

# Exhibit A

## Stefan Ritter

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**From:** LaBerge, Holly [hlaberge@ethics.ga.gov]  
**Sent:** Friday, July 18, 2014 4:04 PM  
**To:** Stefan Ritter  
**Subject:** FW: Open Records Request 2

Holly LaBerge  
Executive Director  
Georgia Government Transparency and Campaign Finance Commission  
200 Piedmont Ave., S.E. | Suite 1402-West Tower | Atlanta, GA 30334  
Phone 404.463.7743  
Fax 404.463.1988  
[www.ethics.ga.gov](http://www.ethics.ga.gov)

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**From:** Fleischer, Jodie (CMG-Atlanta) [mailto:jodie.fleischer@wsbtv.com]  
**Sent:** Friday, July 18, 2014 3:58 PM  
**To:** LaBerge, Holly  
**Subject:** RE: Open Records Request 2

Ok, thank you!

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**From:** LaBerge, Holly [mailto:hlaberge@ethics.ga.gov]  
**Sent:** Friday, July 18, 2014 3:45 PM  
**To:** Fleischer, Jodie (CMG-Atlanta)  
**Subject:** RE: Open Records Request 2

Holly LaBerge  
Executive Director  
Georgia Government Transparency and Campaign Finance Commission  
200 Piedmont Ave., S.E. | Suite 1402-West Tower | Atlanta, GA 30334  
Phone 404.463.7743  
Fax 404.463.1988  
[www.ethics.ga.gov](http://www.ethics.ga.gov)

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**From:** Fleischer, Jodie (CMG-Atlanta) [mailto:jodie.fleischer@wsbtv.com]  
**Sent:** Friday, July 18, 2014 3:34 PM  
**To:** LaBerge, Holly  
**Subject:** RE: Open Records Request 2

Thanks for the quick response on the texts.

A couple of follow up questions since the to/from addresses are redacted...

- 1- Can you please identify who sent the July 18, 2014 8:59am text regarding the review panel for LG? Chris Riley
- 2- Can you please identify who sent the July 17, 2012 9:50pm text regarding common sense? Chris Riley
- 3- Are the texts regarding the Leadership Georgia review panel actually from this morning? Or were those supposed to be dated July 18, 2013 (since the emails provided discuss your Leadership Georgia recommendation

in May, 2013) They were sent from my iPhone to my email this morning in order to retrieve them. The previous texts sent to my email were from a Droid phone which does this in a different format from an iPhone. The first one was from July 1, 2013 and the next two were from July 26, 2013.

- 4- Can you please provide a copy of your Leadership Georgia recommendation? I don't have it, never saw it and was only told about it. You will need to contact Chris for a copy.

Thank you!

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**From:** LaBerge, Holly [<mailto:hlaberge@ethics.ga.gov>]  
**Sent:** Friday, July 18, 2014 2:04 PM  
**To:** Fleischer, Jodie (CMG-Atlanta)  
**Subject:** RE: Open Records Request 2

You are welcome and ok.

Holly LaBerge  
Executive Director  
Georgia Government Transparency and Campaign Finance Commission  
200 Piedmont Ave., S.E. | Suite 1402-West Tower | Atlanta, GA 30334  
Phone 404.463.7743  
Fax 404.463.1988  
[www.ethics.ga.gov](http://www.ethics.ga.gov)

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**From:** Fleischer, Jodie (CMG-Atlanta) [<mailto:jodie.fleischer@wsbtv.com>]  
**Sent:** Friday, July 18, 2014 2:01 PM  
**To:** LaBerge, Holly  
**Subject:** RE: Open Records Request 2

Thanks!

Aaron Gould-Sheinin from the AJC will come by to pick up the text records for us.

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**From:** LaBerge, Holly [<mailto:hlaberge@ethics.ga.gov>]  
**Sent:** Friday, July 18, 2014 12:08 PM  
**To:** Fleischer, Jodie (CMG-Atlanta)  
**Subject:** RE: Open Records Request 2

I will proceed with the request. I miss quoted you on my hourly rate as I was looking at another employee's hourly rate on the schedule card but I will do this for the \$27.88 quoted. My hourly rate is \$48.08. If the time frame gets close to the three hours I will let you know. I will have to print out the emails.

Holly LaBerge  
Executive Director  
Georgia Government Transparency and Campaign Finance Commission  
200 Piedmont Ave., S.E. | Suite 1402-West Tower | Atlanta, GA 30334  
Phone 404.463.7743  
Fax 404.463.1988  
[www.ethics.ga.gov](http://www.ethics.ga.gov)

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**From:** Fleischer, Jodie (CMG-Atlanta) [<mailto:jodie.fleischer@wsbtv.com>]  
**Sent:** Friday, July 18, 2014 11:42 AM  
**To:** LaBerge, Holly  
**Cc:** 'Gaither, Lesli ([LGaither@kilpatricktownsend.com](mailto:LGaither@kilpatricktownsend.com))'  
**Subject:** RE: Open Records Request 2

Ok, thanks so much.

A representative from our station will come by after 2pm today to pick up the texts.

As for the emails, please proceed in gathering those, we are willing to authorize up to three hours of your time at \$27.88 per hour for retrieval.

Please begin your search with the Gmail records you created containing documentation of your texts and/or calls while at the beach in July 2012.

Next, we are interested in all of your direct communications with Ryan Teague, Chris Riley, Randy Evans, Nathan Deal, Ben Vinson, Bart Gobeil, and Brain Robinson.

Lastly, please include all other emails to yourself, and anyone else, documenting any such conversations which are not already included above.

If the time frame exceeds the three hours, please contact me and we can see what you have so far, and discuss authorization of additional time.

Please provide all available emails electronically.

If you have any questions about what's outlined above or we need to clarify anything, don't hesitate to call.

Thank you,  
Jodie Fleischer  
WSB-TV  
404-889-0662 cell

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**From:** LaBerge, Holly [<mailto:hlaberge@ethics.ga.gov>]  
**Sent:** Friday, July 18, 2014 10:42 AM  
**To:** Fleischer, Jodie (CMG-Atlanta)  
**Subject:** RE: Open Records Request 2

Dear Ms. Fleischer;

Per your ORA request, I currently only have access to the text messages on my current hand held device. As such, the only text messages between myself and any member of Governor Nathan Deal's staff will be available for you to pick up in our office on Friday, July 18, 2014 after 2 pm. There are 21 pages at a cost of 10 cents per page for a total of \$2.10 due.

As for the request for emails, there will be a cost of \$27.88 per hour for me to retrieve these emails, as I am the lowest paid employee with access to those emails. There will also be a cost of 10 cents per page for the copy. I cannot estimate the time involved. Please let me know if you would like me to proceed with the request or not.

Regards,  
Holly

Holly LaBerge  
Executive Director  
Georgia Government Transparency and Campaign Finance Commission  
200 Piedmont Ave., S.E. | Suite 1402-West Tower | Atlanta, GA 30334  
Phone 404.463.7743  
Fax 404.463.1988  
[www.ethics.ga.gov](http://www.ethics.ga.gov)

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**From:** Fleischer, Jodie (CMG-Atlanta) [mailto:jodie.fleischer@wsbtv.com]

**Sent:** Tuesday, July 15, 2014 12:39 PM

**To:** LaBerge, Holly

**Subject:** Open Records Request 2

July 15, 2014

In accordance with Georgia's Open Records Act, please provide the following:

-Any and all emails sent/received/or maintained via ethics commission computers and/or emails, or your personal computer and/or emails which contain documentation of interactions (via phone, text, or any other contact) between yourself and any member of Governor Nathan Deal's staff.

To be clear this request should not only encompass direct correspondence between yourself and said staff, but any emails documenting any such correspondence.

-Any and all text messages sent/received/or maintained via ethics commission computers, phones, or emails or your personal computers, phones or emails which contain documentation of interactions between yourself and any member of Governor Nathan Deal's staff.

Please provide all available records electronically.

Thank you,

Jodie Fleischer

WSB-TV

404-889-0662 cell

# Exhibit B

A. Lee, Parks, Jr.  
lparks@pcwlawfirm.com

July 11, 2014

**Via First Class Mail and Email:**

Hillary Stringfellow, Esq., Vice Chair, [hstringfellow@gilbertharrelllaw.com](mailto:hstringfellow@gilbertharrelllaw.com)  
Heath Garrett, Esq., Member, [heath@ssg-south.com](mailto:heath@ssg-south.com)  
Dennis T. Cathey, Esq., Member, [dcathey@catheyandstrain.com](mailto:dcathey@catheyandstrain.com)  
R. Lawton Jordan III, Esq., Member, [rljordan3@gmail.com](mailto:rljordan3@gmail.com)  
Mary Paige Adams, Esq., Member, [marypaigeadams@gmail.com](mailto:marypaigeadams@gmail.com)  
GEORGIA GOVERNMENT TRANSPARENCY  
AND CAMPAIGN FINANCE COMMISSION  
200 Piedmont Avenue, SE  
James H. "Sloppy" Floyd Building  
Suite 1402 – West Tower  
Atlanta, GA 30334

**RE: Executive Secretary Holly LaBerge**

Dear Commission Members:

Our firm has been retained by Holly LaBerge. As the Executive Secretary of the Georgia Government Transparency and Campaign Finance Commission (the "Commission"), she has become increasingly frustrated over the misrepresentations and false allegations leveled against her by the various Commission employees which have garnered widespread media interest. The purpose of this letter is to put you on notice that Ms. LaBerge has taken steps to make the media aware of the true facts related to the investigation and resolution of Commission complaints stemming from the 2010 campaign of Governor Nathan Deal (the "Deal Complaints"). She has previously made these same disclosures to various Commission members and to the Attorney General's office. These reports are protected by the Georgia Whistleblower Act, O.C.G.A. § 45-4-1, and all other applicable laws. We write to ensure that she will not be retaliated against for making this information available to the public.

Specifically, Ms. LaBerge has given an interview to Dale Russell of Fox 5 News Atlanta in order to take a public stand against the fraud, waste and abuse that has occurred in connection with the trial and settlement of the litigation and threats of litigation that were spawned by the Commission's handling of the Deal Complaints. It is

our understanding that Fox 5 intends to air a segmented feature based on Ms. LaBerge's interview in the near future, possibly as early as Monday, July 14, 2014. As such, you will likely be contacted by the media regarding this matter shortly, and Ms. LaBerge did not want you to be unaware of her decision to speak with the media after suffering irreparable damage to her reputation in silence for so long.

Ms. LaBerge's protected communications relate to her documentation of threats and pressure that she received from the office of Governor Nathan Deal (the "Governor's Office") regarding the resolution of the Deal Complaints that were filed against Governor Deal relating to his 2010 election campaign and that were the heart of the whistleblower complaints asserted by Stacy Kalberman and others involved in the investigation of the Deal Complaints. A member of the Governor's Office, Ryan Teague, actually threatened her while she was on vacation. He stated that it was not likely the Commission would get rule-making authority if the Deal Complaints were not resolved prior to a public hearing (then scheduled to occur in approximately 72 hours). Ms. LaBerge contemporaneously disclosed these threats to the Commission and documented the threats in a Memorandum of Record that she turned over to the Attorney General's office during the course of the Kalberman litigation.

Yet, the Commission took no action following Ms. LaBerge's complaints about the pressure tactics being used by the Governor's Office. Also, for reasons we cannot fathom, Ms. LaBerge's Memorandum was not disclosed by the Attorney General's office during discovery for the Kalberman litigation. Moreover, she was actually instructed by the State's attorney not to mention the threats or the Memorandum during her testimony. These failures and abuses by the Commission and the State likely contributed to the State's payment of a \$1,149,993 judgment to Ms. Kalberman and her attorneys.

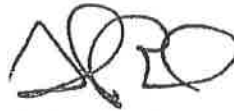
Additionally, the State recently settled lawsuits asserted against the Commission by its former employees, Elisabeth Murray-Oberlein and John Hair, alleging that their terminations were in retaliation for their disclosure of alleged wrongdoing by Ms. LaBerge during the course of the Deal Complaints. Ms. LaBerge made documentation available to the State and the Commission establishing the frivolity of these suits. The State, however, disregarded Ms. LaBerge's evidence and settled these frivolous claims at a cost of \$887,500 to the taxpayers, a gross waste of public funds that only further damaged Ms. LaBerge's personal and professional reputation. These cases clearly did not merit payment of such sums, but they were settled in order to put an end to the ongoing publicity centering on the Deal Complaints and the aftermath of litigation that was hurting the Governor's re-election campaign. Moreover, the cost of these meritless claims



was compounded by the Commission's inappropriate direction prohibiting Ms. LaBerge from taking disciplinary action against Obertein-Murray earlier in her employment despite well-documented performance deficiencies.

Given the repeated inaction of the Commission and the State following her complaints, Ms. LaBerge felt compelled to provide the interview to the media in order to expose clear waste involved in the exorbitant settlement of these claims. Ms. LaBerge has acted appropriately throughout her tenure with the Commission and during its handling of the Deal Complaints. Yet she now is being isolated in her duties at the Commission and she appears to be the sole target of an unorthodox performance audit of the Commission that is focused on the Deal Complaints. We again remind you that Ms. LaBerge's employment is protected by her whistleblowing actions and ask the Commission to act in accordance with the law moving forward.

Very truly yours,

A handwritten signature in black ink, appearing to read 'A. Lee Parks', with a stylized, cursive script.

A. Lee Parks

ALP/gfw

Cc: Ms. Holly LaBerge

# Exhibit C



KILPATRICK TOWNSEND & STOCKTON LLP  
www.kilpatricktownsend.com

Suite 2800, 1100 Peachtree Street NE  
Atlanta, GA 30309-4528  
t 404 815 6500 f 404 815 6555

July 23, 2014

direct dial 404 815 6038  
direct fax 404 541 3359  
TClyde@kilpatricktownsend.com

By Hand Delivery

Hon. Samuel S. Olens  
State Law Department  
40 Capitol Square, S.W.  
Atlanta, GA 30334-1300

Re: Open Records Act Violation by the Georgia Government Transparency and  
Campaign Finance Commission

Dear Attorney General Olens:

On behalf of The Atlanta Journal-Constitution and its reporter, Aaron Gould Sheinin, we write regarding an apparent Open Records Act violation by the Georgia Government Transparency and Campaign Finance Commission ("the Commission").

Specifically, on July 26, 2012, Mr. Sheinin sent an Open Records Act request to the Commission's Executive Director Holly LaBerge seeking the following: "Access to and copies of all records, including interviews, audits, e-mails, faxes, and any and all documents including case files related to Case 2010-0039 and Case 2010-0033c."

Case 2010-0039 involved allegations that Governor Deal improperly used state campaign funds to pay for his legal defense relating to a U.S. House of Representatives investigation, and Case 2010-0033c involved allegations that Governor Deal's campaign improperly paid a company in which Deal had an ownership interest for air travel. Both cases were resolved at a July 23, 2012 Commission meeting.

In response to the Journal-Constitution's request, Ms. LaBerge responded on behalf of the Commission by providing the Journal-Constitution with some records on August 8, 2012, and with additional records on August 23, 2012.

Recent disclosures, however, demonstrate that the production of records by the Commission was woefully incomplete. As you know, it has now come to light that Ms. LaBerge memorialized certain text messages and phone conversations with the Governor's staff in a "Memorandum of Record" dated July 17, 2012. Additionally, Ms. LaBerge apparently forwarded certain text messages related to the cases to a personal email.

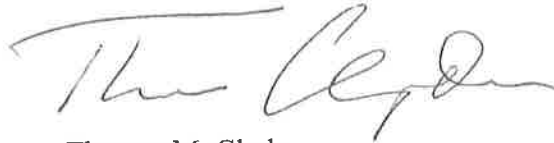
Hon. Sam Olens  
July 23, 2014  
Page 2

Neither the "Memorandum of Record" nor any other records memorializing such communications were provided to the Journal-Constitution in response to its Open Records Act request despite being clearly responsive.

Based on the facts set forth above, we submit that the Commission violated the Open Records Act through its incomplete production of records. We acknowledge your recent statement explaining that your office is still in an "attorney-client relationship" with Ms. LaBerge thereby limiting your ability to discuss this matter. Nonetheless, we ask that your Office take all necessary measures to enforce compliance with the Open Records Act.

We have included herewith a copy of the Memorandum and relevant correspondence. If we can provide any further information, please do not hesitate to contact either of us.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tom Clyde".

Thomas M. Clyde

A handwritten signature in cursive script, appearing to read "Lesli N. Gaither".

Lesli N. Gaither

Attachments

Tab 1: July 26, 2012 Open Records Act Request

Tab 2: July 30, 2012 Email from H. LaBerge to A. Gould Sheinin

Tab 3: H. LaBerge "Memorandum of Record" dated July 17, 2012

TAB 1

Holly LaBerge  
Executive secretary  
Georgia Government Transparency and Campaign Finance Commission  
200 Piedmont Avenue, SE Suite 1402 " West Tower  
Atlanta, GA 30334

Thu, July 26, 2012

**Re: Open Records Act Request**

Dear Holly LaBerge:

Pursuant to the Georgia Open Records Act, as amended and effective April 17, 2012, this is to respectfully request access to inspect and copy the following public records:

Access to and copies of all records, including interviews, audits, e-mails, faxes, and any and all documents including case files related to Case 2010-0039 and Case 2010-0033c.

As you know, the Act does not require an agency to impose fees for providing access to public records, but if your agency intends to do so, we ask that they comply with the terms of the Act. Under the law, "an agency shall utilize the most economical means reasonably calculated to identify and produce responsive, nonexcluded documents." [T]he charge for the search, retrieval, or redaction of records shall not exceed the 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(1). In addition, according to O.C.G.A. § 50-18-71(2), copying charges are not to exceed \$0.10 per page or the actual cost of the cd, dvd or other media if electronic records are produced.

I am prepared to pay reasonable search and retrieval fees. However, if costs are estimated to exceed \$25, your agency is required to notify me within three business days. O.C.G.A. § 50-18-71(d). As you know, advance payment is not required unless costs will exceed \$500. See O.C.G.A. § 50-18-71(d).

If my request is denied in whole or in part, the law requires your agency to justify all redactions by reference to the exemptions in the Act, specifying code section, subsection and paragraph. O.C.G.A. § 50-18-71(d). The law also requires you to release all other portions of a record that contains exempt material. O.C.G.A. § 50-18-72(b).

The Georgia Open Records Act sets criminal and civil penalties of \$1000 for any person or entity that fails to comply with the terms of the Act. O.C.G.A. § 50-18-74. Therefore, I will expect your agency to produce the requested records within the three-day limit or give written reasons why the records are unavailable in this

time period and a timetable for their prompt production. O.C.G.A. Â§ 50-18-71(b)(1)(A).

Thank you for your attention to this request. Please do not hesitate to contact me at 404 526 5823 or asheinin@ajc.com if you have any questions.

Sincerely,

Aaron Gould Sheinin

Reporter  
The Atlanta Journal-Constitution  
2680 Arbor Ave. SE  
Atlanta, GA 30317

TAB 2



**Gaither, Lesli**

---

**Subject:** ORA request/question

----- Forwarded message -----

**From:** LaBerge, Holly <[hlaberge@ethics.ga.gov](mailto:hlaberge@ethics.ga.gov)>  
**Date:** Mon, Jul 30, 2012 at 9:19 AM  
**Subject:** RE: ORA request/question  
**To:** "[asheinin@gmail.com](mailto:asheinin@gmail.com)" <[asheinin@gmail.com](mailto:asheinin@gmail.com)>

Hello Aaron;

I did receive the email and did not have a chance to respond before I left work on Wednesday.

As for the attached ORA, we are still working on organizing all of the "Deal" complaints and making a public copy that has the appropriate information redacted. We estimate that this project will be completed by next Wednesday, August 8<sup>th</sup>. If at that time you would like to make an appointment to sit down and view the documents, please give me several possible dates and times and we will try to accommodate the request. Otherwise, we will give you a total number of pages for the requests. The cost per page is 10 cents.

Regards,

Holly

*Holly LaBerge*

Executive Director

Georgia Government Transparency & Campaign Finance Commission

200 Piedmont Ave, SE.

Suite 1402 West Tower

Atlanta, GA 30334

Phone - 404.463.7743

Fax - 404.463.1988

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**From:** Gould Sheinin, Aaron (CMG-Atlanta) [mailto:[Aaron.GouldSheinin@ajc.com](mailto:Aaron.GouldSheinin@ajc.com)]  
**Sent:** Thursday, July 26, 2012 11:00 AM  
**To:** LaBerge, Holly  
**Cc:** Joyner, Chris (CMG-Atlanta)  
**Subject:** ORA request/question

Holly, good morning. Please find attached a request for documents under the Georgia Open Records Act. Please confirm receipt. Also, did you receive my questions yesterday?

Thanks,

Aaron

Aaron Gould Sheinin

Staff Writer

The Atlanta Journal-Constitution

404 526 5823 office

404 694 1018 mobile

404 526 5746 fax

Twitter: [@ajcpolitics](#)

Facebook: [AJC Politics](#)

AIM: agsheinin

TAB 3

Memorandum of Record

**COPY**

July 17, 2012

On July 16, 2012 at 4.44 pm CST I received a text message to my personal cell phone from Chris Riley:

*So since you are at the beach, with your feet in the sand and probably something cold to drink. Does this mean we can resolve all DFG issues by Monday? :)*

I replied via text at 8.46 pm CST:

*Well I am on vacation but it's apparently a "working" one. A realistic counter by noon tomorrow is the best chance of a resolution. Otherwise it will be out of my hands and resolved on Monday.*

At 8.50 pm CST Chris Riley responded via text:

*That will be difficult, Ryan said two of issues, legal fees and aircraft are not even on the table for discussion. How can we give you a realistic counter when not all issues are ready? My non legal opinion. Have a good vacation. I wouldn't worry about having to work thru it.*

I did not respond.

