONS

9.1 THE STATE CALL

Pursuant to the Call issued by the State Committee, on the dates and times set forth, or within the range of dates allowed, in the Call, there shall be in each odd-numbered year and in each Presidential Election year:

A. Precinct Caucuses for each Precinct, which shall elect Delegates and Alternates to the respective County Conventions, and in each odd-numbered year shall also elect Precinct officers and Precinct Committeemen.

B. County Conventions, which in odd-numbered years shall elect officers for the Party in the respective Counties for the next two years and adopt any new or amended existing rules pursuant to Rule 9.8, and which in both odd-numbered and in Presidential Election years shall elect Delegates and Alternates to the Congressional District and State Conventions and conduct all other necessary and proper business.

C. District Conventions, which in odd-numbered years shall elect officers, District Committee members, and State Committee members for the next two years, adopt any new or amended rules pursuant to Rule 9.8, and conduct all other necessary and proper business, and which in Presidential Election years shall elect National Delegates and Alternates to the Republican National Convention.

D. The Call shall be issued a reasonable time prior to the Precinct Caucuses, shall include a copy of all forms to be used, and shall be sent by the State GRP headquarters to each County Chairman and Congressional District Chairman.

E. The County Chairman, upon receipt of this Call, shall cause a meeting of the County Committee to be held to make all arrangements necessary for Precinct Caucuses and the County Convention, including, but not limited to, the adoption of any plan authorized by these Rules.

9.2 HOLDING OF PRECINCT CAUCUSES AND COUNTY CONVENTIONS

A. Precinct Caucuses shall be held for each Precinct in accordance with the Call at a single location as determined by the County Committee; provided, however, that a County Committee may adopt a plan to include one or more of the following:

1) to hold multiple Precinct Caucuses in multiple locations grouped by other political subdivisions;

2) to hold Precinct Caucuses on a date or at a time other than that set forth in the Call; provided that such alternative date and time shall, other than as provided in Rule 9.2(A)(5), fall within the ten (10) day period ending on the date and time for Precinct Caucuses for such County as set forth in the Call;

3) to hold the County Convention on a date or at a time other than that set forth in the Call; provided that such alternative date and time shall fall within the ten (10) day period ending on the date and time for County Conventions as set forth in the Call;

4) for Counties having a population of over 100,000, to provide for the use of one of the alternate divisor numbers specified in Rule 9.5(B) for determining the number of Delegates and Alternates to the County Convention;

5) for Counties having a population of 80,000 or fewer, to opt out of the provisions of Rule 9.2(E) specifying that such county hold both its Precinct Caucuses and County Convention on the same date and to hold such County's Precinct Caucuses either: (a) on the date and time set forth in the Call for Precinct Caucuses for Counties over 80,000 in population (or within the ten (10) day period ending on the date and time for such Precinct Caucuses), or (b) on a date and at a time between the period described in Rule 9.2(A)(2) and the date and time set forth in the Call for County Conventions for Counties with a population of 80,000 or fewer.

B. Any such plan must be submitted in writing by the County Chairman or other person designated by the County Committee to the State Executive Committee to the attention of the State Secretary at GRP headquarters **on or before December 15*** of the year preceding such Precinct Caucuses or Conventions. With regard to any such plan submitted, the State Executive Committee may: (1) approve the plan as submitted, (2) approve the plan subject to certain conditions, or (3) reject the plan. If the State Executive Committee takes no action on the plan on or before January 5* of the year in which

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* Superseded by Call

such Precinct Caucuses are to be held, such plan shall be deemed approved and the County may proceed with the plan.

C. If, at a Precinct Caucus, any precinct does not caucus or does not elect a full delegation, any unfilled Delegate or Alternate positions for that precinct may not be filled by any other precinct or by the Precinct Caucus. No alternate position may be filled until all delegate positions are filled.