On July 17, 2012 at 6.31 am CST I received a text message to my personal cell phone from Ryan Teague:

*Holly – its Ryan. Would like to chat soon when you are in the office. I can walk over. Thanks.*

I replied at 6.35 am CST:

*Hi Ryan. I'm on vacation this week so if you need to talk before Monday it will need to be by phone. I apologize for the inconvenience.*

He replied at 6.36 am CST:

*Ok. Let's talk by phone then. Are u free this afternoon?*

I replied at 6.38 am CST:

*I will be on the beach but if you can give me an approximate time I will be near my phone.*

He replied at 6.41 am CST:

*1 pm?*

I replied at 6.42 am CST:

*Sounds good. I will wait to hear from you then.*

# COPY

At 1.04 pm CST, Ryan Teague called my personal cell phone. He proceeded to let me know how he was only acting as an intermediary to try to come to a resolution on the Deal complaints ahead of Monday's Commission meeting. He made an offer of \$1,500 settlement, no admission of violations and everything else to be dismissed. I explained that we offered Ben Vinson \$5,400 the day before for the CCDR and PFD complaint technical defects and violations which was 75% off the initial consent order amount. Ryan informed me that that amount was more than Perdue (former Governor) had paid for a much worse violation. I tried to explain that the fine amount was based on the number of violations. I also tried to explain that the legal fees and aircraft complaints were not included in these consent orders because we were still awaiting the Commission's vote on the AO's and that this had been previously discussed at length with Randy Evans. Ryan informed me that it was not in the agency's best interest for these cases to go to a hearing Monday; nor was it in their best political interest either and that our rule making authority may not happen if the complaints were not resolved prior to Monday. I responded by expressing my surprise that the threat of rule making being withheld was being used to make the complaints go away.

The conversation continued with his lack of regard for my vacation that was planned months prior to the Commission meeting date being set for July 23<sup>rd</sup>. I informed Ryan that I would respond to voicemails and texts but I would not continue to carry my phone in my hand all day while on vacation and surely he didn't expect me to do so. This was met with the remark that he was still required to be in contact when he was on vacation. I replied that I was in contact with my staff regarding issues that needed to be addressed prior to my return but that the current scenario was not my emergency in light of the fact that we (the agency) had been waiting for a month for the Respondent to negotiate on the consent order.

Due to the nature of the contact from Chris Riley and then Ryan Teague, I felt it necessary to inform the Chairman of the Commission, Kevin Abernethy, about what had transpired since our phone conversation the day before with the staff attorney (Elisabeth Murray-Obertein) and the Respondent's counsel (Ben Vinson). After relaying the texts and phone conversation, Kevin stated that he would be passing this along to the Vice-Chairperson, Hillary Stringfellow and fellow commissioner, Kent Alexander.

Holly LaBerge  
Executive Secretary  
Georgia Government Transparency & Campaign Finance Commission

# Exhibit D

A. Lee, Parks, Jr.  
lparks@pcwlawfirm.com

August 13, 2014

Via First Class Mail and E-mail: [jmilsteen@law.ga.gov](mailto:jmilsteen@law.ga.gov)

Mr. Jeff Milsteen  
Senior Assistant Attorney General  
State of Georgia, Office of the Attorney General  
40 Capitol Square, SW  
Atlanta, GA 30334

**RE: *Kalberman v. Georgia Government Transparency and Campaign Finance Commission*; Civil Action No. 2012CV216247; Motion for Sanctions**

Dear Jeff:

As you know, our firm has been advising Ms. LaBerge regarding the situation addressed in your August 11, 2014 e-mail correspondence.

The Motion for Sanctions filed by Stacey Kalberman is aimed at the decision by the Attorney General not to produce Ms. LaBerge's Memorandum detailing the pressure exerted on her to provide the Governor a sweetheart deal on his ethics case. It is disappointing that the Attorney General has now taken the position that it will not defend Ms. LaBerge in her official capacity in connection with the Motion for Sanctions. It is not surprising, though, given the great lengths to which the Attorney General has gone to shirk responsibility for the decisions his office made during discovery for the Kalberman and Streicker litigation by trying to blame Ms. LaBerge for the "cover up" of key documents. Please make no mistake; the "root" of the Motion for Sanctions is **not** the e-mails containing text messages referenced in the Motion and in your e-mail. The root of the problem is the Attorney General's ill-fated decision not to produce to the plaintiff's counsel the Memorandum containing clear reference to the text messages.

As detailed in my July 16, 2014 correspondence to Bryan K. Webb, Ms. LaBerge met with Mr. Webb, who served as both the Commission's and Ms. LaBerge's counsel, in June 2013. It is undisputed that she informed him of the existence of the Memorandum and offered to return to her office to obtain a copy of the Memorandum for his review. Oddly, Mr. Webb instructed her not to provide him the Memo. Then approximately thirty (30) days later, Mr. Webb called Ms. LaBerge and told her that he was "ready to see the Memo." Ms.



Jeff Milsteen  
RE: Kalberman v. Georgia Government Transparency  
And Campaign Finance Commission  
August 13, 2014  
Page 2 of 3

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LaBerge delivered the Memorandum to Mr. Webb by hand on that same day and discussed its contents with him. The Memorandum references and quotes directly the text messages that Ms. LaBerge received from Chris Riley and Ryan Teague on June 16 and 17, 2012. The Memorandum unquestionably provides the dates and times the text messages were exchanged. Mr. Webb, however, never asked Ms. LaBerge to produce the original text messages or to identify the steps she had taken, if any, to preserve them.

Previously, in the spring of 2013, while working to respond to the subpoena for her personal e-mails, Ms. LaBerge informed Mr. Webb she had forwarded work-related text messages to her personal e-mail account. Mr. Webb advised Ms. LaBerge that the e-mails likely would be located through the use of the agreed upon search terms that the parties were using to locate relevant e-mails. Ms. LaBerge specifically told Mr. Webb that the forwarded text messages were not being located via the use of the search terms. Mr. Webb told Ms. LaBerge that the forwarded texts were not responsive to the subpoena if they did not contain the search terms the parties were using. Ms. LaBerge, who is not an attorney, reasonably relied on this advice from her counsel.

The Office of the Attorney General's claim that it did not know of the existence of the e-mails is patently false. Surely, the Office of the Attorney General is not contending that Ms. LaBerge concealed the existence of the e-mails? It is simply illogical to believe that Ms. LaBerge would disclose the exact contents of the text messages to her counsel but then conceal the fact that she had the e-mails that contained the forwarded messages. The production of the Memorandum would have allowed Ms. Kalberman's counsel the option of questioning Ms. LaBerge regarding the steps she took, if any, to preserve the text messages. Again, the root of the Motion for Sanctions is readily apparent, and it does not lie with Ms. LaBerge. It lies with the lack of candor by the Office of the Attorney General.

Ms. LaBerge acted at all times in accordance with the advice of her counsel. As such, the Office of the Attorney General should defend its actions by responding to the Motion for sanctions on behalf of the Commission and Ms. LaBerge in her official capacity. If the office of the Attorney General believes its inconsistent positions have created a conflict that prevents it from accurately responding, then it should compensate our firm to represent Ms. LaBerge in her official capacity and pay all attendant costs and fees, as any sanctions awarded would be the responsibility of the State.





Jeff Milsteen  
RE: Kalberman v. Georgia Government Transparency  
And Campaign Finance Commission  
August 13, 2014  
Page 3 of 3

---

Please advise us by Friday, August 15, 2014, whether the Office of the Attorney General will take steps to ensure that Ms. LaBerge will be represented in her official capacity in responding to the Motion for Sanctions.

Very truly yours,

A handwritten signature in black ink, consisting of stylized, overlapping loops and lines that form the initials 'ALP'.

A. Lee Parks

ALP/gfw

Cc:

# Exhibit E

A. Lee Parks, Jr.  
lparks@pcwlawfirm.com

July 16, 2014

Via First Class Mail and E-mail: [bwebb@law.ga.gov](mailto:bwebb@law.ga.gov)

Bryan K. Webb  
Senior Assistant Attorney General  
State of Georgia, Office of the Attorney General  
40 Capitol Square, SW  
Atlanta, GA 30334

**RE: Holly LaBerge**

Mr. Webb:

This letter responds to your July 15, 2014 e-mail correspondence, as well as to General Olen's press release that was provided to the media shortly after our receipt of your e-mail yesterday.

Our client met with you in June 2013, when discovery for the Kalberman and Streicker matters was still open. At that time, she informed you of the existence of the Memorandum. Ms. LaBerge offered to return to her office to obtain a copy of the Memorandum, but you stated that you did not want to review it at that time. Sometime not long thereafter, you called Ms. LaBerge and told her that you "were ready to see the Memo." Ms. LaBerge then delivered the Memorandum to your office by hand that same day.

General Olen's reliance on a technical explanation as to why the Memorandum, a document admittedly central to pending cases involving allegations of improper pressure tactics by Governor Deal's office to force the Ethics Commission to make complaints pending against him relating to certain contributions to fund his 2010 Deal For Governor Campaign "go away", was not produced falls far short of the duty of candor owed to the courts by attorneys, particularly the Attorney General, who is elected to represent all the citizens of Georgia. At the very least, the Attorney General should have requested that the Court conduct an in camera review of the document (meaning outside the presence of the plaintiff's attorneys) so that a judge, and not an interested party, could determine whether, in the interests of justice, it should be produced. That is the straight-forward and most common way lawyers handle such matters. But, instead, the Memorandum was kept secret.

Bryan K. Webb  
RE: Holly LaBerge  
July 16, 2014  
Page 2 of 3

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Ascribing to the old maxim that the best defense is to be on the offense, General Olens has now attacked Ms. LaBerge, claiming she did not produce to his office the e-mails and texts that she provided the media. As you are aware, the Memorandum that admittedly was provided to you from Ms. LaBerge as a representative of the Attorney General expressly **REFERENCES, DESCRIBES AND QUOTES** the text messages at issue, going as far to provide the date, time, content and sender of the multiple text messages from Chris Riley and Ryan Teague. They were not hidden or concealed by Ms. LaBerge. But no one from the Office of the Attorney General ever asked Ms. LaBerge for the original text messages after they received the Memorandum, no doubt fearing such a request would only generate more documents that might well defeat the questionable decision to withhold the Memorandum based on the reed thin claim that it was not "correspondence" or part of the Ethics Commission's Deal investigation file.

With respect to the personal e-mails containing the text messages, our client is adamant that she told the Office of the Attorney General about those e-mails when providing you with other e-mails that were responsive to the subpoena related to her personal Gmail account. But the e-mails containing the bodies of the text messages were sent from Ms. LaBerge's telephone to her personal e-mail account. She was told by the Office of the Attorney General that the e-mails containing the text messages were not responsive to the subpoena because the "e-mails" did not originate from Chris Riley or Ryan Teague. This advice certainly seems consistent with the Attorney General's willingness to parse words when determining the responsive nature of documents like the Memorandum at the heart of this matter.

Ms. LaBerge was being represented by the Office of the Attorney General in her official capacity as the Executive Director of the Ethics Commission. She informed the Office of the Attorney General of the relevant information and documentation, and she reasonably relied on her legal counsel's recommendations and advice. The overriding question remains: why would the Office of the Attorney General ever become complicit in this cover-up of evidence documenting wrongdoing by the Governor, and/or those speaking for him, in trying to get the cases pending before the Ethics Commission either dismissed or settled for a song?

Very truly yours,



A. Lee Parks

Bryan K. Webb  
RE: Holly LaBerge  
July 16, 2014  
Page 3 of 3

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- Cc: Georgia Government Transparency and Campaign Finance Commission Members
- Hillary Stringfellow, Esq., Vice Chair, [hstringfellow@gilbertharrelllaw.com](mailto:hstringfellow@gilbertharrelllaw.com)
  - Heath Garrett, Esq., Member, [heath@ssg-south.com](mailto:heath@ssg-south.com)
  - Dennis T. Cathey, Esq., Member, [dcathey@catheyandstrain.com](mailto:dcathey@catheyandstrain.com)
  - R. Lawton Jordan III, Esq., Member, [rljordan3@gmail.com](mailto:rljordan3@gmail.com)
  - Mary Paige Adams, Esq., Member, [marypaigeadams@gmail.com](mailto:marypaigeadams@gmail.com)

# Exhibit F

## Bryan Webb

---

**From:** LaBerge, Holly [hlaberge@ethics.ga.gov]  
**Sent:** Tuesday, July 23, 2013 3:26 PM  
**To:** Bryan Webb  
**Subject:** FW: PUBLIC RECORDS REQUEST VIA CFC WEBSITE

Holly LaBerge  
Executive Director  
Georgia Government Transparency and Campaign Finance Commission  
200 Piedmont Ave. Suite 1402-West Tower | Atlanta, GA 30334 Phone 404.463.7743 Fax  
404.463.1988 [www.ethics.ga.gov](http://www.ethics.ga.gov)

-----Original Message-----

**From:** Thrasher, Liss, & Smith LLC [<mailto:eelwood@tislaw.com>]  
**Sent:** Tuesday, July 23, 2013 3:20 PM  
**To:** LaBerge, Holly  
**Subject:** PUBLIC RECORDS REQUEST VIA CFC WEBSITE

**From:** Thrasher, Liss, & Smith LLC <[eelwood@tislaw.com](mailto:eelwood@tislaw.com)>

**Name:** Thrasher, Liss, & Smith LLC  
**Contact Number:** 404-760-4018

### Details:

- 1.) Any and all e-mails sent to or received by [holly.laberge@gmail.com](mailto:holly.laberge@gmail.com), [lmdentler@gmail.com](mailto:lmdentler@gmail.com), [gandolfmurray@yahoo.com](mailto:gandolfmurray@yahoo.com), and/or any other personal/private e-mail address (i.e. any email address that is not an official State of Georgia email address) maintained by a Commission employee, since June 2012, containing communications, information, documents, discovery requests, files, or data related to the case of Stacey Kalberman v. Georgia Government Transparency and Campaign Finance Commission and Holly LaBerge (Fulton County Superior Court - Civil Action File No. 2012CV216247) (the "Kalberman Case") that were prepared, maintained or received in the performance of a service or function for or on behalf of the Commission.
- 2.) Any and all e-mails sent to or received by [holly.laberge@gmail.com](mailto:holly.laberge@gmail.com), [lmdentler@gmail.com](mailto:lmdentler@gmail.com), [gandolfmurray@yahoo.com](mailto:gandolfmurray@yahoo.com), and/or any other personal/private e-mail address (i.e. any email address that is not an official State of Georgia email address) maintained by a Commission employee, since June 2012, containing communications, information, documents, files, or data related to the case of Sherry Ellen Streicker v. Georgia Government Transparency and Campaign Finance Commission (Fulton County Superior Court - Civil Action File No. 2012CV216254) (the "Streicker Case") that were prepared, maintained or received in the performance of a service or function for or on behalf of the Commission.
- 3.) Any and all e-mails sent to or received by [holly.laberge@gmail.com](mailto:holly.laberge@gmail.com), [lmdentler@gmail.com](mailto:lmdentler@gmail.com), [gandolfmurray@yahoo.com](mailto:gandolfmurray@yahoo.com), and/or any other personal/private e-mail address (i.e. any email address that is not an official State of Georgia email address) maintained by a Commission employee, since September 2011, containing communications, information, documents, discovery requests, files, or data related to Complaints filed with the Georgia State Ethics Commission and the Georgia Government Transparency and Campaign Finance Commission concerning Nathan Deal and the subsequent investigation/consent orders/fines (In the Matter of Nathan Deal, Before the Georgia Government Transparency and

Campaign Finance Commission, State of Georgia, Case Nos. 2010-0033(a), 2010-0033(b), 2010-0033(c), 2010-0039, 2010-0063, 2011-0008, 2011-0009) (the "Deal Matters") that were prepared, maintained or received in the performance of a service or function for or on behalf of the Commission.

4.) Any and all documents and files related to the Kalberman Case (as defined above) that were scanned into digital form by Commission employees (e.g. John Hair) using the Commission's computers/scanners, since June 2012, and which were saved and/or stored on the Commission's computers/servers (e.g. "D" Drive) for distribution using USB thumb drives and/or personal/private e-mail accounts.

5.) Any and all documents and files related to the Streicker Case (as defined above) that were scanned into digital form by Commission employees (e.g. John Hair) using the Commission's computers/scanners, since June 2012, and which were saved and/or stored on the Commission's computers/servers (e.g. "D" Drive) for distribution using USB thumb drives and/or personal/private e-mail accounts.

6.) Any and all documents and files related to the Deal Matters (as defined above) that were scanned into digital form by Commission employees (e.g. John Hair) using the Commission's computers/scanners and which were saved and/or stored on the Commission's computers/servers (e.g. "D" Drive) for distribution using USB thumb drives and/or personal/private e-mail accounts.



# Exhibit G

## Bryan Webb

---

**From:** LaBerge, Holly [hlaberge@ethics.ga.gov]  
**Sent:** Friday, July 26, 2013 3:12 PM  
**To:** 'Thrasher, Liss, & Smith LLC'  
**Subject:** RE: PUBLIC RECORDS REQUEST VIA CFC WEBSITE  
**Attachments:** ORA response letter to Thrasher Liss and Smith.pdf

To whom it concerns;

Each of the items requested below has already been submitted to you in the context of the discovery of the cases. We have given you all the information that we are in possession of regarding the Stacey Kalberman, Sheri Streicker, and Nathan Deal cases. If you would like another copy of this information please let me know. There will be a cost for another copy of this information. If you have any further questions, please let me know.

Regards,  
Holly

Holly LaBerge  
Executive Director  
Georgia Government Transparency and Campaign Finance Commission  
200 Piedmont Ave. Suite 1402-West Tower Atlanta, GA 30334 Phone 404.463.7743 Fax  
404.463.1988 [www.ethics.ga.gov](http://www.ethics.ga.gov)

-----Original Message-----

**From:** Thrasher, Liss, & Smith LLC [<mailto:eelwood@tlslaw.com>]  
**Sent:** Tuesday, July 23, 2013 3:20 PM  
**To:** LaBerge, Holly  
**Subject:** PUBLIC RECORDS REQUEST VIA CFC WEBSITE

**From:** Thrasher, Liss, & Smith LLC <[eelwood@tlslaw.com](mailto:eelwood@tlslaw.com)>

**Name:** Thrasher, Liss, & Smith LLC  
**Contact Number:** 404-760-4018

Details:

1.) Any and all e-mails sent to or received by [holly.laberge@gmail.com](mailto:holly.laberge@gmail.com), [lmdentler@gmail.com](mailto:lmdentler@gmail.com), [gandolfmurray@yahoo.com](mailto:gandolfmurray@yahoo.com), and/or any other personal/private e-mail address (i.e. any email address that is not an official State of Georgia email address) maintained by a Commission employee, since June 2012, containing communications, information, documents, discovery requests, files, or data related to the case of Stacey Kalberman v. Georgia Government Transparency and Campaign Finance Commission and Holly LaBerge (Fulton County Superior Court - Civil Action File No. 2012CV216247) (the "Kalberman Case") that were prepared, maintained or received in the performance of a service or function for or on behalf of the Commission.

2.) Any and all e-mails sent to or received by [holly.laberge@gmail.com](mailto:holly.laberge@gmail.com), [lmdentler@gmail.com](mailto:lmdentler@gmail.com), [gandolfmurray@yahoo.com](mailto:gandolfmurray@yahoo.com), and/or any other personal/private e-mail address (i.e. any email address that is not an official State of Georgia email address) maintained by a Commission employee, since June 2012, containing communications, information, documents, files, or data related to the case of Sherry Ellen Streicker v. Georgia Government Transparency and Campaign Finance Commission (Fulton County Superior Court - Civil Action File No. 2012CV216254) (the "Streicker Case") that were prepared, maintained or received in the performance of a service or function for or on behalf of the Commission.

3.) Any and all e-mails sent to or received by [holly.laberge@gmail.com](mailto:holly.laberge@gmail.com), [lmdentler@gmail.com](mailto:lmdentler@gmail.com), [gandolfmurray@yahoo.com](mailto:gandolfmurray@yahoo.com), and/or any other personal/private e-mail

address (i.e. any email address that is not an official State of Georgia email address) maintained by a Commission employee, since September 2011, containing communications, information, documents, discovery requests, files, or data related to Complaints filed with the Georgia State Ethics Commission and the Georgia Government Transparency and Campaign Finance Commission concerning Nathan Deal and the subsequent investigation/consent orders/fines (In the Matter of Nathan Deal, Before the Georgia Government Transparency and Campaign Finance Commission, State of Georgia, Case Nos. 2010-0033(a), 2010-0033(b), 2010-0033(c), 2010-0039, 2010-0063, 2011-0008, 2011-0009) (the "Deal Matters") that were prepared, maintained or received in the performance of a service or function for or on behalf of the Commission.

4.) Any and all documents and files related to the Kalberman Case (as defined above) that were scanned into digital form by Commission employees (e.g. John Hair) using the Commission's computers/scanners, since June 2012, and which were saved and/or stored on the Commission's computers/servers (e.g. "D" Drive) for distribution using USB thumb drives and/or personal/private e-mail accounts.

5.) Any and all documents and files related to the Streicker Case (as defined above) that were scanned into digital form by Commission employees (e.g. John Hair) using the Commission's computers/scanners, since June 2012, and which were saved and/or stored on the Commission's computers/servers (e.g. "D" Drive) for distribution using USB thumb drives and/or personal/private e-mail accounts.

6.) Any and all documents and files related to the Deal Matters (as defined above) that were scanned into digital form by Commission employees (e.g. John Hair) using the Commission's computers/scanners and which were saved and/or stored on the Commission's computers/servers (e.g. "D" Drive) for distribution using USB thumb drives and/or personal/private e-mail accounts.