D. Counties whose population is 80,000 or fewer shall hold both their Precinct Caucuses and County Conventions on the date set by the Call for County Conventions unless such County shall have filed a plan pursuant to Rule 9.2(A)(5) and such plan shall not have been rejected by the State Executive Committee.

E. In instances where multiple Precinct Caucuses are held in locations per 9.2(A)1, there shall be one Convener, one Secretary, and one registration committee appointed by the County Chairman (or as otherwise specified in the County party rules) for each location. Whether precincts caucus in single- or multi-locations, each precinct shall elect its own delegates and/or officers. The County Chairman may also appoint, or shall delegate to the Convener the authority to appoint, a temporary Precinct Chairman for each Precinct, giving preference where possible to the ranking officer of such precinct.

F. The County Chairman shall appoint interim County Convention Committees and their respective Chairmen, subject to the approval of the County Committee. Except when the County's Precinct Caucus and County Convention shall be held on the same date pursuant to Rule 9.2(D), the County Chairman shall send written notice of the date, time, and location of the County Convention by mail or by written electronic communication at least ten (10) days in advance of the date of said Convention to all Delegates and Alternates elected to such Convention at Precinct Caucuses, which notice shall indicate that the Convention is to be held pursuant to the Call.

9.3 HOLDING OF DISTRICT CONVENTIONS

A. Congressional District Conventions shall be held in each Congressional District in accordance with the Call at a location as determined by the District Committee ; provided, however, that in a non-presidential election year a District Committee may adopt a plan to hold the District Convention on a date or at a time other than that set forth in the call; provided that such alternative date and time shall fall within the ten (10) day period ending on the date and time for District Conventions as set forth in the Call.

B. Any such plan must be submitted in writing by the District Chairman or other person designated by the District Committee or District Executive Committee to the State Executive Committee to the attention of the State Secretary at GRP headquarters **on or before December 15*** of the year preceding such Convention. With regard to any such plan submitted, the State Executive Committee may: (1) approve the plan as submitted, (2) approve the plan subject to certain conditions, or (3) reject the

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* Superseded by Call

plan. If the State Executive Committee takes no action on the plan on or before January 5* of the year in which such Convention is to be held, such plan shall be deemed approved and the District may proceed with the plan.

C. Each District Chairman shall send written notice of the date, time, and location of the Congressional District Convention by mail or by electronic communication at least ten (10) days in advance of said Convention to all Delegates and Alternates elected by the applicable County Conventions, which notice shall indicate that said Convention is to be held pursuant to the Call.

9.4 PUBLICATION OF NOTICE OF PRECINCT CAUCUSES

A. Each County Chairman shall cause to be printed in a newspaper of general circulation in their County a notice of the date, time, and place of each Precinct Caucus to be held in such County at least fifteen (15) days, but not more than sixty (60) days, before the date of the Precinct Caucus and shall arrange for such other notice of the Precinct Caucus as may be directed by the County Committee.

B. The date, time, and place of the County Convention and, if known, the District Convention for each Congressional District located in whole or in part in the County shall be included in this notice.

C. If a County's Precinct Caucuses and County Convention are to be held on the same date, the notice shall specify that the Precinct Caucuses and County Convention will be held at separate times on the same date and shall specify the location for each.

D. The County Chairman shall provide a written or electronic copy of the notice to the State Secretary at GRP headquarters within five (5) business days after publication.

9.5 ALLOCATION OF DELEGATES TO COUNTY CONVENTIONS

A. Each Precinct shall be entitled to one Delegate and one Alternate to the County Convention. Each Precinct shall be entitled to one additional Delegate and one Additional alternate for each 50 votes and major fraction thereof (26 or more) cast for the Republican candidate for President in the immediately preceding presidential general election.