Kevin D. Abernethy  
*Chair*

Hillary S. Stringfellow  
*Vice Chair*

Holly LaBerge  
*Executive Secretary*



Kent B. Alexander  
*Member*

Heath Garrett  
*Member*

Dennis T. Cathey  
*Member*

## Georgia Government Transparency and Campaign Finance Commission

200 Piedmont Avenue | Suite 1402 – West Tower | Atlanta, Georgia 30334

(404) 463-1980 | Facsimile (404) 463-1988

[www.ethics.ga.gov](http://www.ethics.ga.gov)

July 26, 2013

Thrasher Liss & Smith  
Five Concourse Pkwy, Suite 2600  
Atlanta, GA 30328

### RE: OPEN RECORDS REQUEST

To whom it may concern:

Each of the items requested in the enclosed email dated July 23, 2013, has already been submitted to you in the context of the discovery of the cases. We have given you all the information that we are in possession of regarding the Stacey Kalberman, Sheri Streicker, and Nathan Deal cases. If you would like another copy of this information please let me know. There will be a cost for another copy of this information. If you have any further questions, please contact me.

Regards,

A handwritten signature in black ink, appearing to read "Holly LaBerge".

Holly LaBerge  
Executive Secretary

HL:jm

Enc: Email

# Exhibit H

FOR IMMEDIATE RELEASE

August 6, 2014

**HOLLY LABERGE RESPONDS TO MEDIA REPORTS REGARDING  
TEXT MESSAGES WITH GOVERNOR'S OFFICE**

ATLANTA, GA – On July 11, 2014, Holly LaBerge, Executive Secretary of the Georgia Government Transparency and Campaign Finance Commission (“Commission”), informed the Commission Members that she had given an interview to Dale Russell of Fox 5 News Atlanta. Ms. LaBerge explained that she did so in order to take a public stand against the fraud, waste, and abuse that occurred in connection with the trial and settlement of the litigation and threats of litigation related to the Commission’s handling of complaints stemming from the 2010 campaign of Governor Nathan Deal (the “Deal Complaints”). On July 14, 2014, Fox 5 News Atlanta aired a segmented news feature that included Ms. LaBerge’s documentation of the pressure that she received from the office of Governor Nathan Deal (the “Governor’s Office”) to resolve the Deal Complaints on terms favorable to the Governor. The news feature included a Memorandum that Ms. LaBerge created, at the request of Ethics Commission Chair Kevin Abernethy, to document the text messages and oral communications she received from representatives of the Governor’s Office, specifically Chris Riley and Ryan Teague. Ms. LaBerge provided the Memorandum to the Office of the Attorney General during discovery for the Stacy Kalberman and Sherry Streicker whistleblower litigation. The Memorandum contained verbatim quotations of the text messages that Ms. LaBerge received from Mr. Riley and Mr. Teague on June 16-17, 2012. The Atlanta Journal Constitution and other media outlets have disseminated copies of the Memorandum to the public.

Questions have arisen concerning the dates and times that some of the text messages were sent and received. On July 16 and July 17, 2012, Ms. LaBerge received the text messages referenced and quoted in the Memorandum. On July 17, 2012, Ms. LaBerge forwarded these text messages to her personal e-mail account in an effort to preserve the messages. Later during the evening of July 17, 2012, Ms. LaBerge also forwarded earlier text messages that she had received from Chris Riley on July 5, 2012 to her personal e-mail account in order to preserve those

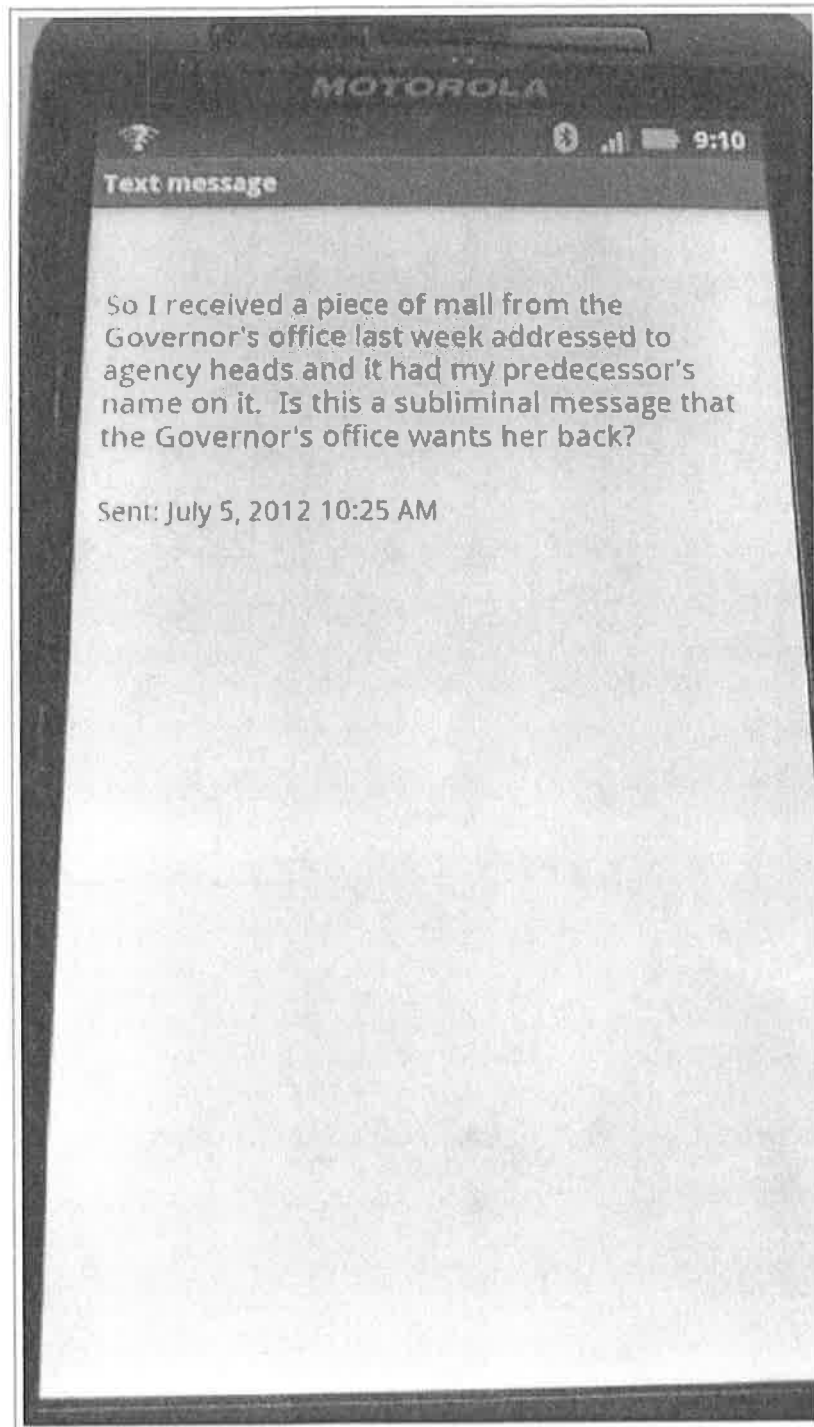
messages. The time stamps on the e-mails containing the text messages do not show the date or times that Ms. LaBerge exchanged the text messages with Mr. Riley or Mr. Teague of the Governor's Office. Rather, all of the July 17, 2012 e-mails containing the forwarded text messages have a time stamp showing when Ms. LaBerge forwarded the texts from her personal telephone to her personal e-mail account. Copies of these e-mails have now been produced in response to Open Records Act requests.

On July 21, 2014, the Atlanta Journal Constitution and WSB-TV Channel 2 News published news pieces stating that additional text messages produced by Ms. LaBerge called into question Ms. LaBerge's claims that she felt pressured by the Governor's Office to dismiss the Deal Complaints or settle them on terms favorable to the Governor. These reports were based on the false or mistaken assertion that the July 5, 2012 text messages between Mr. Riley and Ms. LaBerge were exchanged on the evening of July 17, 2012. Both reports wrongly relied on the time stamps on the e-mails showing when Ms. LaBerge forwarded the text messages to her e-mail account in order to support their published opinions that Ms. LaBerge was exchanging friendly text messages just a few hours after being pressured to resolve the Deal Complaints on terms dictated by the Governor.

Ms. LaBerge now has been able to obtain the original text messages from her previous telephone. Photographs of those text messages showing the accurate sent and received dates and times are attached to this press release. The first four text messages in the attachment are the messages exchanged between Ms. LaBerge and Mr. Riley on July 5, 2012. These are the messages that the Atlanta Journal Constitution and Chanel 2 News reported as being exchanged on the evening of July 17, 2012, based on the e-mail time stamps. The next three messages are those exchanged between Mr. Riley and Ms. LaBerge on July 16, 2012. The final six messages are those exchanged between Mr. Teague and Ms. LaBerge on July 17, 2012. This should resolve any confusion regarding the dates of the text messages.

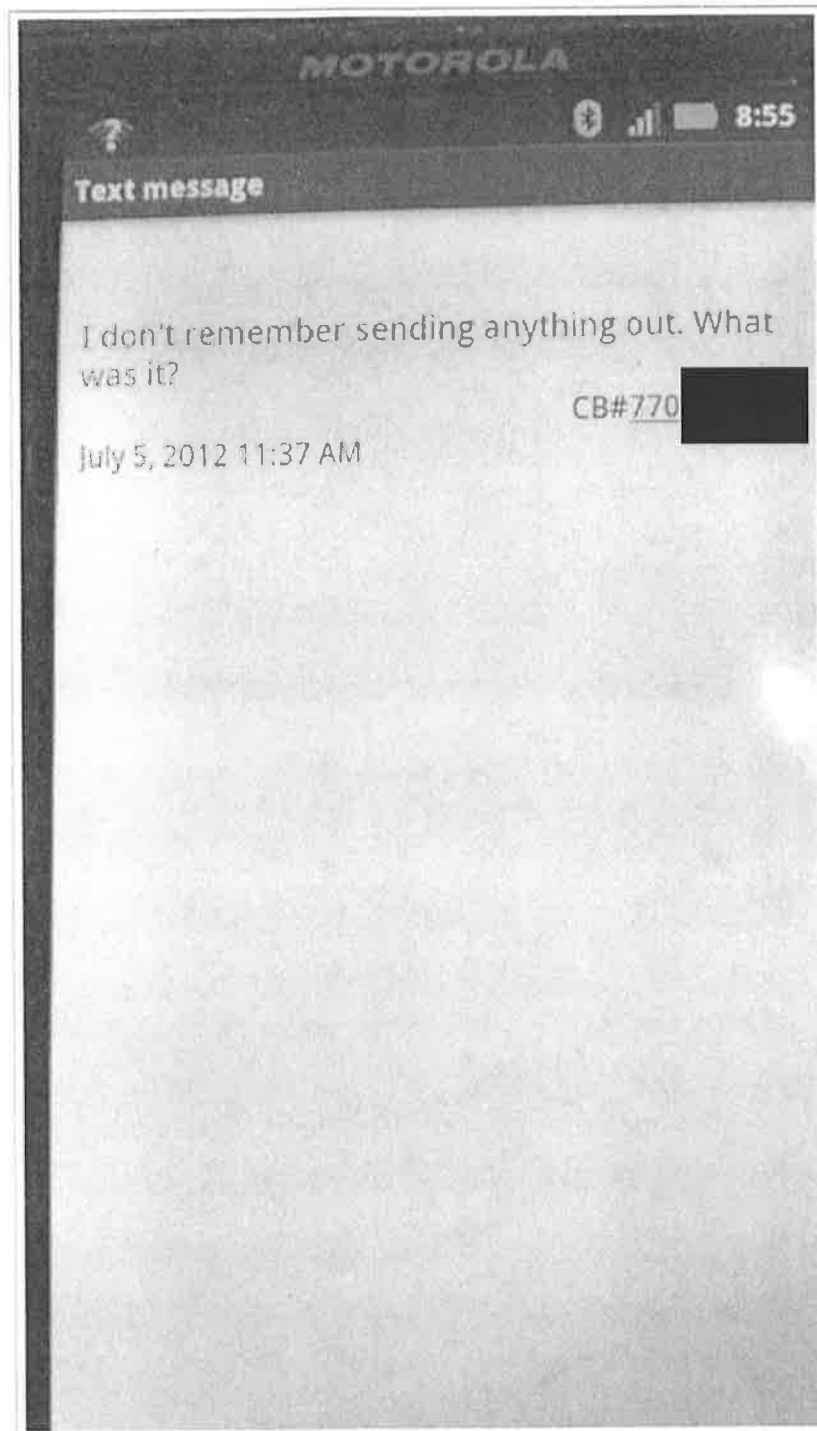
Ms. LaBerge is represented by attorney A. Lee Parks of Parks, Chesin & Walbert, P.C. in Atlanta, Georgia. Mr. Parks can be reached for questions at 404-873-8000.

Message Dated July 5th, 2012 - 10:25 AM:

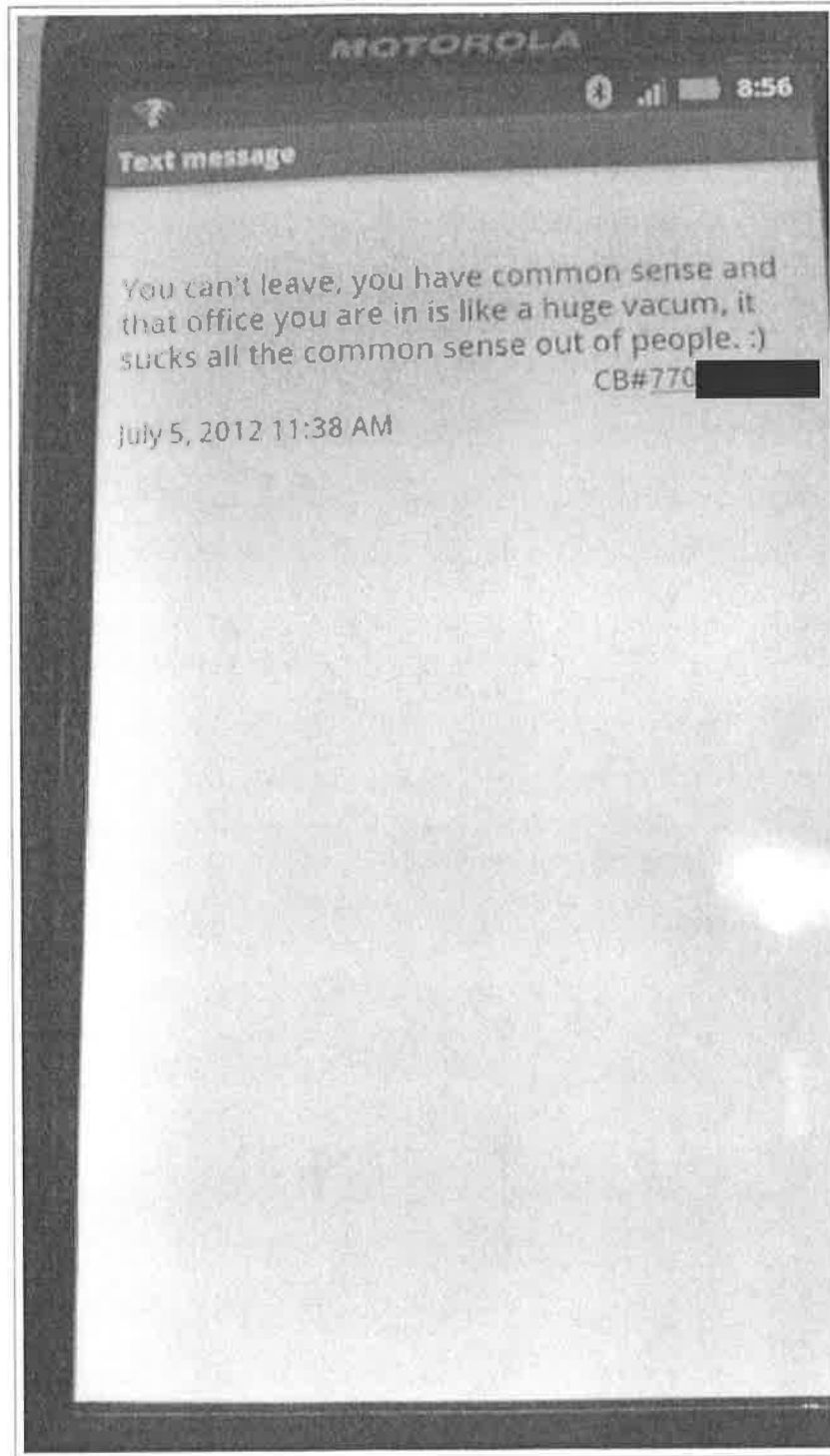




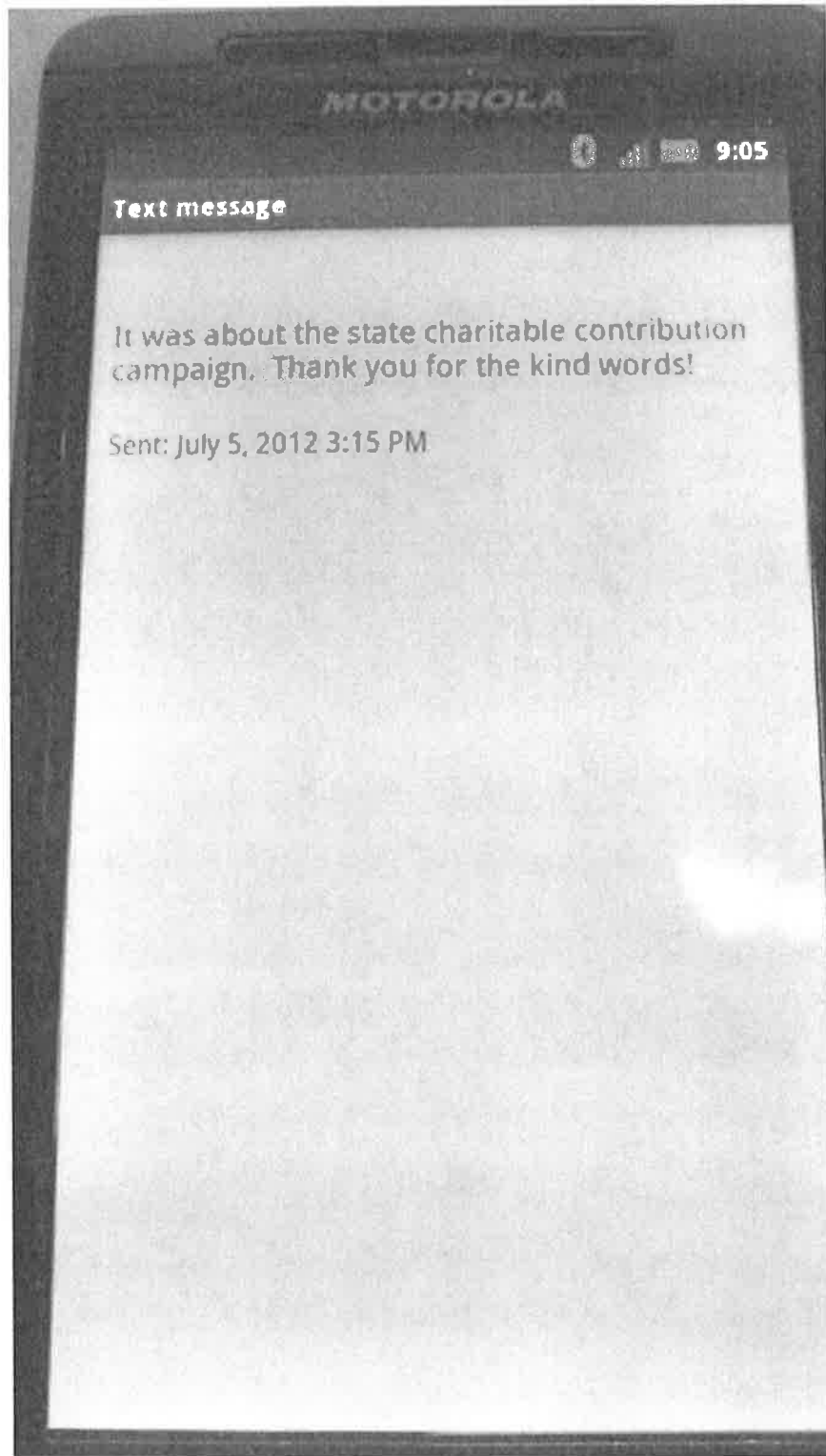
Message Dated July 5th, 2012 - 11:37 AM:



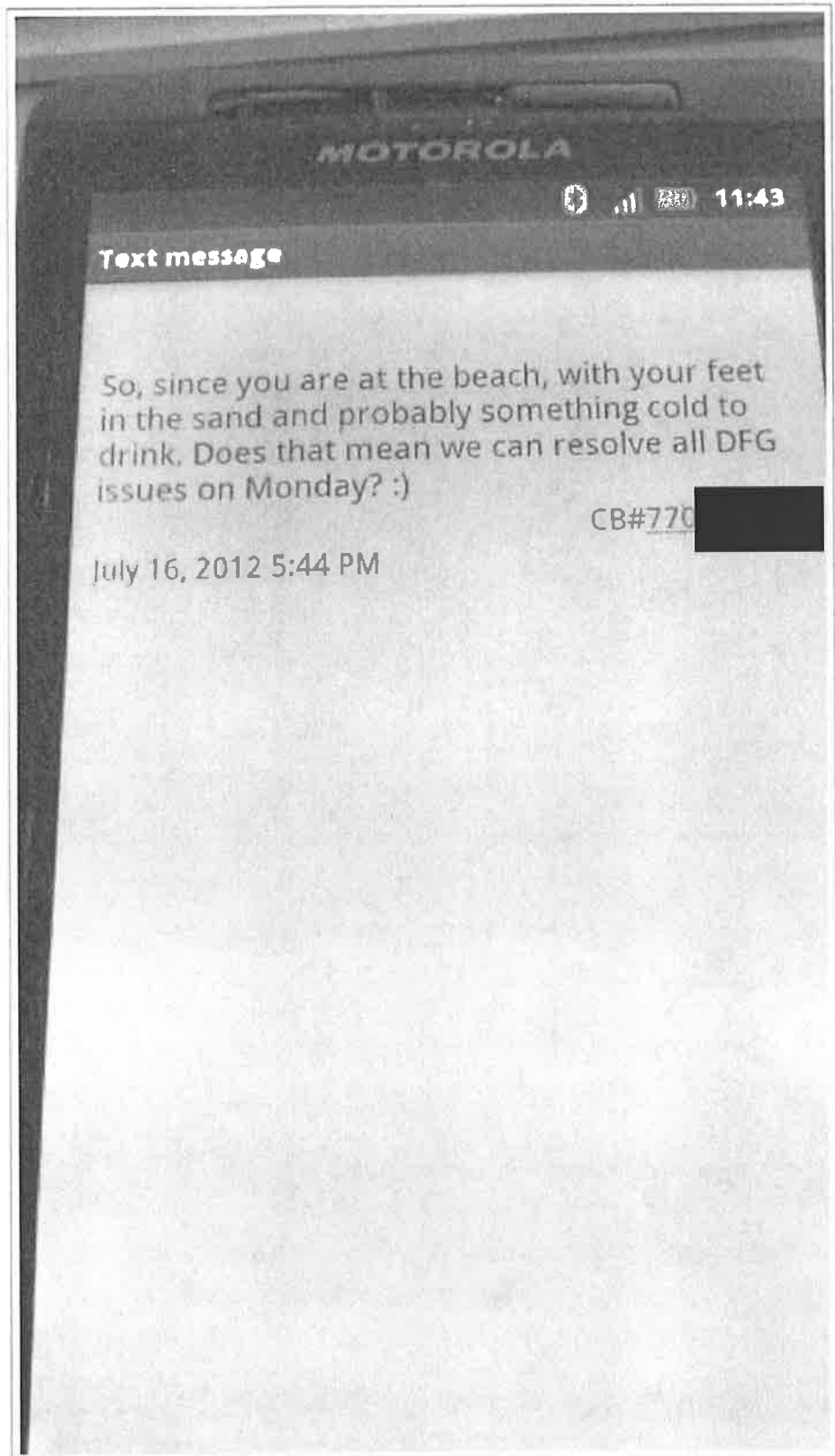
Message Dated July 5th, 2012 - 11:38 AM:



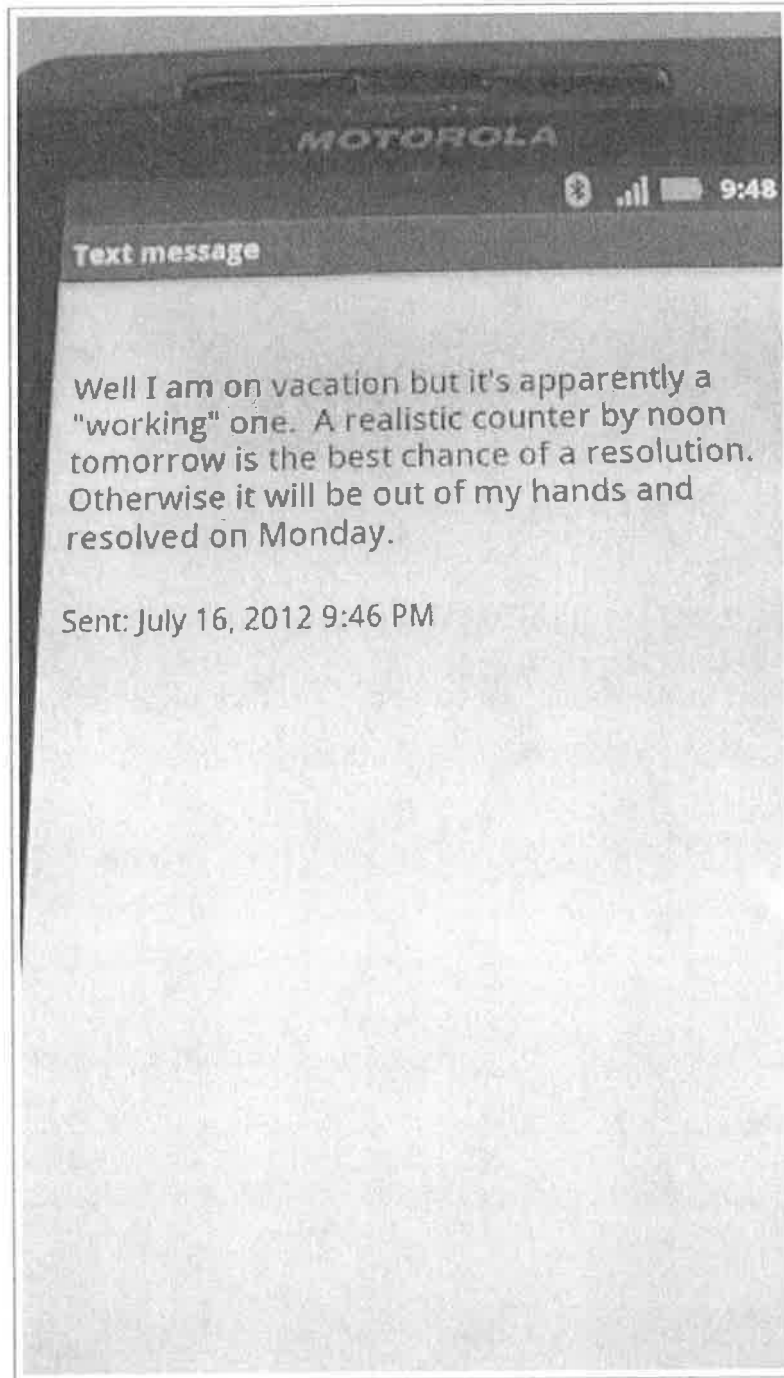
Message Dated July 5th, 2012 - 03:15 PM:



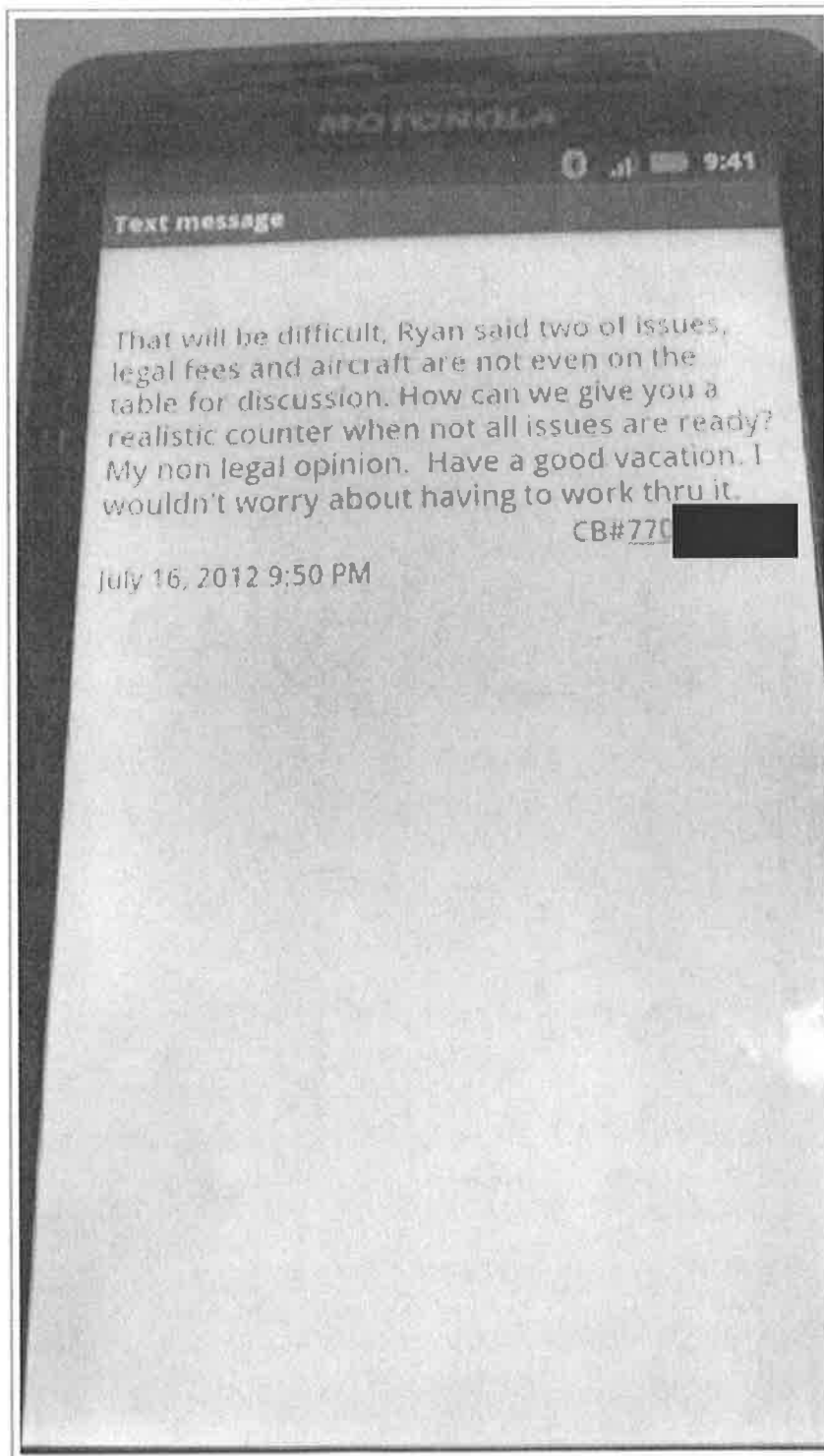
Message Dated July 16th, 2012 - 5:44 PM:



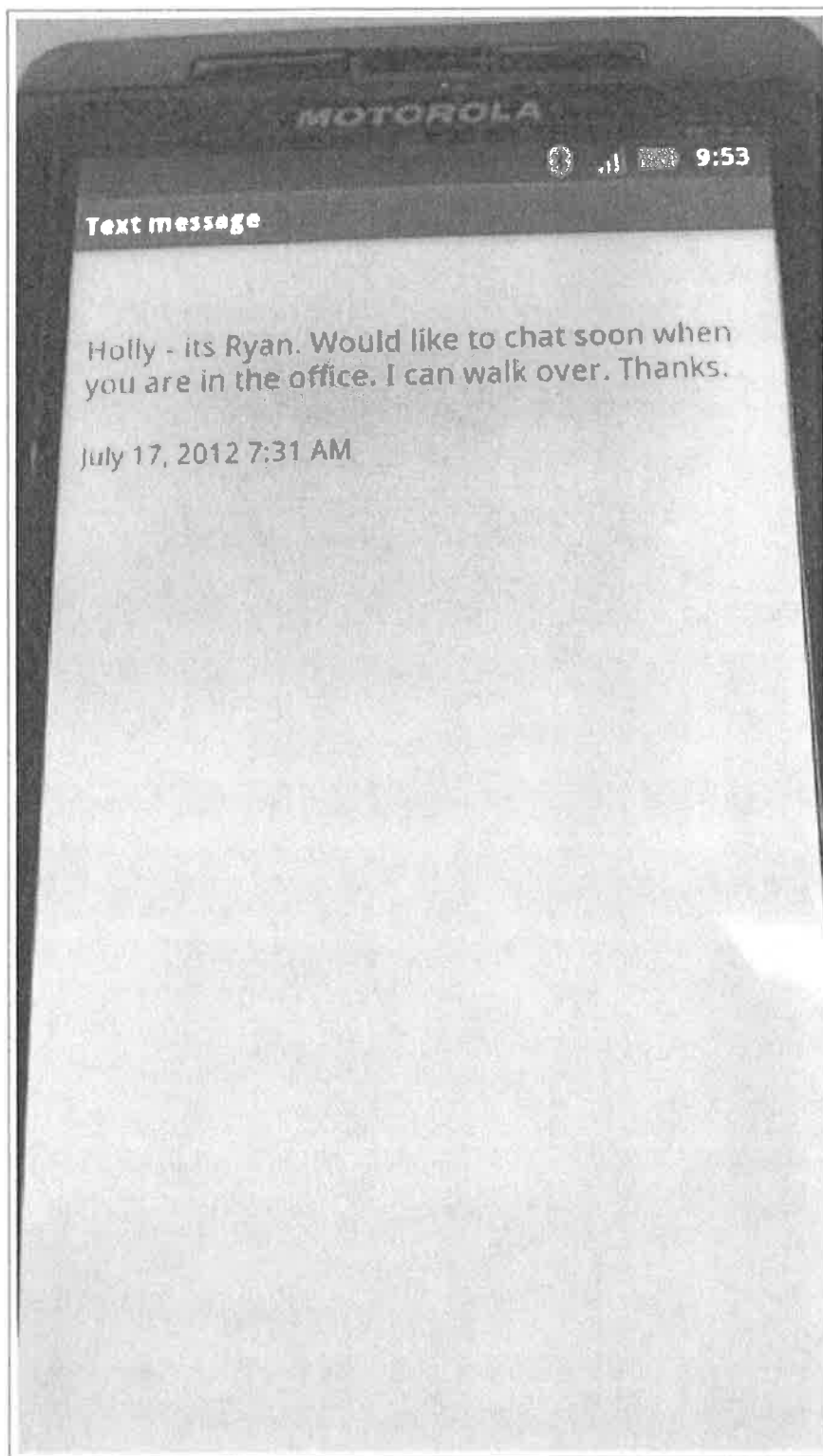
Message Dated July 16th, 2012 - 9:46 PM



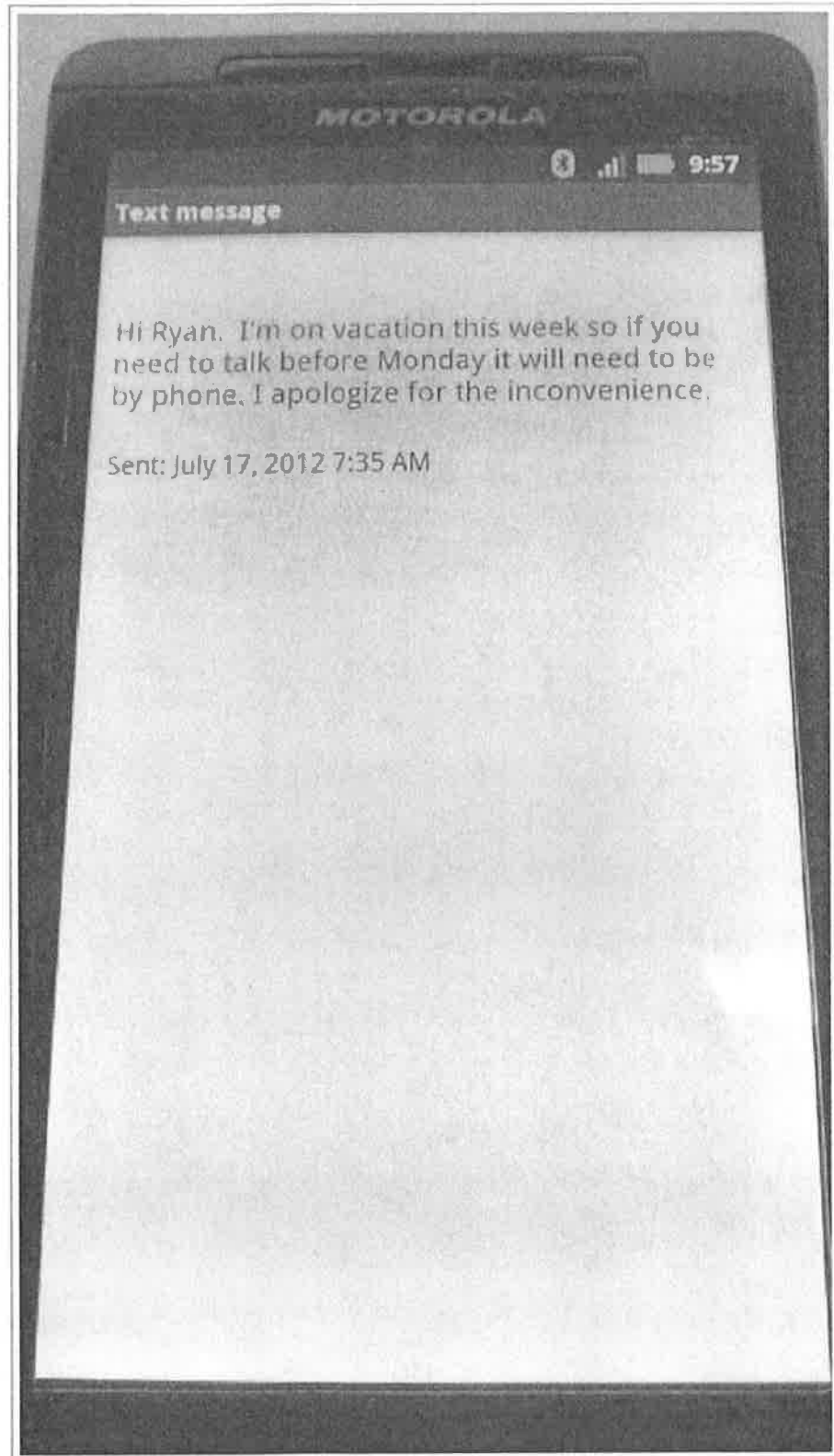
Message Dated July 16th, 2012 - 9:50 PM:



Message Dated July 17th, 2012 - 7:31 AM:

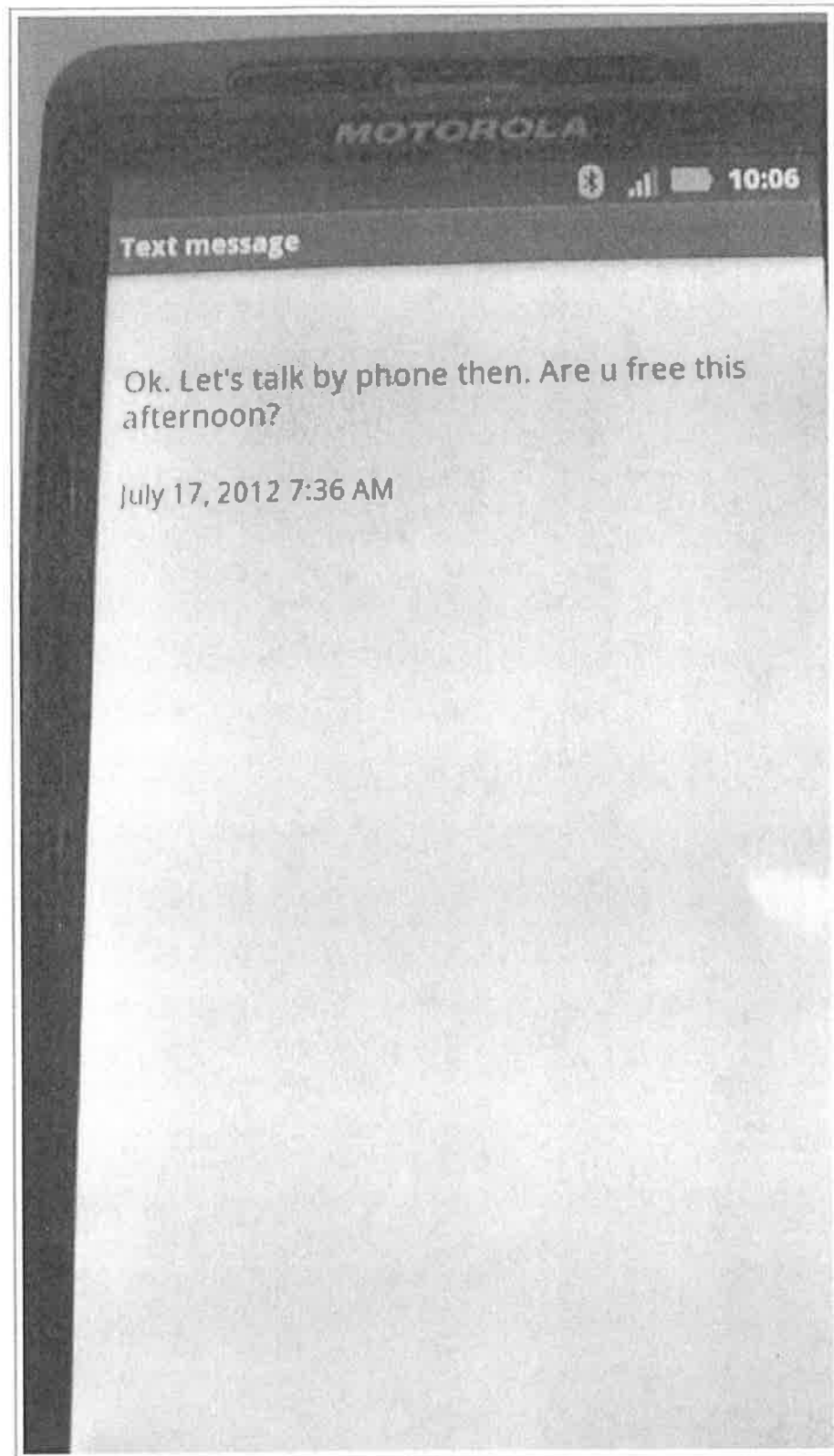


Message Dated July 17th, 2012 - 7:35 AM:

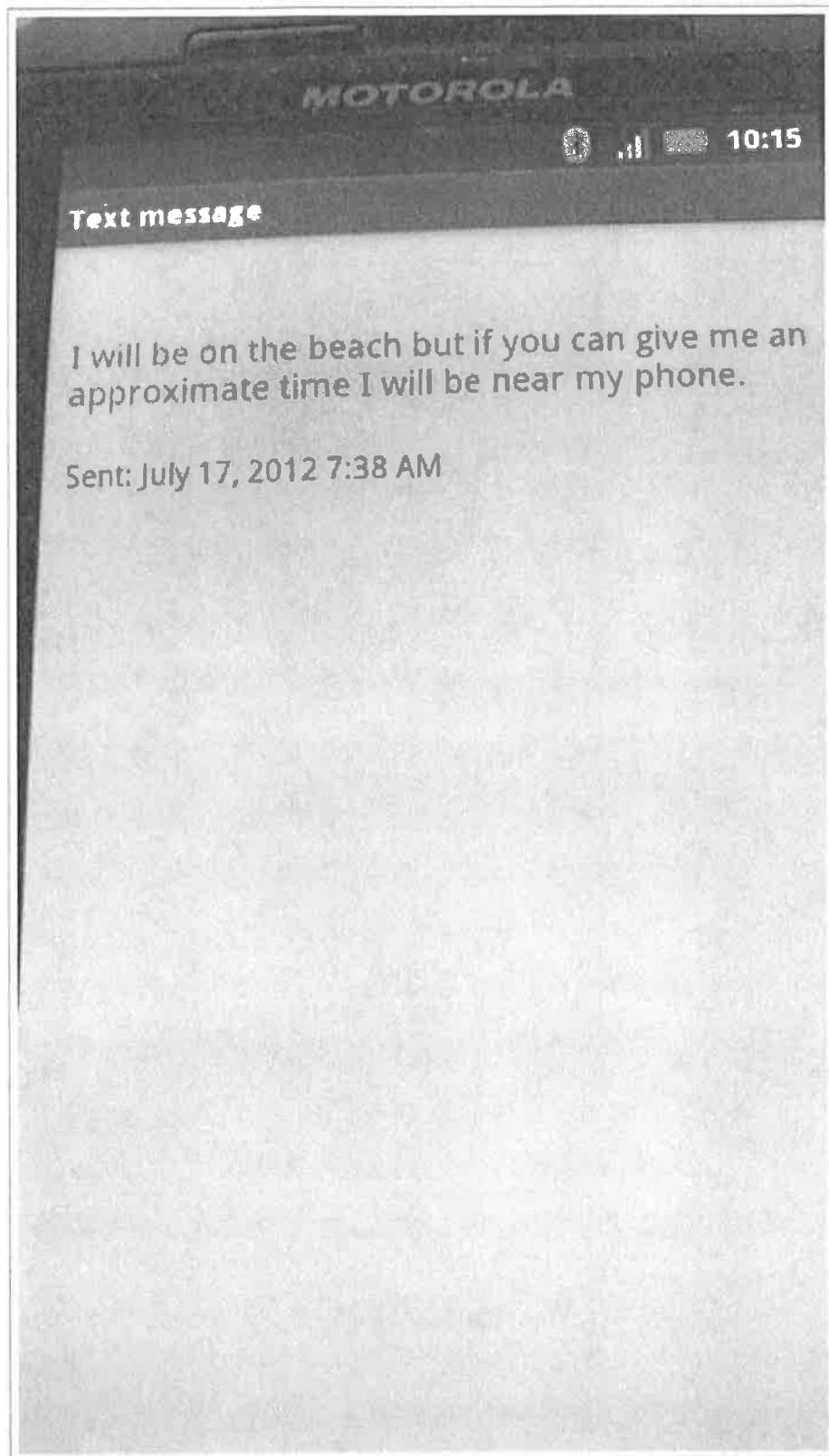




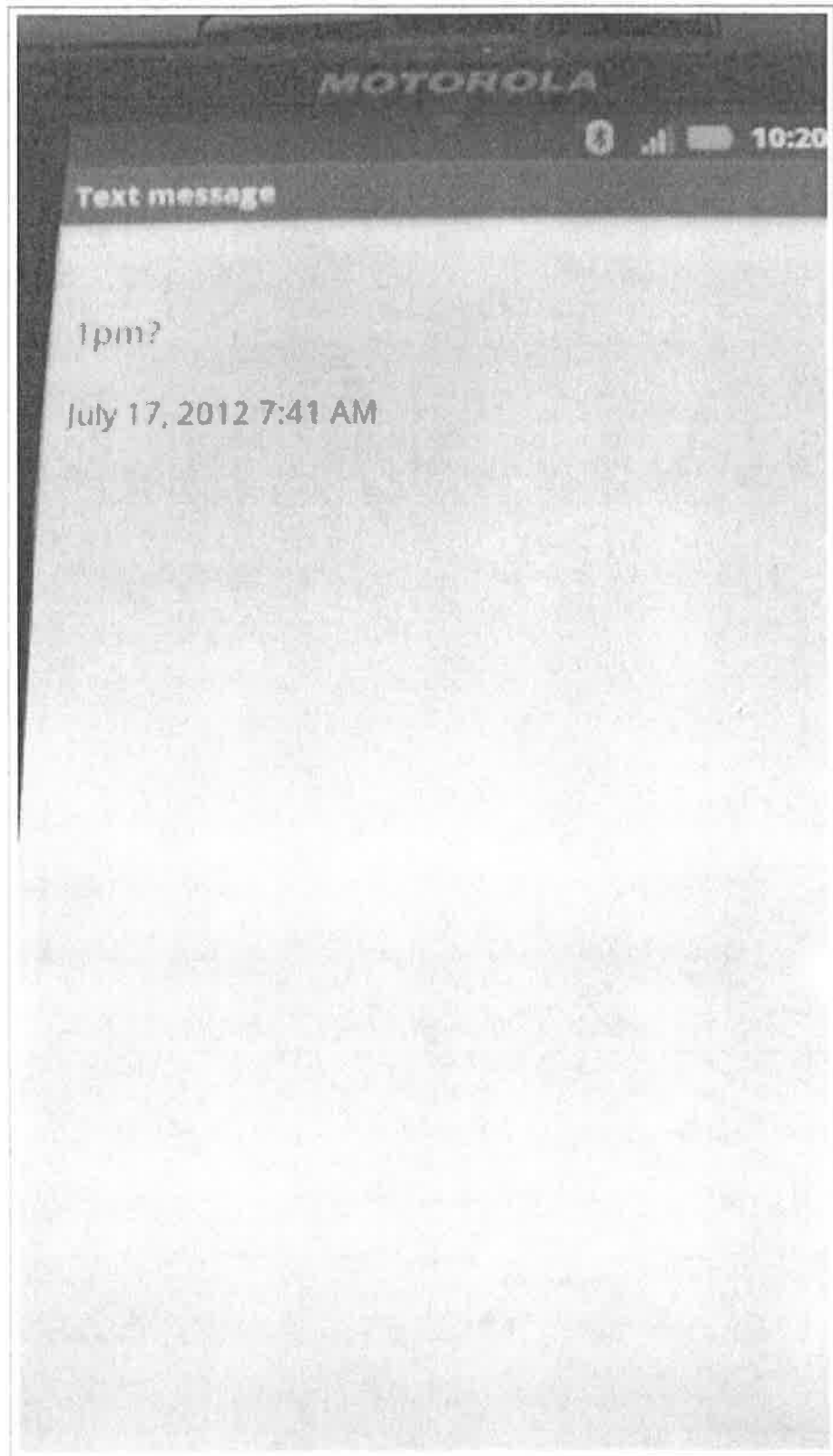
Message Dated July 17th, 2012 - 7:36 AM:



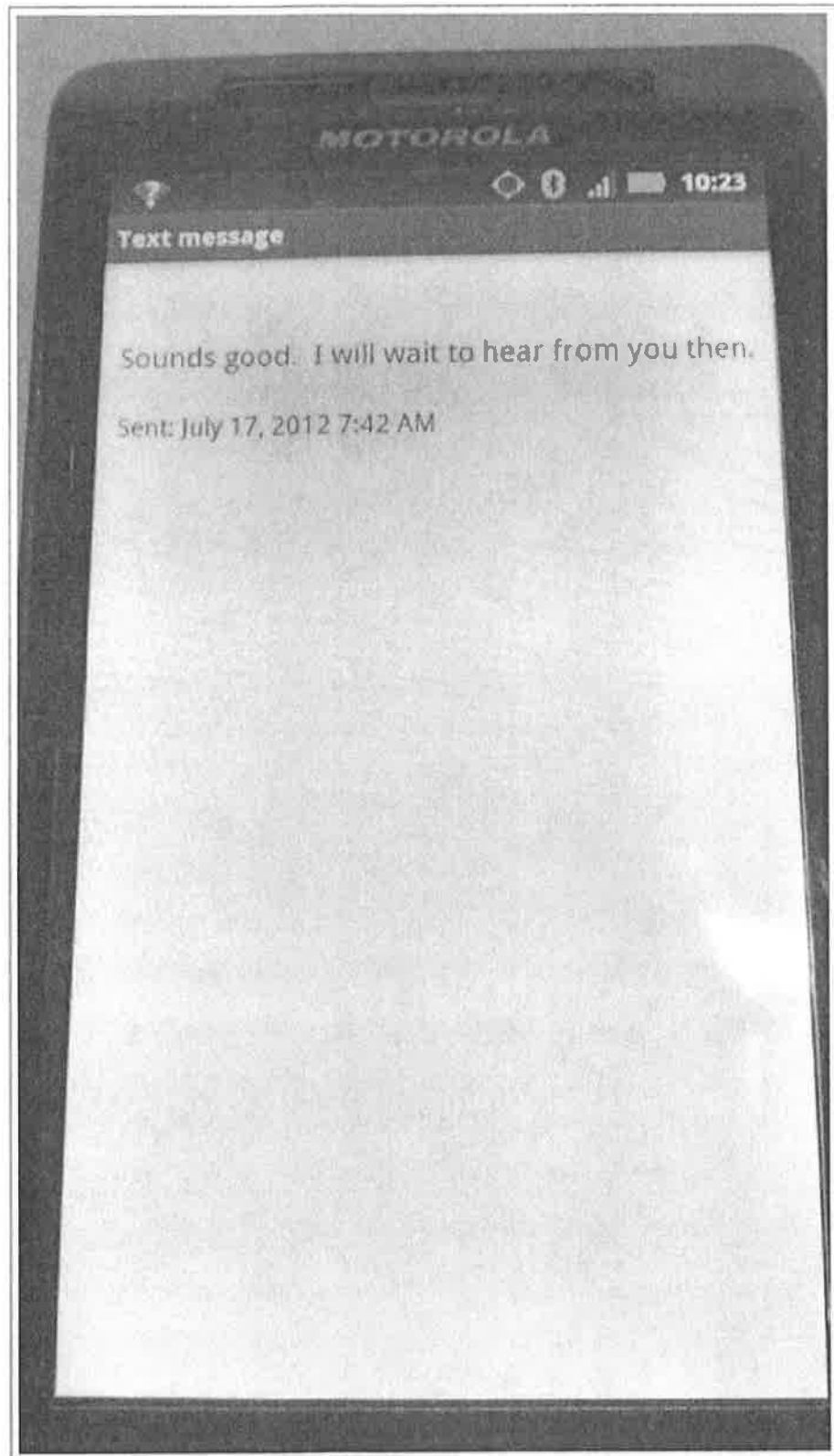
Message Dated July 17th, 2012 - 7:38 AM:



Message Dated July 17th, 2012 - 7:41 AM:



Message Dated July 17th, 2012 - 7:42 AM:



# Exhibit I

## Stefan Ritter

---

**From:** LaBerge, Holly [hlaberge@ethics.ga.gov]  
**Sent:** Friday, July 18, 2014 4:05 PM  
**To:** Stefan Ritter  
**Subject:** FW: Open Records Request

Holly LaBerge  
Executive Director  
Georgia Government Transparency and Campaign Finance Commission  
200 Piedmont Ave., S.E. | Suite 1402-West Tower | Atlanta, GA 30334  
Phone 404.463.7743  
Fax 404.463.1988  
[www.ethics.ga.gov](http://www.ethics.ga.gov)

---

**From:** Fleischer, Jodie (CMG-Atlanta) [mailto:jodie.fleischer@wsbtv.com]  
**Sent:** Friday, July 18, 2014 12:03 PM  
**To:** LaBerge, Holly  
**Subject:** RE: Open Records Request

Thanks so much. Yes, we found the varying dates mentioned by the AG's office very interesting as well... especially since none of them jive with your recollection.

Lee told us you gave the AG the memo with the rest of your discovery docs, but the AG's office said it was August or September.

We'll keep digging trying to lock them in on some more specifics.

---

**From:** LaBerge, Holly [mailto:hlaberge@ethics.ga.gov]  
**Sent:** Friday, July 18, 2014 11:57 AM  
**To:** Fleischer, Jodie (CMG-Atlanta)  
**Subject:** RE: Open Records Request

I have. Our IT Systems Coordinator has already looked into this and our printers to not save information regarding print jobs once the print job is done. There is also no record of the memo on the computer hard drive as it was never saved. I gave the memo to Bryan Webb at the very end of June 2013. I can't speak to when he gave to anyone else in the AG's office or why they didn't see it earlier than the three times they have publicly stated (late 2013, August 2013 and September 2013, all in press releases or interviews).

Holly LaBerge  
Executive Director  
Georgia Government Transparency and Campaign Finance Commission  
200 Piedmont Ave., S.E. | Suite 1402-West Tower | Atlanta, GA 30334  
Phone 404.463.7743  
Fax 404.463.1988  
[www.ethics.ga.gov](http://www.ethics.ga.gov)

---

**From:** Fleischer, Jodie (CMG-Atlanta) [mailto:jodie.fleischer@wsbtv.com]  
**Sent:** Friday, July 18, 2014 11:47 AM

**To:** LaBerge, Holly  
**Cc:** 'Gaither, Lesli ([LGaither@kilpatricktownsend.com](mailto:LGaither@kilpatricktownsend.com))'  
**Subject:** RE: Open Records Request

Can you please follow up with your IT folks regarding the printer log from that time frame?  
It's my understanding that all print servers have the capability to at least record the time, date and computer terminal where a document originated, even if it doesn't contain a screen shot of the document.

We do not need a copy of the actual memo, since it has already been provided by the Attorney General.

Also, please confirm if you are positive about the June 2013 date as when you turned the memo over to the AG's office. They indicated the memo didn't get to them until August 2013. We want to be as accurate as possible.

Thanks again,  
Jodie

---

**From:** LaBerge, Holly [<mailto:hlaberge@ethics.ga.gov>]  
**Sent:** Friday, July 18, 2014 9:41 AM  
**To:** Fleischer, Jodie (CMG-Atlanta)  
**Subject:** RE: Open Records Request

Dear Ms. Fleischer;

Per your ORA request, the memo is available in paper, its original native format, as the document was never saved to any piece of equipment and the print server on the printer used to print the memo does not save print jobs after the printing is completed. As such, there is no documentation of the "electronic origin" of the memo. You may pick up a copy of the memo from our office located at the address below for a cost of 10 cents per page. The memo is two pages for a total of 20 cents due.

There is no documentation of when I turned this memo over to the AG's office as it was done in person in June of 2013. This document has also been given to my attorneys. If you have any further questions, please let me know.

Regards,  
Holly

Holly LaBerge  
Executive Director  
Georgia Government Transparency and Campaign Finance Commission  
200 Piedmont Ave., S.E. | Suite 1402-West Tower | Atlanta, GA 30334  
Phone 404.463.7743  
Fax 404.463.1988  
[www.ethics.ga.gov](http://www.ethics.ga.gov)

---

**From:** Fleischer, Jodie (CMG-Atlanta) [<mailto:jodie.fleischer@wsbtv.com>]  
**Sent:** Tuesday, July 15, 2014 12:01 PM  
**To:** LaBerge, Holly  
**Subject:** Open Records Request

July 15, 2014

Ms. LaBerge,

The following request was already filed through the ethics commission website open records application, possibly several times, however I kept receiving an error message regarding the electronic security code, even though it was repeatedly typed correctly.

Please verify it was properly received, or otherwise, please consider this email our formal request.

In accordance with Georgia's Open Records Act, please provide the following:

-The original native form of Holly LaBerge's Memorandum of Record dated July 17, 2012.

To be clear, we are requesting documentation of its electronic origin, including the device on which it was created and the date/time at which this occurred.

We would also like any and all documentation of recipients of this document. Please provide all responsive records electronically.

Thank you,  
Jodie Fleischer  
WSB-TV



# Exhibit J

IN THE SUPERIOR COURT OF FULTON COUNTY

STATE OF GEORGIA

STACEY KALBERMAN, )  
 )  
 ) PLAINTIFF, )  
 ) ) CIVIL ACTION FILE  
 ) VS ) NO. 2012CV216247  
 )  
 ) GEORGIA GOVERNMENT )  
 ) TRANSPARENCY AND CAMPAIGN )  
 ) FINANCE COMMISSION, et al., )  
 )  
 ) DEFENDANTS. )  
 )

Transcript of EXCERPTED proceedings before the Honorable Ural Glanville and a jury, on Thursday, April 3, 2014, by Amy McKee, Certified Court Reporter B-1041, at Courtroom 5F, Fulton County Justice Center, Atlanta, Georgia.

APPEARANCES:

ON BEHALF OF THE PLAINTIFF: KIMBERLY WORTH, ESQ.  
D. BARTON BLACK, ESQ.  
MARY C. DAVIS, ESQ.

ON BEHALF OF THE DEFENDANT: BRYAN K. WEBB, ESQ.  
LAURA MCDONALD, ESQ.

\*\*\*\*\*

AMY MCKEE,  
OFFICIAL COURT REPORTER  
(404) 612-0525

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I N D E X

WITNESSES (PLAINTIFF)	DE	CE	RDE	RCE
JONATHAN HAIR				
BY MS. WORTH .....	4		19	
BY MS. MCDONALD .....		15		
ELISABETH OBERTEIN				
BY MR. BLACK .....	21		80	
BY MR. WEBB .....		66		

E X H I B I T S

PLAINTIFF'S EXHIBITS	IDENTIFIED	ADMITTED
114 E-MAIL .....	3	3
69, 83, 78, 88, 79, 94, 91, 93, 152, 129 .....	22	22
94 .....	56	
84 .....	76	76
143 .....	45	PREVIOUS
JOINT EXHIBITS 2-8 .....	45	PREVIOUS

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P R O C E E D I N G S

(Thursday, April 3, 2014, in open court.)

(Jury returned to courtroom, 11:29 a.m.)

THE DEPUTY: All jurors present, your Honor.

THE COURT: All right. Thank you, sir.

Ladies and gentlemen, please be seated.

Ms. Worth, call your next witness, madam.

MS. WORTH: Thank you, your Honor. Miss Kalberman calls Mr. Hair to the stand, Jonathan Hair.

THE COURT: All right. Summon Jonathan Hair, please.

(Pause.)

MS. WORTH: Your Honor, I would like to move in Plaintiff's 114.

THE COURT: Any objection to Plaintiff's 114, sir -- or Miss McDonald? I apologize. No objection?

MS. MCDONALD: No objection, your Honor.

THE COURT: All right. Plaintiff's 114 is admitted.

MS. WORTH: Thank you, your Honor.

THE COURT: Mr. Hair, good morning, still. How are you?

THE WITNESS: I'm good, Judge.

THE COURT: I'm up here. Everybody does that.

1                   If you could please approach the witness stand,  
2                   sir.

3                   THE WITNESS: Yes, sir.

4                   THE COURT: Once you get there, if you would turn  
5                   and face Deputy Alexander and be sworn as a witness.

6                   THE DEPUTY: Sir, please raise your right hand.

7                   (Witness sworn.)

8                   THE DEPUTY: Please be seated. Please state and  
9                   spell your name for the record of the Court.

10                  THE WITNESS: My name is Jon Hair. And what was  
11                  the other question? I'm sorry.

12                  THE COURT: Spell your last name.

13                  THE WITNESS: Oh, Hair, H-A-I-R.

14                  THE COURT: Okay. All right.

15                  Whereupon,

16    JON HAIR,

17                  having been first duly sworn, was examined and testified as  
18                  follows:

19    DIRECT EXAMINATION

20                  BY MS. WORTH:

21                  Q.           Mr. Hair, in this courtroom you have to speak very  
22                  slowly for the court reporter.

23                  A.           Yes, ma'am.

24                  Q.           Okay. All right. How are you today?

25                  A.           I'm doing well; how are you?

1 Q. I'm all right.

2 Can you tell the jury where you currently live,

3 Mr. Hair?

4 A. I live in Dunwoody, Georgia.

5 Q. Okay. And what's your occupation, sir?

6 A. Media specialist and computer specialist.

7 Q. Are you currently employed?

8 A. No, I am not.

9 Q. Can you very briefly describe your educational  
10 background for the jury, Mr. Hair?

11 A. Yes, I can. I have a degree that's in business  
12 management and also a degree that is in multimedia arts,  
13 particularly between broadcasting and cross-media.

14 Q. Are you -- excuse me -- can you briefly explain  
15 your professional background, excluding the Georgia Ethics  
16 Commission, please?

17 A. It's a professional background. A number of years  
18 working for various ABC News affiliates, everything from camera  
19 operator to editing. Producing. Let's see. Creative writing  
20 director. Pretty technical, kind of geeky stuff.

21 Q. All right. Can you explain to the jury what it  
22 means to be a media specialist?

23 A. Yes, I can. A media specialist, the dynamics of  
24 that is a person that's able to deal with various parts of  
25 technology software, for example, takes that software and pays

1 attention to different trends. And what I mean, trends, for  
2 example, Facebook -- which all of you -- I'm pretty sure most  
3 of you -- use, Twitter, those type of social formats and how to  
4 take that type of media and implement it, for example, into a  
5 Web page, for example, or a page that you would go to where  
6 you're interacting.