B. Provided however, that in lieu of the foregoing calculation, pursuant to a plan adopted by the County Committee as provided in Rule 9.2(A)(4): (1) in Counties having population of over one hundred thousand (100,000), each Precinct shall be entitled to one Delegate and one Alternate for each one hundred fifty (150) votes and major fraction thereof (76 or more); or (2) in counties having a population of over five hundred thousand (500,000), each precinct shall be entitled to one Delegate and one Alternate for each two hundred and fifty (250) votes and major fraction thereof (126), cast for the Republican candidate for President in the immediately preceding presidential general election.

C. Any county which has had changes in precinct lines since the last Presidential Election may use percentage of the vote totals cast by each precinct for the Republican candidate for Governor in the immediately preceding gubernatorial general election to apply to the presidential vote total in

* Superseded by Call

allocating the number of county convention delegates each precinct shall receive. In such case the calculation of the number of delegates and alternates for each precinct shall be the same as previously specified in this Rule 9.5 of these rules.

9.6 ALLOCATION OF DELEGATES TO DISTRICT AND STATE CONVENTIONS

A. Each county shall be entitled to one Delegate and one Alternate to the State Convention. Each County shall be entitled to one additional Delegate and one additional Alternate for each one thousand (1,000) votes or major fraction thereof (501 or more), cast in that County for the Republican candidate for President in the immediately preceding presidential general election.

B. Each County shall be entitled to one Delegate and one Alternate to the District Convention. In Counties situated in more than one Congressional District, such Delegate shall be allotted to the Congressional District with the largest number of votes cast in that County for the Republican candidate for President in the immediately preceding presidential general election. With respect to each Congressional District each County shall be entitled to one additional Delegate and one additional Alternate for each seven hundred fifty (750) votes or major fraction thereof (376), cast in that portion of the County located within such Congressional District for the Republican candidate for President in the immediately preceding presidential general election.

C. Delegates and Alternates may not be transferred among Counties within a Congressional District or between Congressional Districts.

9.7 REPORTS AND FILING OF CREDENTIALS

A. Precinct Caucuses.
At the conclusion of Precinct Caucuses, each Precinct Chairman and Precinct Secretary shall collect, sign, and deliver to the Convener the following:
1) a list (including residence addresses, telephone numbers, and (if provided) email addresses) of Delegates and Alternates elected to the County Convention;
2) in odd-numbered years, a list of the Precinct officers and committeemen duly elected at such Precinct Caucus.

Within two (2) business days after adjournment of the Precinct Caucuses, the Convener shall file the above documents and lists with the County Chairman.

The County Chairman shall file copies of the above documents with the State Secretary at GRP headquarters within seven (7) business days of the adjournment of the Precinct Caucus. One set of the lists will be retained by the County Secretary. The provisions of this Rule 9.7(A) shall not apply to Counties holding Precinct Caucuses and County Conventions on the same date pursuant to Rule 9.2 (E). Such documents shall be filed in accordance with Rule 9.7 (B).

B. County Conventions.
Within five (5)* business days after the adjournment of the County Convention, the Chairman of the County Convention shall file with the State Secretary at GRP headquarters, and with the Chairman of each Congressional District in which a part of the County is located:

1) a certified copy of the convention minutes and a certified list (including residence addresses, telephone numbers, and (if provided) email addresses) of the Delegates and Alternates elected to the Congressional District and State Conventions; and

2) in odd-numbered years, a certified list of the officers and members of the County Committee duly elected by the County Convention.

A copy of the lists will be retained by the Secretary of the County Committee.

C. Congressional District Conventions.
Within five (5)* business days of the adjournment of the District Convention, the Chairman of the District Convention shall file with the State Secretary at GRP headquarters:

1) in odd-numbered years, a certified list (including residence addresses, telephone numbers, and (if provided) email addresses) of the members of the State Committee and the officers and District Committee of the congressional district duly elected at the convention accompanied by the convention minutes; or

2) in Presidential Election years, a certified list (including residence addresses, telephone numbers, and (if provided) email addresses) of the National Delegates and Alternates elected by the District Convention; and

3) in all years, a certified copy of the convention minutes.