7 A media specialist also would work with video  
8 footage, taking video, shooting that video, editing that video,  
9 implementing that video to a Web page for content, for example.  
10 It's a number of things.

11 Q. Thank you, sir. Are you familiar with the Georgia  
12 Ethics Commission, Mr. Hair?

13 A. Yes, ma'am, I am.

14 Q. And how are you familiar with the Georgia Ethics  
15 Commission?

16 A. I was employed for the Georgia Ethics Commission.

17 Q. And what was the nature of your employment?

18 A. I was the media specialist.

19 Q. Okay. When did you begin your employment?

20 A. I begun my employment -- I believe the start date  
21 was March 5th of 2000 and, I believe, 12.

22 Q. Why did the Commission job appeal to you, sir?

23 A. Well, it was right down the avenue of the things  
24 that I was capable of doing; I felt very comfortable with it.  
25 They needed a media specialist and that was a position that I

1 had worked in in the capacity before and I felt very proficient  
2 at it.

3 Q. Who was the executive director of the Commission at  
4 the time of your employ?

5 A. Holly LaBerge.

6 I'm not speaking too fast, am I?

7 THE COURT: We'll tell you.

8 MS. WORTH: You'll know, you'll know.

9 BY MS. WORTH:

10 Q. Can you describe for the jury the duties that you  
11 had as a media specialist for the Commission, sir?

12 A. Yes, I can. The duties that I had as a media  
13 specialist for the Ethics was I was responsible on a few  
14 different parts. One was to be the Webmaster for the Web page,  
15 which constituents would have access to.

16 Another part of being a media ethics -- a media  
17 specialist for the Ethics Commission also consisted in I was  
18 responsible for being present at all of the Commission meetings  
19 with a videotape camera, shooting those meetings, and then,  
20 after the meeting was done, taking that video footage back,  
21 editing it for content -- and when I mean editing for that  
22 content was not taking anything -- you know, it was its regular  
23 content, but if there was a meeting and they went on break --  
24 which y'all, I'm pretty sure, appreciate some breaks -- I would  
25 come in and cut and say: Okay, we're on a break now. I don't



1 need five minutes of that footage that's going into just an  
2 empty room, for example -- and then pasting it and cutting it  
3 back to when the meeting would convene and process it and move  
4 forward.

5           Also as a media person, I was responsible for any  
6 of the audio that was concerned, the quality of the audio,  
7 making sure that audio was legible and people could hear and it  
8 was cognitive.

9           It also consisted, as far as digital graphics, any  
10 type of pictures that were needed to be put on the Website or  
11 any database, I was responsible for that type of content.

12           Think of the media specialist, basically, in  
13 laymen's terms, audiovisual. If I can hear it, if I can see  
14 it, that's usually something that I'm usually going to be  
15 responsible for. So that also would fall under PDF files,  
16 documents, things of that nature.

17           Q.       So then it's fair to say, Mr. Hair, that you were  
18 responsible for handling documents that came into the  
19 Commission as one of your duties?

20           A.       Yes, ma'am.

21           Q.       Did anyone assist you in handling these documents  
22 that came into the Georgia Ethics Commission?

23           A.       Did anyone assist me? If I was given a document,  
24 if it was given to me, then I would handle the document.

25           Q.       Can you explain to the jury what the protocol was

1 for handling documents at the start of your employ?

2 A. Yes. Well, there are a few protocols, but just in  
3 laymen's terms, the general process of me receiving a document,  
4 for example, I would receive a document from the director of  
5 education, for example, that was there. Holly LaBerge would  
6 walk up to me and would present a document to me. So Holly  
7 would give me a document.

8 Q. Had you ever had any experience in your employment  
9 background working for the Government?

10 A. No.

11 Q. Okay. All right. Beginning -- let me strike that.  
12 Was there ever a time in your employment where you  
13 were asked to handle documents in a different manner?

14 A. Yes.

15 Q. Okay. And can you explain how you were asked to  
16 handle documents in a different manner, Mr. Hair?

17 A. Well, I was asked to handle documents in a  
18 different manner -- I guess, really, to explain this -- usually  
19 I would receive some documents, often from Miss LaBerge, and it  
20 was a matter of taking that particular document and just  
21 putting it into a database or putting it on a Website,  
22 somewhere where an individual would have access, usually to the  
23 public or constituents.

24 With Miss LaBerge, she asked me also at times to  
25 receive certain documents and she would give me instructions of

1 what to do with those documents that weren't just: Can you  
2 take these documents and put them in the database, for example.

3 Q. Can you tell the jury what she asked you to do,  
4 Mr. Hair?

5 A. There were times when Miss LaBerge asked me to  
6 manipulate documents or take these documents and remove them  
7 from the database, and I was being instructed that there would  
8 be a replacement for that document, and so I would proceed with  
9 Mrs. LaBerge's request.

10 Q. Are you familiar, Mr. Hair, with the Open Records  
11 Act?

12 A. Yes, ma'am, I am.

13 Q. Just from your job at the Commission, what is your  
14 personal understanding generally of what the Open Records Act  
15 means?

16 A. Sure, yes. My general understanding of the Open  
17 Records Act is that any type of a government document or -- it  
18 can be various documents, but the gist of it is, let's say, for  
19 example, this is a government document. An Open Records Act  
20 means that in the form that this document has been originally  
21 processed, built, put together, once that is recognized and it  
22 has a Governor's seal -- a government seal on it, it is  
23 official document, and now, you, the public, you have access to  
24 this, now; you're taxpayers. You can see this, if you want to  
25 request to see it.

1 Q. Is it, as you understand it, your personal opinion,  
2 that documents that came into the Commission are part of the  
3 public record, in your opinion, and must be handled a certain  
4 way?

5 A. Yes, ma'am.

6 Q. Can you turn -- I have laid the book up there for  
7 you, Mr. Hair. Can you turn to Plaintiff's 114?

8 A. Okay.

9 MS. WORTH: Previously admitted, your Honor.

10 THE COURT: Thank you.

11 THE WITNESS: Okay.

12 BY MS. WORTH:

13 Q. This is an e-mail that was sent to you.

14 A. Yes.

15 Q. Okay. Before I -- and you are able to identify  
16 this e-mail that was sent to you from Miss LaBerge?

17 A. Yes, ma'am, I do recognize it.

18 Q. Thank you. Before I inquire of you into the  
19 e-mail, I would like to ask you: This method by which  
20 Miss LaBerge asked you to handle documents, did that happen on  
21 more than one occasion?

22 A. Yes, it did.

23 Q. Can you tell the jury how many occasions it  
24 happened?

25 A. I'd have to say that this -- it happened, I'd say,

1 well over 40 times, maybe 40 or 50 times.

2 Q. Have you explained all the ways Miss LaBerge asked  
3 you to handle documents during your employment with the  
4 Commission?

5 A. Did I answer all the ways that Miss LaBerge --

6 Q. Have you explained that?

7 A. No, I don't think I've explained all the ways  
8 that -- I don't understand. I'm sorry.

9 Q. Are there any other ways that Miss LaBerge directed  
10 you to handle documents during the course of your employment at  
11 the Commission, other than what you've testified to for the  
12 manipulation?

13 A. Okay. This format was used that I'm reading that's  
14 in front of me.

15 Q. You need to explain it to the jury.

16 A. All right. I want to make sure that I don't lose  
17 anyone.

18 There are documents that I did receive from  
19 Miss LaBerge and I was instructed to manipulate those  
20 documents, meaning taking sometimes paragraphs out of those  
21 particular documents, rearranging those documents, turning the  
22 document in -- from a PDF file over to an Excel spreadsheet,  
23 for example.

24 And when I would give that document back to  
25 Miss LaBerge using a jump drive, I would then receive a jump

1 drive back, and there were times where I would notice that --  
2 let's say, for example -- and I don't want to bore any of you  
3 and I don't speak over -- I don't want to be too technical.

4 But let's just say, for example, if the original  
5 piece of information that I gave to Miss LaBerge on a jump  
6 drive, for example -- let's say it was 800 megabytes -- the  
7 finished product that I would receive back sometimes, just for  
8 example, would be, maybe, 200 megabytes left. That's a lot of  
9 information that's gone, that's no longer there, that was  
10 originally there. That's one of the examples.

11 Q. Okay. This e-mail that I asked you to identify is  
12 an e-mail that you received from Miss LaBerge. Correct?

13 A. Yes.

14 Q. And it's been identified as Plaintiff's 114.

15 A. Yes.

16 Q. Can you explain what this e-mail generally meant to  
17 you when you received it? What is she asking for?

18 A. Well, what this e-mail generally means to me is --  
19 and I should probably add in the use of this jump drive to you  
20 all. For example, I was also instructed and asked with these  
21 particular documents to not send them over the in-house  
22 intranet -- not Internet, but intranet, meaning internal, okay?  
23 And I was instructed that the reason why she did not want that  
24 information of those documents or the manipulation of those  
25 documents to be sent is because she did not want them -- well,

1 it was my understanding -- individuals or reporters, for  
2 example, to be able to peer in and to see this information,  
3 meaning to circumvent the Freedom of Information Act.

4 Q. You mean the Open Records Act?

5 A. Oh, yeah, I'm sorry, Open Records Act; my apology;  
6 I'm a little nervous up here.

7 Q. That's okay, that's okay.

8 A. And how this is to segue into this e-mail, what  
9 this e-mail means to me, basically, is that this e-mail -- this  
10 e-mail to me is an indication that, one, it acknowledges the  
11 fact that this jump drive was being used.

12 Q. Let me stop you there, Mr. Hair.

13 So your testimony, then, is that you were asked to  
14 handle documents in a certain way by placing them on a disk;  
15 and then what would you do with the jump drive? What would you  
16 do?

17 A. Oh, I would physically give it to Miss LaBerge.

18 Q. Okay. All right. Did you have occasion, Mr. Hair,  
19 to learn what matters these documents that you were asked to  
20 handle this way pertained to?

21 A. Yes. I did have a way -- I knew what they were  
22 pertaining to; I was able to look at the documents.

23 Q. What matters did the documents pertain to,  
24 Mr. Hair?

25 A. Governor Deal.

1 Q. Did the documents pertain to any other matters?

2 A. No, they did not.

3 Q. Did you object to handling the documents in this  
4 manner?

5 A. Yes, I did.

6 Q. Are you still employed with the Commission,  
7 Mr. Hair?

8 A. No, ma'am, I am no longer.

9 Q. When was the last day of your employment?

10 A. The anniversary was two days ago, April 1st.

11 Q. What year?

12 A. 2013.

13 MS. WORTH: That's all I have for this witness,  
14 your Honor.

15 THE COURT: Cross.

16 CROSS-EXAMINATION

17 BY MS. MCDONALD:

18 Q. Good morning, Mr. Hair.

19 A. Good morning.

20 Q. You said you started your employment with the  
21 Commission on March 5th, 2012; is that correct?

22 A. Yes, I do believe so.

23 Q. And that was after Miss Kalberman left the  
24 Commission, correct?

25 A. Yes.



1 Q. You weren't employed with the Commission at any  
2 time during when Miss Kalberman was there, correct?

3 A. That's correct, no, I was not employed.

4 Q. And you weren't at the May 3rd Commission meeting  
5 when Miss Kalberman presented her budget report for the fiscal  
6 year beginning 2012 to the commissioners, were you?

7 A. No.

8 Q. And you weren't at the June 2011 Commission meeting  
9 when the commissioners voted to accept Miss Kalberman's  
10 resignation and to reduce the salary of the deputy -- or the  
11 executive secretary moving forward, were you?

12 A. I wasn't there.

13 Q. And you never had any conversations with any of the  
14 commissioners regarding the reasons for deciding to propose and  
15 eliminate -- or propose the elimination of the deputy position  
16 and the reduction of the -- of Miss Kalberman's salary, were  
17 you?

18 A. No, I wasn't there.

19 Q. And you never were privy to any conversations  
20 between the commissioners regarding that topic, were you?

21 A. No.

22 Q. I was an English major, Mr. Hair, so I don't fully  
23 understand all of the I.T. stuff, but can you explain to me  
24 again what you did, once -- the documents would be handed to  
25 you, physical documents would be handed to you, correct?

1 A. Sometimes.

2 Q. And you would scan them to the jump drive; is that  
3 right?

4 A. Yes, or I would -- or I would receive from  
5 Miss LaBerge documents that she or I would take that she  
6 probably obviously would scan to the jump drive and then give  
7 those documents to me electronically on the jump drive.

8 Q. Okay. With respect to the physical documents that  
9 were given to you, what did you do with them?

10 A. When I was done with them, I gave them back to  
11 Miss LaBerge, ma'am.

12 Q. And you don't know what happened to them after  
13 that, right?

14 A. No.

15 Q. Jump drives are sometimes meant to store documents  
16 and information but also to transport that information,  
17 correct?

18 A. Well, a jump drive, its sole purpose is to store  
19 information.

20 Q. And sometimes to transfer.

21 A. Oh, yeah, well, from one individual to another,  
22 yeah, easily.

23 Q. And then what would you do? Would you -- would you  
24 put them through on a particular Commission server?

25 A. No, it would never go on a Commission server; that

1 isn't what Miss LaBerge instructed me to do; she wanted it to  
2 be personally handed to her and --

3 Q. What was personally handed, the documents or --

4 A. The jump drive, the jump drive. The jump drive was  
5 personally handed from my hands to Miss LaBerge's hands, ma'am.

6 Q. What is a CPC printer?

7 A. CPC printer? CPC -- well, it's -- it is a printer  
8 that is designated there at the Commission. That's one of the  
9 formal uses that it was for. The designation CFC, that's the  
10 idea that it gets; that's one of the uses that the CFC printer  
11 was used for.

12 Does that answer your question?

13 Q. You were --

14 (Pause.)

15 Q. Are you aware whether any of these documents were  
16 scanned to the CPC printer?

17 A. You mean CFC.

18 Q. Yeah.

19 A. You said CPC.

20 Q. Yeah, CFC.

21 A. Okay, CFC. Was I aware that some of those  
22 documents were? Yes.

23 Q. You were instructed to put that -- or scan them to  
24 the CFC printer, correct?

25 A. Actually, I was instructed to scan, often, these

1 documents to a portable printer.

2 Q. And what was the name of that printer?

3 A. It didn't have its own designation; it was its own  
4 alone standing scanner.

5 Q. But some of the documents that you claimed were  
6 told to be removed or hidden were basically put on the CFC  
7 printer, correct, scanned on the CFC printer?

8 A. I was instructed by Miss LaBerge that some of these  
9 documents that she had had were scanned on the CFC printer and  
10 then shifted over to a jump drive and then handed over to me.

11 Q. And did she indicate the purpose of scanning them  
12 to the CFC printer?

13 A. Well, Miss LaBerge communicated to me that one of  
14 the examples -- this was one of her examples of not sending  
15 that information through the internal network.

16 MS. MCDONALD: Okay. Thank you.

17 THE COURT: Anything further?

18 MS. WORTH: Are you done, Laura?

19 MS. MCDONALD: Yes.

20 MS. WORTH: Just one further question.

21 REDIRECT EXAMINATION

22 BY MS. WORTH:

23 Q. Mr. Hair, were you instructed to handle documents  
24 in the same manner on other matters, other than Mr. Deal's?

25 A. No, ma'am, I was not.

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MS. WORTH: Thank you.

THE COURT: Anything further, Miss McDonald?

MS. WORTH: Mr. Hair's excused.

THE COURT: I'm talking to her --

MS. WORTH: Oh, I'm sorry.

THE COURT: -- okay?

MS. WORTH: I'm sorry. Twice now.

THE COURT: I know you're eager; just hold on.  
Anything else, madam?

MS. MCDONALD: No, your Honor.

THE COURT: Okay. All right. Counsel, may  
Mr. Hair be permanently or temporarily excused as a  
witness?

MS. WORTH: From the plaintiff, yes, your Honor.

MR. WEBB: Permanently, your Honor.

(Conclusion of Mr. Hair's testimony.)

\*\*\*\*\*

THE COURT: All right. Call your next witness,  
Mr. Black.

MR. BLACK: Your Honor, the plaintiff's call  
Elisabeth Murray-Obertein.

THE COURT: All right. Summon Miss Obertein,  
please.

(Pause.)

1 THE COURT: Miss Obertein, good morning, ma'am.

2 THE WITNESS: Hi.

3 THE COURT: I'm over here. Everybody does that.  
4 I'm over here.

5 If you could please approach the witness stand.  
6 Once you get there, if you would turn and face Deputy  
7 Alexander to be sworn as a witness, ma'am.

8 THE DEPUTY: Raise your right hand, please.

9 (Witness sworn.)

10 THE DEPUTY: Lower your right hand. Please be  
11 seated. Please state and spell your name for the record  
12 of the court.

13 THE WITNESS: My name is Elisabeth, and that's  
14 E-L-I-S-A-B-E-T-H, and my last name is hyphenated; the  
15 first part is Murray, M-U-R-R-A-Y, hyphen,  
16 O-B-E-R-T-E-I-N.

17 Whereupon,

18 ELISABETH MURRAY-OBERTEIN,  
19 having been first duly sworn, was examined and testified as  
20 follows:

21 DIRECT EXAMINATION

22 BY MR. BLACK:

23 Q. Good morning, Miss Murray-Obertein.

24 A. Hi.

25 Q. Before we get started, going to move to admit

1 several Plaintiff's exhibits so we can just speed up the  
2 process.

3 MR. BLACK: Your Honor, Plaintiffs move to admit  
4 Plaintiff's Exhibits 69, 83, 78, 88, 79, 94, 91, 93, 152,  
5 129.

6 THE COURT: Any objection to Plaintiff's 69, 83,  
7 78, 88, 79, 94, 91, 93, 152, or 129, sir?

8 MR. WEBB: No, your Honor.

9 THE COURT: All right. They're admitted.

10 BY MR. BLACK:

11 Q. And Miss Murray-Obertein, I'm going to hand you a  
12 binder for your convenience with the exhibits we're going to  
13 discuss.

14 (Pause.)

15 A. Okay.

16 Q. Miss Murray-Obertein, where do you live?

17 A. I live in Kennesaw, Georgia.

18 Q. And what do you do for a living?

19 A. I'm an attorney.

20 Q. Are you familiar with the State Ethics Commission?

21 A. Yes, I am; I -- when I was employed there, though,  
22 it was called the Georgia Government Transparency and Campaign  
23 Finance Commission.

24 Q. And it's quite a mouthful so --

25 A. Yes.

1 Q. So maybe just call it the Commission, if that's  
2 okay.

3 A. Yes.

4 Q. And in what role were you employed there?

5 A. I was employed as the staff attorney.

6 Q. And how long have you been an attorney?

7 A. I graduated from law school in December of 2002, so  
8 this is my 12th year of being an attorney.

9 Q. And how many states are you licensed in?

10 A. I'm licensed in three states; I'm licensed in  
11 Pennsylvania, North Carolina and Georgia.

12 Q. And when were you a staff attorney for the  
13 Commission?

14 A. I was a staff attorney -- I started working there  
15 in December 1st of 2011.

16 Q. And are you still the staff attorney?

17 A. No, I'm not.

18 Q. And until when were you the staff attorney?

19 A. My last formal day was January 30th of 2014.

20 Q. Prior to being the staff attorney, just briefly  
21 what -- in your -- I think you said 10 to 12 years in being an  
22 attorney, what other experience have you had?

23 A. When I was living in Pennsylvania I worked for a  
24 personal injury law firm, and after that I moved back to North  
25 Carolina and I worked for a firm in Asheville called the



1 Eleanor law firm, and I worked on medical malpractice claims  
2 and a lot of different types of health care law. And I did  
3 that for over a year, and after that I left that firm to start  
4 my own firm, and I had that firm for over five years.

5 Q. And was that your last position, having your own  
6 firm, prior to coming to the Ethics Commission?

7 A. Yes.

8 Q. How did you learn that the staff attorney position  
9 was open at the Ethics Commission?

10 A. I didn't -- there was a period of time in between  
11 when I was closing down my firm and when I was looking for a  
12 job; I got married and had a baby in between; and so when I was  
13 ready to go back to work, I just -- since I don't know anybody  
14 in Georgia, I just would go to the Websites and submit my  
15 resume online.

16 Q. What interested you about the job and working in  
17 state government?

18 A. Well, in North Carolina I did a lot of indigent  
19 defense work, and I've always been civic minded and interested  
20 in politics, although I had never really done anything, other  
21 than vote, but -- so it appealed to me and it also appealed to  
22 me because it was a State job. And after having your own firm,  
23 when you just work when you have to and you get paid when your  
24 clients come in, it appealed to me to have a steady paycheck.

25 Q. Okay. And you said -- did you apply online?

1 A. Yes, I did; I submitted my resume online.

2 Q. Before you submitted your resume online, did you  
3 know anybody at the Commission beforehand?

4 A. No, I did not.

5 Q. Did you know anybody in the Governor's office?

6 A. No, I didn't.

7 Q. Did you know anybody, really, in Georgia State  
8 Government?

9 A. I didn't know anyone in Georgia except for when I  
10 got here.

11 Q. And so after you applied, if you could briefly  
12 describe the interview process that got you into the position  
13 of staff attorney.

14 A. I believe it was in October of 2011 when I received  
15 in -- it was either a phone call or an e-mail from Holly  
16 LaBerge and -- asking me to come in for an interview. And I  
17 set up an appointment and I went in for the interview. Then  
18 that's basically the way it was.

19 Q. Okay. Did you ever meet with the commissioners, or  
20 did Miss LaBerge make the decision herself, as far as you knew?

21 A. I never met the Commissioner during the interview  
22 process; it was just Holly LaBerge.

23 Q. And when did you start, again?

24 A. I just started on December 1st of 2011.

25 Q. And when you started, was Mr. Kevin Abernethy the

1 chair of the Commission?

2 A. Yes, he was.

3 Q. And was he -- is he still today, as far as you  
4 know?

5 A. As far as I know.

6 Q. And Miss LaBerge was the executive secretary back  
7 then and is still today, as far as you know?

8 A. As far as I know.

9 Q. Okay. Were Miss LaBerge and Mr. Abernethy -- did  
10 they work closely together?

11 A. They worked extremely closely together, yes.

12 Q. Okay. How often would they speak?

13 A. Sometimes it was every day, but it was at least  
14 once a week that -- at least, minimum once a week, that they  
15 would either have telephone conversations or she would go to  
16 his office and meet, and sometimes he would come down to the  
17 Commission.

18 Q. Okay. When Miss LaBerge hired you, what about your  
19 background did she say interested her?

20 A. First of all, she said that she really liked the  
21 fact that I had done bankruptcy for over five years, because in  
22 bankruptcy you use a federal code, and the law that you have to  
23 interpret for the Commission is also a code that's specific to  
24 the Commission itself.

25 And so since I had over five years' experience with

1 that, she liked that. She also liked that I was involved with  
2 extremely complex litigation when I did medical malpractice,  
3 because I told her in the interview process that the firm I  
4 worked for, pretty much my sole responsibility was working for  
5 the lead attorney and we were representing 50 plaintiffs  
6 against one defendant doctor and one defendant hospital.

7 And she was -- she thought that that was really  
8 good for investigation, because it was my job to do the  
9 discovery and there was a lot of investigation with that.

10 And the other thing I remember her telling me is  
11 she liked the fact I didn't know anybody in Georgia.

12 Q. You weren't aware at the time of Miss Kalberman's  
13 situation that she had?

14 A. I hadn't heard of it because that was the summer  
15 right after I had my third son, so I was pretty occupied.

16 Q. Sure. Did Miss LaBerge mention anything to you  
17 about Miss Kalberman's administration during the interview  
18 process?

19 A. She absolutely did. In the interview process,  
20 which I found at the time to be a little unsettling, she  
21 told -- she had asked me if I had heard about the news coverage  
22 of the events that happened the summer before, and I had no  
23 idea what she was talking about.

24 So she explained to me that the former executive  
25 secretary and the former deputy executive secretary were fired

1 the summer before and that the news media had been reporting  
2 that the rationale was because of the investigation that was  
3 underway into the Nathan Deal case and that there were -- you  
4 know, the Commission's rationale for firing was budgetary  
5 reasons.

6 And she told me that in the interview itself, which  
7 I thought was really unusual, because I had never had an  
8 interview where somebody would talk about pending litigation  
9 because I was told that they were concerned that there would be  
10 any litigation based on how the former two applies, and that  
11 was in -- like I said, around October of 2011.

12 And so I discussed it with my husband, because I  
13 was really kind of anxious about: Do I really want to do this?  
14 Because that -- I've never dealt with governors and politicians  
15 and stuff before, so it made me a little nervous.

16 Q. Did she make any comments about the personal or  
17 professional behavior of Miss Kalberman and Miss Streicker?

18 A. For some reason, Holly was extremely antagonistic  
19 towards Stacey and Sherry, and like I said, I didn't know these  
20 people at all, and so at first I didn't think anything of it,  
21 but then I thought it was a little odd how angry she seemed to  
22 be whenever she spoke about Stacey Kalberman or Sherry  
23 Streicker. It just seemed sort of odd because whenever I have  
24 taken over a job for another person, I don't really think about  
25 that person anymore, so I thought it was odd.

1 Q. Now, at some point was it your understanding that  
2 Miss Streicker and Miss Kalberman were no longer there because  
3 of reductions in force, you know, terminations because of cost  
4 issues, as opposed to some reasons with their personal or  
5 professional attitudes?

6 A. There were a lot of discussions when I first got  
7 there about the transition because it was an extremely abrupt  
8 transition; there was nobody there to train anybody. So one  
9 minute you had, you know, a director and an assistant's  
10 director, and then the next minute you had a totally new regime  
11 with no overlapping with explaining what we were doing  
12 yesterday and now this is what you're doing today.

13 So there was a lot of discussion about the event  
14 that led up to that, and I was told that the Commission fired  
15 them for budgetary reasons, but it was always followed up with:  
16 However, they were also extremely unhappy with how the  
17 investigation into the Nathan Deal cases were being handled by  
18 particularly Sherry Streicker, but also Stacey Kalberman.

19 Q. Did you hear those comments about how the Deal  
20 investigation was handled from any particular commissioners?

21 A. I heard from Kevin, himself, Kevin Abernethy  
22 himself, because he was the one I normally had conversations  
23 with because he was the chair at the time.

24 Q. And from Miss LaBerge, did you hear the same?

25 A. I heard more frequently from Miss LaBerge, and she

1 would be more specific, in that the commissioners were  
2 displeased because they felt that Stacey and Sherry were  
3 delving into the investigation too deeply and that she used the  
4 term that they would go off the reservation and go into things  
5 that the Commissioner did not want the agency to be  
6 investigating.

7 Q. Are you aware of Miss Streicker applied for the  
8 position of staff attorney that you ultimately got?

9 A. Yes, I was.

10 Q. And did these comments that you have just  
11 attributed to Miss LaBerge indicate why you think that  
12 Streicker was not considered for that position?

13 A. She told me that she would quit before she would  
14 hire Sherry Streicker back because that she did not -- she  
15 didn't want to work with somebody who was investigating the  
16 government -- the Governor in the manner that she was because  
17 she knows -- she knew that it displeased the commissioners and  
18 that she also, you know, just made comments, just disparaging  
19 comments, about she didn't think that she did a good job in  
20 that position and she had no intention of hiring her.

21 Q. Okay. When you started, was Miss LaBerge going to  
22 be your manager?

23 A. Yes.

24 Q. And what were your job duties?

25 A. The main job duties that I had were to be -- to

1 investigate complaints. I would -- when a complaint came in  
2 through the door, I would determine, first of all, whether we  
3 were going to accept it, and then I would work with the  
4 respondents and determine whether there were any new  
5 allegations, and that was based on an audit report that was  
6 completed by the auditor.

7           And I also would do negotiations and draft consent  
8 orders. And basically there is three ways a case could be  
9 resolved: You can either dismiss it because you -- after  
10 investigation, you determine that there actually was no  
11 violation; you can offer what's called a consent order to the  
12 respondent, and that means that the respondent has to consent  
13 that: Yeah, I did violate the Act and I'm going to pay these  
14 penalties as a result. Or if you couldn't come to a  
15 negotiation, then you would have a hearing in front of the  
16 Board of Commissioners for them to determine whether there were  
17 probable cause that a violation of the Act had occurred.

18           Q.       And after a complaint, were there monetary  
19 penalties or fines that could potentially be assessed against a  
20 campaign?

21           A.       Yes. There were civil penalties and there are also  
22 administrative fees.

23           Q.       Is there a difference?

24           A.       Yes, there is a difference. Pursuant to the  
25 statute, there is a category of violations that are called



1 technical defects. And per the statute that if you commit a  
2 technical defect, then the penalty can only be \$50 per defect.  
3 And the distinction is is a technical defect is defined in the  
4 statute itself, and an example would be is if you did offer the  
5 information but there was something like a mistake, an  
6 accounting mistake, you didn't add the column of numbers up  
7 correctly, or if you had the date, but the date wasn't correct,  
8 or if, for instance, you gave the address but you left off the  
9 zip code, something like that that you did -- you were  
10 attempting to comply with the Act but you got it wrong. So  
11 that was only a \$50 per individual.

12           And then you had what was called a civil penalty,  
13 and that was when someone actually violated the Act.

14           Q.       And in regard to the civil penalties, were there  
15 any guidelines in the office from Miss LaBerge as to the  
16 monetary amounts you would assess?

17           A.       Yes. Pursuant to the statute, the maximum  
18 violation per individual violation is a thousand dollars. So  
19 when I was to draft consent orders to offer to the respondents,  
20 I would have to start out with the top, which was a thousand  
21 dollars, when I sent them the consent order initially, and then  
22 I could negotiate with them and come up with a smaller amount;  
23 it would depend on the circumstances as to how far she would  
24 come down -- Holly LaBerge would come down on fines.

25           Q.       And I apologize; did you mention whether she had a

1 minimum?

2 A. No, she didn't. Her minimum -- the entire time I  
3 was there, the minimum she would go -- would not go below was  
4 \$100, and that was across the board, except for two or three  
5 cases that I can think of. It was extremely rare for her to be  
6 willing to come less than a \$100 per violation.

7 Q. Do you recall any cases in particular where she  
8 went below \$100?

9 A. Nathan Deal was the biggest case that that occurred  
10 and the only one I can remember off the top of my head; the  
11 only reason she came down was because I felt compassion towards  
12 the respondent because he was an elderly gentleman on a fixed  
13 income and he was not a professional politician, and I was  
14 like: He can't afford \$100; he's on a fixed income; he was a  
15 World War II vet, and I just went to bat for him. And after a  
16 lot of convincing, I remember that was one, but it was not  
17 something she liked to do.

18 Q. Okay. So would it be fair to say going below \$100  
19 per penalty in the Nathan Deal case was an anomaly and an  
20 exception?

21 A. Yes, definitely.

22 Q. In regard to your other duties, in prior  
23 administrations the attorneys had drafted advisory opinions; is  
24 that your understanding?

25 A. Yes.

1 Q. And is it fair to say an advisory opinion is when  
2 the attorneys from the Ethics Commission provides advice to the  
3 general public and candidates about how they can comply with  
4 the Campaign Finance Act?

5 A. Yes.

6 Q. And were you given this responsibility, or was it  
7 given to somebody else when you became the staff attorney?

8 A. It was not my responsibility to do the advisory  
9 opinions when I got there.

10 Q. And why not?

11 A. I was told that when Holly was initially hired that  
12 the commissioners had decided they don't need an attorney at  
13 all in the agency. And that Holly explained to me that because  
14 of that, they had a contract with a local attorney, because  
15 without having a license to practice law, that's -- that's a  
16 task that is solely reserved for somebody who is an attorney,  
17 and since she was not an attorney, that was something that had  
18 to be contracted out.

19 And she was only there for approximately four to  
20 six weeks when she discovered herself that: I can't do this  
21 without a license; I need an attorney, and they had already  
22 disposed of the Assistant Deputy Director, so they had to kind  
23 of go back to the -- had to go back and figure out how they  
24 were going to do it, and so that when the position of staff  
25 attorney came into existence was based on the fact that

1 initially they thought they didn't need one.

2 Q. Did they pull the advisory opinions back in house  
3 when you were hired?

4 A. No, because they had already had a signed contract  
5 with an outside individual.

6 Q. Was there any other reason from the Commissioners  
7 that you heard as to why they didn't bring the advisory  
8 opinions back in-house for you?

9 A. There was some talk about how they didn't think it  
10 was appropriate for the attorney who was the executive  
11 secretary to write an advisory opinion, because of the way the  
12 advisory opinion arises is when somebody generally -- generally  
13 arises is when somebody disagrees with what the attorney has  
14 recommended.

15 So, for instance, when I was a staff attorney, if I  
16 had said: I think you violated the Act, and this person  
17 absolutely does not agree with that, then they have the option  
18 of asking for an advisory opinion. So they thought that they  
19 should have -- that it shouldn't be the same person. But that  
20 was not something official; that was just sort of some  
21 rumblings.

22 Q. Okay. When you started, what was your starting  
23 salary?

24 A. 60,000.

25 Q. Was there any expectation of a raise?

1 A. Yes.

2 Q. And what was that expectation?

3 A. Holly and I had had conversations about how the  
4 salaries for her position and my position were a lot lower than  
5 what one would expect in a position like that and that it was  
6 the hope that she and I could both get raises.

7 Q. And were you or she -- you or her given raises?

8 A. Ultimately, yes. And the way that that occurred  
9 was after the birth of my last child, which is right after the  
10 Nathan Deal case was handled, two weeks after -- I say right  
11 after; it was the next thing that happened -- I came back after  
12 maternity leave and I explained that I could not continue to  
13 work for the salary; and we had discussed salary raises, and if  
14 you guys expect me to continue in this position, then we're  
15 going to -- I need a raise in order to stay because now I have  
16 two daycare expenditures, so that's how the initial  
17 conversation of salary raises began.

18 Q. And then how did you ultimately -- did you  
19 ultimately get a raise?

20 A. I did get a raise, because I approached Holly in  
21 December of 2012 and I said: Hey, I've been here a year now;  
22 am I going to get my review? And she said: Yes, but we're  
23 going to do all of the reviews at a later date because there  
24 was several people, it was my understanding, that had reviews  
25 that were due around the same time, so she was going to do them

1 all at the same time.

2           And she had told me that Hillary had approached her  
3 after the Nathan Deal hearing, literally that day, and said:  
4 You need to give her a raise because she's done a really good  
5 job and you need to keep her.

6           And so at the review that I had, I was told that  
7 they wanted to give me a raise; however, that because of the  
8 concern with the pending litigation in the Sherry Streicker and  
9 Stacey Kalberman cases, that they did not want to give raises  
10 at that time because that would weaken their argument that it  
11 was budgetary reasons to begin with that the two former  
12 attorneys were fired.

13           So that was the first conversation I had. And so I  
14 had the review and I exceeded all expectations in that review,  
15 and I was told that: You're just going to have to wait, but  
16 yes, you will get the raise.

17           So we had several more conversations during that  
18 spring about the raise. And Holly ultimately came to me and  
19 told me that she had gone to the Governor himself and asked  
20 permission to get herself and me raises, because she told me --  
21 whether this is true or not, I have no way to follow up on  
22 that -- but at the time she told me there was a freeze on  
23 government employees' salaries and that she had to get special  
24 permission from the Governor himself to get raises for Holly  
25 and myself and that: Good news, she went to the Governor and

1 the Governor said that we can both have raises.

2 And Holly, interestingly enough, got her raise at  
3 that time, but they told me I had to wait one month.

4 Q. Okay. Thank you.

5 A. Oh, I'm sorry, did you want me to continue with  
6 that or --

7 THE COURT: Hold on.

8 Mr. Black? Counsel?

9 (Bench conference.)

10 THE COURT: All right, ladies and gentlemen, Miss  
11 Murray-Obertein, we are going to break at this point in  
12 time for lunch.

13 (Lunch recess taken from 12:20 p.m. to 1:36 p.m.)

14 THE COURT: All right. Counsels, are we ready to  
15 proceed or reconvene?

16 MS. WORTH: Yes, sir.

17 THE COURT: Okay. Summon our jurors, please, sir.

18 (Pause.)

19 THE DEPUTY: All rise for the jury.

20 (Jury returned to courtroom, 1:38 p.m.)

21 THE DEPUTY: All jurors present, your Honor.

22 THE COURT: All right. Thank you, Deputy

23 Alexander.

24 Ladies and gentlemen, please be seated.

25 All right. Members of the jury, good afternoon.

1 We are going to continue forward at this point in time  
2 with the testimony of Miss Murray-Obertein.

3 So Counsel, you may proceed.

4 MR. BLACK: Thank you, your Honor.

5 DIRECT EXAMINATION (CONTINUED)

6 BY MR. BLACK:

7 Q. Miss Murray-Obertein, when you started at the  
8 Commission, were you given an orientation or given a case  
9 status and pointed in a direction to go?

10 A. Not when I first arrived; the only instruction I  
11 had was: There is your office, there is a computer and there  
12 is the files. And -- because there was nobody there that knew  
13 what was going on as -- because like I said, there was no  
14 transition where, you know, the person before you could sit  
15 down with you, even for a day, and say: This is what I was  
16 working on and this is -- so literally, I walked in and there  
17 was a wall of files, and they were like: Go get it.

18 And so that's basically what I was doing for the  
19 first few weeks, was familiarizing myself with the statute and  
20 just where the files are and how to find them on the  
21 Internet -- I mean on the computer; it wasn't the Internet; the  
22 intranet, I think is what it was called -- and so that's what I  
23 did for the first couple weeks that I was there.

24 Q. Was that Holly that guided you with that -- or I'm  
25 sorry, Miss LaBerge that guided you?



1           A.       Actually, it wasn't; it was Lisa Dentler, the  
2 secretary.

3           Q.       Okay. With the Deal investigation, the Deal  
4 complaints, how did you learn about the Deal complaints shortly  
5 after you started?

6           A.       Well, I had already heard about the Deal  
7 complaints, even in the interview process, but within the first  
8 two weeks Kevin Abernethy, the chair at the time of the  
9 commissioners, called me and introduced himself and welcomed me  
10 to the agency, and he said that he would like me to start with  
11 the Nathan Deal files and the John Oxendine files.

12          Q.       And what were you told to do with the Deal file?

13          A.       I was told to go figure it out. There were many  
14 different case numbers, many different allegations, and it  
15 took -- the files took pretty much an entire shelf, in and of  
16 itself, and so that was a lot of work for somebody to just come  
17 in cold, so it took -- those were my instructions, to just  
18 start with that, and that was initially my instruction.

19                   And I was also told that the Commission -- this is  
20 what Holly told me -- Holly LaBerge told me that the  
21 commissioners were not happy about the subpoena that Sherry and  
22 Stacey had drafted the summer before and that they thought  
23 that -- she said the subpoena was overly broad, which is a  
24 legal term and she is not an attorney, so that kind of  
25 surprised me that she was telling me her legal analysis of the

1 probable cause document. And that there were many, many  
2 avenues that the commissioners did not want the agency to  
3 investigate.

4 Q. So how did you organize the file and determine what  
5 avenues of the complaints you were going to pursue?

6 A. The very first thing that I did is there were at  
7 least seven different case files that I was working on, and  
8 each individual complaint was based on, you know, different  
9 complainants. There were six, I think, submitted by the same  
10 complainants, and because there were so many different  
11 complaints, what I decided to do was to draft a letter to Randy  
12 Evans, where I wanted him to -- he and I to be on the same page  
13 as to what the actual allegations were, because in the  
14 complaints themselves, there was a lot of rambling language and  
15 a lot of comments that I thought were editorial in nature and  
16 really not allegations in and of themselves.

17 So I drafted this very detailed letter with  
18 everything that I thought was an allegation based on violations  
19 of the Act, and I sent that to Randy Evans and asked, you know:  
20 Is this your understanding? And he consented, so that's where  
21 I started.

22 Q. If you'd flip in your binder to Plaintiff's  
23 Exhibit 69. Is this the letter that you sent to Mr. Evans?

24 A. Yes, it is.

25 Q. And after you sent the letter, did you -- well, in

1 sending the letter, did you group the -- several of the  
2 complaints into sub-complaints or subcategories?

3 A. Yes, I did, because there were -- the way I chose  
4 to group them is in 2010-33-A, I included all the violations  
5 that were included in what were called campaign disclosure  
6 reports. And then in 33-B, I put all of the allegations that  
7 pertained to his personal financial disclosure statements, and  
8 the 33-C I put in all of the allegations that pertained to the  
9 airplane issues.

10 Q. Were there any additional complaints that you found  
11 and that you investigated -- began to investigate in the Deal  
12 investigation?

13 A. Yes. There were at least three, if I recall,  
14 because you have to remember, this was all the way back in 2012  
15 and I was pregnant, so that's -- that -- that's been a while  
16 ago.

17 So from my recollection is that there was one  
18 complaint that was based on an allegation that Governor Deal  
19 had used his State campaign funds to pay for an ethics  
20 violation that occurred when he was in Washington, representing  
21 the State of Georgia in Congress. And there was one complaint  
22 that the allegations were that he accepted over the limit from  
23 many, many, many contributors; there was a lot of different  
24 contributors in that allegation.

25 And then there were three other complaints that

1 were filed subsequent -- in 2011 at some point that were  
2 just -- they were redundant, that most of the allegations had  
3 already been included. So that was how I began to separate  
4 each one out, because there were so many violations.

5 Q. Okay. Do you recall if the complaint in regard to  
6 the use of his -- alleging his use of campaign donations to pay  
7 for his legal fees for his investigation in Congress, do you  
8 recall if that was identified as Complaint 2010-39?

9 A. Yes, it was.

10 Q. And was the complaint alleging that he had accepted  
11 donations above the maximum level under state law, was that  
12 titled as Complaint 2010-63?

13 A. Yes.

14 Q. Okay. Did you have all the documentation in the  
15 files that you inherited to be able to fully perform an  
16 investigation?

17 A. I wouldn't say fully informed, but I was just -- at  
18 the beginning I was merely trying to determine where we were in  
19 the investigation, and because there was a lot of, you know,  
20 duplicate allegations -- and that's where I started, but I  
21 wouldn't say at all that we had all of the documents that we  
22 needed to complete the investigation.

23 Q. Who would you have reached out to to obtain  
24 documents?

25 A. Randy Evans, who represented Nathan Deal.

1 Q. Will you turn to Plaintiff's Exhibit 83, please, in  
2 your binder?

3 (Pause.)

4 Is the attachment here to the e-mail, Plaintiff's  
5 Exhibit 83, would this be an example of requesting additional  
6 documents from Mr. Evans?

7 A. You mean the letter itself?

8 Q. Yes, the letter itself.

9 (Pause.)

10 A. Yes; this appears to be a follow-up letter to the  
11 initial requests that I sent in reference to the documents for  
12 the personal financial disclosure statements.

13 Q. And as a followup, did you provide deadlines for  
14 production, and then what would happen if deadlines weren't  
15 met?

16 A. If deadlines were not met, then I -- I was  
17 instructed to give him a second chance, and if we still did not  
18 receive the documentation, that we would -- you know, they  
19 would have me draft a subpoena just for the specific documents  
20 that I was referring to in this letter.

21 Q. So you, at least -- is it fair to say you  
22 contemplated the use of subpoenas to Mr. Evans if you needed to  
23 obtain documents?