A copy of the lists will be retained by the Secretary of the Congressional District Committee.

D. National Convention.
The GRP State Chairman shall file with the Secretary of the Republican National Convention the list of National Delegates and Alternates elected at Congressional District Conventions and the State Convention, as required by the Rules adopted by the most recent Republican National Convention.

9.8 ADOPTION AND FILING OF COUNTY AND DISTRICT RULES

A. Each County Convention and each District Convention may amend their respective rules or may adopt new rules for each respective County and District, provided such rules shall not be inconsistent with the Rules of the GRP.

B. A certified copy of the current County Rules shall be filed: (1) within five (5) business days of the adjournment of the County Convention with the District Chairman of each applicable District and with the State Secretary at GRP headquarters; and (2) in accordance with the Georgia Election Code, within

* Superseded by Call

thirty (30) days after the adjournment of the County Convention with the election superintendent of the County.

C. A certified copy of the current District Rules shall be filed with the State Secretary at GRP headquarters within five (5) business days following the adjournment of the District Convention.

9.9 APPEALS RELATING TO PRECINCT CAUCUSES AND CONVENTIONS

Notwithstanding the provisions of Rule 8.4 and Rule 8.8, the following appeal procedures shall apply to disputes regarding Precinct Caucuses, County Conventions and District Conventions, except in contests of Congressional District Convention-elected Delegates and Alternates to the Republican National Convention, which shall be adjudicated as provided in GRP Rule 9.9 (F):

A. Any disputed action regarding a Precinct Caucus that occurs prior to the date of the County Convention shall be appealed in writing to the County Committee (with copies of the appeal filed with the applicable District Committee, and the State Committee on Appeals) within five (5) days of adjournment of the Precinct Caucus. No appeal petition shall be heard unless it shall be in writing and signed by a number of registered participants in the Precinct Caucus equal to not less than twenty percent (20%) of the number of Delegates to the County Convention allocated to the Precinct(s) from which such disputed action shall have arisen. If a County fails to hear and decide the appeal within twelve (12) days of its receipt of the appeal, the appeal will be automatically be referred to the District Committee of the Congressional District in which the largest number of voters from the county reside.

B. If the Precinct Caucus occurs the same day as the County Convention, any disputed actions regarding said Precinct Caucus or regarding said County Convention must be appealed in writing to the District Committee, within five (5) days of adjournment of the County Convention in question, with a copy of such appeal filed with the State Committee on Appeals at GRP headquarters. No appeal petition shall be heard unless it shall be in writing and, if the appeal involves disputed actions arising from the Precinct Caucus, signed by registered participants in the Precinct Caucus equal to not less than twenty percent (20%) of the number of Delegates to the County Convention allocated to the Precinct(s) from which such disputed action shall have arisen, or if the appeal involves disputed actions arising from the County Convention, by not less than twenty percent (20%) of the registered Delegates to the County Convention. In Counties lying within multiple Congressional Districts, the appeal should be presented to the District Committee of the Congressional District in which the largest number of voters from the County reside. All appeals to the District Committee shall be filed with the appropriate District Chairman.

C. Should the District Committee not hear and decide the appeal within ten (10) days of receiving the appeal, the appeal will automatically be referred to the State Committee on Appeals and reviewed and decided within ten (10) days of receipt of such referral by the State Committee on Appeals.

D. If the District Committee takes up the appeal, it shall report its findings to both the State Committee on Appeals and the appellants. Should a party wish to appeal the decision of the District Committee with respect to the County to the State Committee on Appeals, they shall do so within five (5) days of the date of the District Committee's decision.

E. Any disputed actions of a District Convention must be appealed in writing to the State Committee on Appeals within five (5) days of adjournment of the District Convention in question. In order to pursue an appeal, the appeal must be signed by not less than twenty percent (20%) of the registered Delegates to the District Convention.

F. Any contest of the election of Congressional District Delegates and/or Alternates to the Republican National Convention; shall be decided by the State Convention held prior to said National Convention. Such contest(s) first shall have been referred to the Committee on Appeals and shall have been filed within five (5) days of the adjournment of the Congressional District from which the contest has arisen. The Committee on Appeals shall investigate the matter referred, review appropriate and applicable documents, receive and review written representations from the parties involved in the contest, and other evidence submitted. The Committee may hold hearings if deemed necessary. For each contest referred to it, the Committee shall make a report of its findings, including a proposed judgment, to the State Convention or the State Committee if the State Convention shall not meet prior to the National Convention. The State Convention (or State Committee) shall vote on the report and proposed judgment of the Committee on Appeals. In all cases, the decision of the State Convention (or State Committee) shall be final, and there shall be no appeal from such decision, except in a contest rising out of irregular or unlawful action by the State Convention (or State Committee). In such event, the Republican National Committee may take jurisdiction thereof, hear and determine the contest.

Notice of contest shall be filed with the Secretary of the Georgia Republican Party with a copy filed with the Chairman of the District Party. Such notice shall state the name and address of the individual filing the notice, the name of the Delegate or Alternate being contested, the grounds of the contest and the basis of the contestant's claim to sit as a Delegate or Alternate to the National Convention. Such contest may be filed against a Delegate or Alternate only by an individual who ran unsuccessfully for the position contested. No person shall file more than one contest against the same Delegate or Alternate.

9.10 GENERAL PROVISIONS RELATING TO PRECINCT CAUCUSES AND CONVENTIONS

A. Open Meetings. The Precinct Caucuses and Conventions shall be open to the public as spectators.

B. Rules Regarding Delegates & Alternates. (1) Only registered voters (electors) of a given Precinct, County, or Congressional District may be elected as a Delegate or Alternate to, or, hold office, vote or otherwise participate in the respective Precinct Caucuses or Conventions. No Precinct Caucus or Convention may elect any Alternates before filling all allocated Delegate positions. (2) After all Delegate positions have been filled, Precinct Caucuses and Conventions shall attempt to elect a number of Alternates equal to the number of Delegates. (3) Delegates and Alternates shall not be paired. (4) No unit rule may be imposed by a Precinct, County, District, or State Convention on any Delegate elected by it. (5) A person does not have to be in attendance or be a Delegate or Alternate to the convention at which he or she is elected to serve as a Delegate or Alternate to another convention. (6) Delegates may not cast fractional votes.

C. Meeting Locations. Precinct Caucuses and County Conventions shall be held within the respective Counties. Congressional District Conventions shall be held in the respective Congressional Districts. All Precinct Caucuses and Conventions shall be held in buildings appropriate for public use, where practical.

D. Certification & Filing of Documents. All documents required to be filed pursuant to these Rules shall be signed: (1) with regard to Precinct Caucuses, by the Precinct Caucus Chairman and Secretary, (2) with regard to County Conventions, by the County Convention Chairman and Secretary, and (3) with regard to District Conventions, by the Chairman and Secretary of the District Convention. Each such signature shall constitute a certification that, to the best of signatory's knowledge the information in each document filed is true and correct and that the respective Precinct Caucus, or Convention was conducted in accordance with these Rules. Each item required by this Rule 9 to be filed with the Secretary of the GRP or with any County or District Chairman, in order to be timely filed, such item must either be delivered by hand, by electronic filing, or by mail if postmarked within any time period specified for delivery.

E. Access to Lists. Any person offering as a candidate for the position as a party officer, state committee member, or National Convention Delegate or Alternate shall be entitled to access on an equitable basis, subject signing a terms of use agreement, to the lists of the names, addresses, telephone numbers and email addresses (if provided) of Delegates and Alternates who are eligible to vote in the election in which such candidate is seeking office.

F. Seating of Alternates. At any Congressional District Convention or at the State Convention, should the total number of Alternates from a county registered and present at such convention, when combined with the total number of Delegates registered from such county, not exceed the total allocation of Delegates from such County, then the Credentials Committee for such Convention will have the authority to elevate all Alternates from such County to Delegates. In all other cases, the Delegates of each delegation shall by caucus and by majority vote adopt a plan for the seating of Alternates for any missing Delegates of their delegation.

G. Committees in Session. No official business shall be transacted at any Convention while any of its Committees are in session.

H. Determination of Population. Population of the various Counties for all purposes under Rule 9 shall be determined by reference to the then-most recent decennial U.S. Census.

9.11 STATE CONVENTION PROCEDURES

A. The procedure for submission of proposed resolutions and proposed rules to be considered at the State Convention shall be as provided in the Call, including, but not limited to, specifying a date for submission of proposed resolutions and proposed rules.

B. The procedure to qualify to run for an office to be elected by the State Convention shall be as provided in the Call, including, but not limited to, specifying a date for submission of a notice of candidacy and political resume.

C. The Permanent Rules Committee shall prepare recommended rules and orders of business for the conduct of each State Convention in advance thereof, which rules and order of business shall be submitted to the rules committee of each State Convention for its consideration and report to the State Convention in session.

9.12 RULES OF ORDER

All Precinct Caucuses, County Conventions, District Conventions and the State Convention shall be governed and conducted: first, in accordance with these Rules and the Call, and second, except as modified by these Rules or by the Call, or, with regard to the respective County and District Conventions, by the respective rules of each such County or District, the latest edition of Robert's Rules of Order, Newly Revised.

9.13 CONVENTION PROXIES

There shall be no proxies allowed at any County, District or State Convention. If an alternate to a convention is seated in accordance with Rule 9.10(F), the alternate and no other shall vote in the absence of a delegate.

9.14 EMERGENCY CONVENTION PROCEDURES

Notwithstanding any other provision of these Rules to the contrary, when a State or National Emergency is declared by the appropriate government authority that would prevent any GRP county, district, or state convention, or any meeting from being held for the purpose of electing delegates to such conventions, the State Executive Committee shall be empowered to adopt rules and procedures for said conventions and meetings as recommended by the State Chairman.

9.15 ORGANIZATION OF VACANT PRECINCTS

Where for any reason a Precinct Caucus is not conducted on the date set in the Call for such meetings in odd-numbered years (other than pursuant to a plan adopted in accordance with Rule 9.2(A)), the County Committee may, at any time after the State Convention held in such odd-numbered years, elect one or more precinct officers and committeemen for such Precinct to serve until the next Precinct Caucus or earlier removal from office in accordance with these Rules and County Party Rules.

9.16 ORGANIZATION OF UNORGANIZED COUNTIES

Where for any reason a County Convention is not conducted on the date set in the Call for such Conventions in odd-numbered years (other than pursuant to a plan adopted in accordance with Rule 9.2(B)), one or more officers and County Committee members may be elected for such county: (A) if

such County is located within a single Congressional District, by the District Committee for the District in which the County is located; or (B) if such County is located in more than one Congressional District, by the District Committee for the District in which the largest number of Republican votes was cast in such County for the Republican nominee for President in the most recent presidential election; or (C) if the applicable District Committee shall have failed to take action to organize such County within thirty (30) days following written notice from the GRP, by the State Executive Committee. Such officers and committee members shall serve until the earlier of the next County Convention or resignation or removal from office in accordance with these Rules and the County Party Rules.

IN WITNESS WHEREOF, the undersigned certify that foregoing was adopted by the State Committee of the Georgia Republican Party on this 24th the day of October, 2022.

ATTEST

/s/David Shafer
David Shafer
Chairman

/s/John White
John White
Chairman of Permanent Rules Committee

/s/Michael Welch
Michael Welch
Secretary

/s/Alex Kauffman
Alex Kaufman
Acting Chief Deputy General Counsel