24 A. Absolutely, yes.

25 Q. Are you familiar with the subpoenas that

1 Miss Streicker prepared when she was employed with the  
2 Commission?

3 A. I'm familiar with them, in that they were in the  
4 file and I read them, yes.

5 Q. Okay. Now, Mr. Evans was the attorney for the Deal  
6 campaign, correct?

7 A. Correct.

8 Q. Was he the attorney for any other entities, such as  
9 Creekside Consulting, Southern Magnolia and North Georgia  
10 Aviation, any of those entities?

11 A. Not that I'm aware of; at least he never sent me a  
12 letter of representation for those entities.

13 Q. Okay. Were -- would you please refer to or flip to  
14 Joint Exhibits 2 through 8 and then Plaintiff's Exhibit 143.

15 THE COURT: I take it those have already been  
16 admitted, right?

17 MR. BLACK: Yes, your Honor, they have all  
18 previously been admitted.

19 THE COURT: All right.

20 BY MR. BLACK:

21 Q. Elisabeth, you -- Miss Murray-Obertein, do you  
22 recognize these as subpoenas that Miss Streicker and  
23 Miss Kalberman had prepared and presented to the Commission  
24 prior to your employment?

25 A. This doesn't appear to be the same exact copy that

1 was in the file that I saw, but this is certainly a subpoena  
2 that is addressed to Nathan Deal. I don't think the one in the  
3 file looked exactly like this.

4 Q. Okay. Do the names on subpoenas, such as Southern  
5 Magnolia Capital, Creekside Consulting, PWWR, HRPW Investment,  
6 do you recall those as being entities to which subpoenas were  
7 going to be served by the Streicker and Kalberman  
8 administration?

9 A. Yes.

10 Q. Did you ever seek documents from any of those  
11 entities that were not affiliated with the Deal  
12 administration -- excuse me, with the Deal campaign?

13 A. No, I did not.

14 Q. Are you aware, or is it fair to say that the  
15 investigations that had brought forth, the names of Southern  
16 Magnolia Capital and Creekside Consulting, had elicited those  
17 names because there were allegations that payments were being  
18 made to those companies for services that weren't rendered, or  
19 the companies were not legitimately in your campaign  
20 contribution or any other campaign consulting business?

21 A. I'm sorry, could you repeat that? I'm sorry.

22 Q. Are you aware that -- let me ask it this way: Are  
23 you aware that Mr. Deal and his counsel disavowed any  
24 connection to Southern Magnolia Capital, Creekside Consulting  
25 and the other third party entities that were listed on the

1 subpoenas?

2 A. I'm -- what do you mean by disavow? I'm sorry.

3 Q. That Mr. Deal and his counsel, for example, said:  
4 Southern Magnolia is not --

5 MR. WEBB: Your Honor, I'm going to object on the  
6 basis --

7 THE COURT: Basis?

8 MR. WEBB: -- of hearsay.

9 THE COURT: I sustain the objection.

10 BY MR. BLACK:

11 Q. I can ask it another way. Are you familiar with  
12 the allegations that were found in Miss Streicker and  
13 Miss Kalberman's campaign about Southern Magnolia Capital?

14 A. Yes.

15 Q. And what were those?

16 A. The allegation in reference to Southern Magnolia  
17 was that the Governor was spending huge amounts of campaign  
18 funds, and I think what my recollection was, it was something  
19 in the neighborhood of \$700,000 that he was paying to his  
20 daughter-in-law, Denise Deal. And there were issues, based on  
21 what I found in the file, for whether or not this was a  
22 legitimate business. And so that was my understanding of the  
23 research that I found in the file.

24 Q. And did you ever send any document requests to  
25 Southern Magnolia, trying to further your investigation?



1           A.       No, I did not, because Holly LaBerge told me not  
2 to.

3           Q.       And why did she tell you not to?

4           A.       Well, the way I investigated cases was that,  
5 because there were so many allegations, I would take two or  
6 three at a time and I'd collect my research and then I'd go to  
7 Holly LaBerge and say: Okay, this is what I found. Should we  
8 pursue this, or do you want to dismiss it? What do you want to  
9 do?

10                   And she told me, in relation to Southern Magnolia,  
11 she said: Oh, I know Denise, and I know what she was doing for  
12 Southern Magnolia and I don't have any problem with that  
13 expenditure because there is nothing out of the ordinary for  
14 the Governor to spend \$700,000 to Denise Deal for those type of  
15 services. And she -- she implied that basically, because she  
16 knew Denise Deal, that she didn't want me to go down that  
17 route, because she was comfortable that it was a legitimate  
18 business.

19           Q.       So at that point had Miss LaBerge effectively shut  
20 down any investigation into Southern Magnolia Capital?

21           A.       Yes, because I had no ability to independently  
22 investigate. The buck stopped with Holly LaBerge. If she said  
23 no, she was the executive director, that's what I had to do.

24           Q.       Sure. In regard to Plaintiff's Exhibit 143, a  
25 subpoena to Creekside Consulting, did you ever reach -- strike

1 that.

2 Are you aware of allegations against Creekside  
3 Consulting in regard to the Deal investigation?

4 A. Yes.

5 Q. And what were they?

6 A. Creekside was -- the allegation was that it wasn't  
7 a real company, that the person who received the campaign funds  
8 for payment of services was Richard Riley, who is Governor  
9 Deal's chief-of-staff's father -- Chris Riley is the chief of  
10 staff; Richard Riley was his father -- and from -- based on the  
11 research that Sherry Streicker had done in the file, it was my  
12 understanding that there was no address for Creekside  
13 Consulting, there was -- that you could find, you know, on the  
14 Internet. In her research, she couldn't find an address, there  
15 were no articles of incorporation with the Secretary of State,  
16 there was no phone number, there was absolutely no way to  
17 contact these people, so that's why they were concerned that  
18 this wasn't a real entity, because they couldn't find any  
19 record of it being in existence.

20 Q. Is there any reason you did or did not submit  
21 further -- any document requests to Creekside Consulting?

22 A. Once again, Holly told me that she did not want to  
23 me to pursue Creekside Consulting.

24 Q. And why not?

25 A. Because she knew Richard Riley, she knew that he

1 was long-time friends with the Governor, and she didn't have  
2 any problem with that expenditure because she said that Richard  
3 Riley is a retired -- I think she said he was in advertising  
4 and he -- you know, that -- she gave me a lot of very specific  
5 details about this man that led me to believe that she did, in  
6 fact, know him and she was comfortable with the Governor giving  
7 him campaign funds, and she told me, just drop it, so I did.

8 Q. So you dropped investigations into Southern  
9 Magnolia Capital and Creekside Consulting based purely on the  
10 word of Miss LaBerge?

11 A. Well, it was more than purely on the word, because  
12 that was my boss and the structure of the organization was:  
13 That's your boss; do what she says.

14 MR. WEBB: Your Honor, I would object on the basis  
15 of relevancy, and I have a larger objection, if you need  
16 to hear it.

17 THE COURT: Yeah, I'll sustain the objection.

18 MR. BLACK: I'll move on.

19 BY MR. BLACK:

20 Q. How did your investigation of the Deal  
21 investigation ultimately culminate?

22 A. Well, as I have explained before, I was pregnant  
23 during this period of time, and I had a lot of pressure to get  
24 these cases investigated and finished as quickly as I could.  
25 And I was due to start my maternity leave on August 1st.

1           So I had a meeting with Holly LaBerge and I told  
2 her what I felt comfortable with going forward with as a  
3 hearing, and that was 33-A and 33-B. And I also felt  
4 comfortable going forward with the campaign contribution  
5 allegations that he accepted in excess of limits. I felt  
6 comfortable going with those, so my recommendation was that we  
7 go forward with what I was ready to.

8           And the issues that were in reference to the  
9 airplane and the campaign funding used for legal fees, those I  
10 had several meetings with Holly LaBerge and Randy Evans, and  
11 we -- Holly and I had conferred and the opinion of the agency,  
12 based on conversations with Holly and myself, was that we could  
13 not proceed with those at this time because there was --  
14 neither of these expenditures were contemplated by the statute  
15 as it existed, and so what I said is: Let's go forward with  
16 this. And Randy Evans and I had come to an agreement that he  
17 would request an advisory opinion to the Commission to even see  
18 whether or not the commissioners thought that there was -- that  
19 the statute applied to these two circumstances.

20           Q.       So with regard to 33-A, the campaign disclosure  
21 reports, 33-B, personal financial disclosures of Mr. Deal, and  
22 63, the contribution -- the allegations that contributions were  
23 above the maximum limit, did you prepare documents that  
24 outlined your findings as to the Deal campaign?

25           A.       I drafted proposed consent orders that detailed

1 what the allegations were, which statutes they violated, and I  
2 drafted that for Holly LaBerge's approval.

3 Q. If you would, please, flip to Plaintiff Exhibit 78,  
4 Plaintiff's Exhibit 79 and Plaintiff's Exhibit 88, which have  
5 been previously admitted at this -- at the beginning of Miss  
6 Murray-Obertein's examination -- once again, 78, 79 and then  
7 88.

8 A. Uh-huh.

9 THE COURT: You have to answer yes for the record.

10 THE WITNESS: Oh, sorry.

11 THE COURT: That's okay.

12 BY MR. BLACK:

13 Q. Do those three documents reflect your findings,  
14 your initial findings, in regard to those three investigations?

15 A. It's hard to say whether it was my initial, but it  
16 is certainly one that I prepared. Because there were many,  
17 many different versions based on discussions with Holly LaBerge  
18 and discussions with Randy Evans.

19 Q. Okay. And --

20 A. So, I'm sorry, I just don't recognize this as being  
21 the first one, sorry.

22 Q. Sure. So is it fair to say that your  
23 investigation, you had initial findings, you revised your  
24 findings, and then ultimately down the road a resolution was  
25 reached?

1 A. Yes.

2 Q. Okay. In Exhibit 78 on page 2, under the case  
3 number, it says 2010-33-A. Do you see that, Miss  
4 Murray-Obertein?

5 A. Yes.

6 Q. Is this a draft of a -- and it's titled Consent  
7 Order; do you see that?

8 A. Yes.

9 Q. Is this a draft of a consent order for your  
10 findings in regard to the campaign disclosure report  
11 complaints?

12 A. Yes.

13 Q. And as you flip toward the back of the consent  
14 order, do you have recommendations as to Campaign Finance Act  
15 violations you found and potential monetary penalties? And I  
16 can --

17 A. Yes.

18 Q. Is that what is set forth on page 7?

19 A. Yes.

20 Q. And how -- what was the total amount of penalties  
21 you proposed, or you had found at this point for 33-A?

22 A. 11,100.

23 Q. And were those civil penalties or technical  
24 defects?

25 A. Those are civil -- civil violations, so it would be

1 penalties.

2 Q. Okay. If you could flip to Plaintiff's Exhibit 88,  
3 please. And after the e-mail, if you could look at page 1 of  
4 the attachment.

5 A. Okay.

6 Q. Is this a draft of a consent order in the 33-B case  
7 regarding Governor Deal's personal financial disclosures?

8 A. Yes.

9 Q. And in this draft do you include your findings as  
10 to any Campaign Finance Act violations and any proposed  
11 monetary assessments to the Deal campaign?

12 A. Yes.

13 Q. And what is the total amount of penalties, or the  
14 total monetary assessment that you have in this draft?

15 A. 35,000.

16 Q. And are those civil penalties or technical defects?

17 A. Civil penalties.

18 Q. And turning to Plaintiff's 79; on page 2 of that  
19 exhibit, does this appear to be a draft of a consent order you  
20 prepared in case 63 concerning the allegations of campaign  
21 contributions above the state limits?

22 A. Yes.

23 Q. And do you have findings of violations and monetary  
24 amounts on page 2, and if so, what are your proposed findings?

25 A. My proposed finding was after he consented to all

1 of the allegations that he would agree to pay \$10,000 for a  
2 penalty.

3 Q. A penalty, as opposed to a fine for a technical  
4 defect?

5 A. Administrative fee, yes.

6 Q. Okay. So those three draft consent orders total  
7 \$56,100; is that your understanding of the total of those  
8 three?

9 A. Of those three. I'm not really fast at math, but I  
10 will trust your calculations.

11 Q. Do you recall proposing fines, or were there any  
12 proposed fines discussed at any higher amounts in the Ethics  
13 Commission?

14 A. Yes, there was because, like I said, that these  
15 were just a portion of the complaints, and so when I had  
16 initially looked at each individual complaint, I had assessed a  
17 penalty for each individual complaint. But since these were  
18 the three that we were going to proceed on at that particular  
19 meeting, that's where the 56,000 comes from, but there were  
20 other cases with other numbers as well.

21 Q. Do you know any ceiling or any maximum amount that  
22 was discussed by the Commission for the Deal complaints?

23 A. It was my recollection that, when you took all of  
24 the complaints together, that it was roughly around  
25 70 -- 70 -- between 70 and 75,000 was what my recommendation



1 was, based on the ones that were prepared and ready to go.

2 Q. Okay. And were these draft consent orders that you  
3 just reviewed, were they executed in that form, or were they  
4 the final agreement with the Deal campaign?

5 A. No, those were not the final agreement with the  
6 campaign, no.

7 Q. If you would please flip to Plaintiff's 91,  
8 Plaintiff's 93 and Plaintiff's 94, which we have previously  
9 admitted at the beginning of your examination, and please take  
10 a look at them. Do these three exhibits reflect final  
11 agreements that you would have reached with the Deal campaign?

12 A. You said 88, 90 --

13 Q. I apologize. 91 --

14 A. Okay.

15 Q. -- 93 and 94.

16 (Pause.)

17 A. Yes, these appear to be the final ones, because  
18 they have a seal on it and Nathan Deal's signature.

19 Q. Okay. On Exhibit 94, is that the final consent  
20 order for Complaint 33-A?

21 A. It appears to be, from my memory, yes.

22 Q. And on the final page under the word Agreement, can  
23 you describe the monetary assessments in the total?

24 A. There were -- was a \$1,600 administrative fee for  
25 the technical defects contained in the CCRs, a 1,050

1 administrative fee for technical defects, where the itemization  
2 was not added up to the correct amount, and \$50 for each of the  
3 21 entries that contained the violation, and -- oh, I'm sorry.  
4 In the first one I forgot to read that the first one, 1,600 was  
5 \$50 for 32 of the violations. And the third one says that the  
6 respondent agrees to pay 2,650 in administrative fee, with a  
7 total --

8 Q. Does 2,650 appear to be the total?

9 A. Oh, I'm sorry -- yes, I'm just reading it; I'm  
10 sorry.

11 Q. And these were administrative fees, as opposed to  
12 civil penalties? Is that correct?

13 A. Yes.

14 Q. If you would please flip to Plaintiff's 91. Is  
15 this the final executed consent order in Complaint 33-B  
16 regarding Governor Deal's personal financial disclosures?

17 A. It appears to be.

18 Q. And what were the total amounts of any monetary  
19 assessments against the Deal campaign?

20 A. \$600.

21 Q. And were those civil penalties or administrative  
22 fees?

23 A. They would be civil penalties -- no, actually, it  
24 says civil fees is taken out; it just says \$600 for the above  
25 violation; it doesn't label whether it's an administrative fee

1 or civil fee.

2 Q. If it were a civil penalty, would you expect that  
3 it would identify it as a civil penalty?

4 A. It would certainly -- it normally would say if it  
5 was a civil penalty or an administrative fee.

6 Q. Moving on to Plaintiff's 93. Does this -- or is  
7 this the final executed consent order in Complaint No. 63 in  
8 regard to maximum allowable campaign contributions?

9 A. Yes, it appears to be.

10 Q. And what is the final amount assessed against the  
11 Deal campaign?

12 A. It's \$100 for the two technical defects.

13 Q. Now, these three final consent orders -- and help  
14 me if I'm wrong -- I think 33-A had \$2,650; 33-B had \$600, and  
15 63 had \$100; is that correct?

16 A. That sounds correct, yes.

17 Q. And the total amounts of those is \$3,350, correct?

18 A. Yes, that sounds correct.

19 Q. So 50 to \$70,000 in initial proposed fines ended up  
20 being just over 3,000; is that correct?

21 A. Yes.

22 Q. Did the Commission, Ethics Commission, approve  
23 these final consent orders?

24 A. Yes.

25 Q. How come the fines -- excuse me -- how come the

1 civil penalties became fees and the amount went from tens of  
2 thousands of dollars down to \$3,350?

3 A. There were a lot of negotiations that took place  
4 during that time between myself and Ben Vincent, who worked for  
5 Randy Evans, and between myself and Holly LaBerge and also  
6 between myself and Kevin Abernethy. We had several phone  
7 conversations about the outcome of these consent orders. And  
8 there was also one meeting where Kevin came to the office to  
9 discuss the conclusion of these consent orders.

10 Q. Did Miss LaBerge -- did she coax you? Did she  
11 pressure you to lower the amount of total penalties in the Deal  
12 complaints?

13 MR. WEBB: Your Honor, I'm going to object on the  
14 basis of leading.

15 THE COURT: I sustain the objection as to form.

16 BY MR. BLACK:

17 Q. Did Miss LaBerge provide any input into the amounts  
18 of the fees that you arrived at in the final executed orders?

19 A. She had the total say because I -- it was basically  
20 like I was just the secretary; she told me what to put in and I  
21 put it in. So these were not numbers that I agreed to or came  
22 to a conclusion on, no.

23 Q. I think you just said she had the total say; is  
24 that correct?

25 A. Yes. I had no independent say whether I would

1 accept anything or not; it was Holly LaBerge's decision.

2 Q. Did Miss LaBerge give you the dollar amount of the  
3 final -- the final fees to be assessed against the campaign?

4 A. Yes, she did.

5 Q. How did she do that?

6 A. Well, pursuant to negotiation, I had discussions  
7 with Randy Evans, where I said: If you guys want to consent  
8 and you're not willing to consent for my initial amount, then  
9 you have to give us a number, and it has to be a realistic  
10 number, if we're going to agree to a number. And we spent the  
11 majority of that summer trying to get them to give us a number.

12 And Holly LaBerge was on vacation at the beach when  
13 Ryan Teague called her cell phone and told her that the  
14 Governor's not willing to pay --

15 MR. WEBB: Your Honor, I'm going to object on the  
16 basis of hearsay.

17 THE COURT: Care to respond, before I rule?

18 MR. BLACK: No, but Mr. Teague -- I would  
19 understand that --

20 THE COURT: I will sustain the objection.

21 BY MR. BLACK:

22 Q. If you could tell us what Miss LaBerge --

23 A. Told me?

24 Q. -- conveyed to you in regard to being at the beach,  
25 I believe you said, and what she conveyed to you.

1           A.       Yes. Miss LaBerge told me that the number that the  
2 Governor gave came straight from Ryan Teague, it did not come  
3 from Randy Evans, and that the number that they came up with  
4 was \$2,250. And I said: That's completely outrageous; I'm  
5 ready to go to hearing on all of these cases.

6           Q.       So are you staying that Miss LaBerge told you that  
7 she was instructed that these complaints needed to be settled  
8 for 2,200 --

9           THE COURT: That's leading. That's leading.

10          MR. WEBB: Thank you, your Honor.

11          THE COURT: You're also testifying. But that's  
12 beside the point.

13 BY MR. BLACK:

14          Q.       What did you do with the \$2,250 number that  
15 Miss LaBerge gave to you?

16          A.       I said that I don't feel comfortable going forward  
17 with these kinds of violations for that number, and I said:  
18 I'm just going to start preparing for a hearing on all of the  
19 matters, because I personally could not stand behind those  
20 numbers for those types of violations.

21          Q.       So initially your draft had in the 50 to \$70,000  
22 range, but are you saying you were being asked now to lower all  
23 the fines to \$2,250?

24          MR. WEBB: Your Honor, I'm going to --

25          THE COURT: How many times are you going to ask

1           that same question? I'm going to admonish you not to do  
2           that again, okay?

3           MR. BLACK: Yes, your Honor.

4           THE COURT: I sustain the objection.

5           MR. WEBB: Thank you, your Honor.

6 BY MR. BLACK:

7           Q.       With 33-A, 33-B and 63, the three complaints that  
8           you have previously identified that there were final executed  
9           consent orders, do those -- is it fair to say, or do those  
10          three reflect \$3,650 as the final total?

11          A.       On 33-A, you said?

12          MR. WEBB: Your Honor, I'm going to object on the  
13          basis of cumulative; I mean, it's in the documents.

14          THE COURT: Actually, it's been asked and answered.  
15          I think he asked her that once already, so --

16          Do you have anything else you want to ask?

17          (Pause.)

18 BY MR. BLACK:

19          Q.       How did you think it appeared for Miss LaBerge to  
20          provide you with a dollar amount for the total fines in these  
21          three complaints?

22          MR. WEBB: Your Honor, I'm going to object on the  
23          basis of irrelevancy. Her state of mind with regard to  
24          this isn't relevant.

25          THE COURT: I'll sustain the objection.

1 BY MR. BLACK:

2 Q. In addition to the phone call from Miss LaBerge,  
3 what the particular amount, were there any other meetings or  
4 phone calls in regard to the settlement of the Deal complaints?

5 A. Yes, there was.

6 Q. And what was that?

7 A. The week -- several days before the hearing, Kevin  
8 Abernethy came to the office, and it was arranged that we were  
9 going to meet between Kevin Abernethy, Holly, myself and Ben  
10 Vincent, to see if he could mediate and help come to a  
11 reasonable number.

12 Q. And what was discussed in this proposed meeting?

13 A. What ended up being discussed was that they -- that  
14 I was -- I wanted to proceed to hearing on all of the cases  
15 that we were trying to consent because I personally felt that  
16 we had exhausted enough time and energy trying to come up with  
17 a number that everybody could live with and we were too far  
18 apart. And the other thing that came out of that meeting was  
19 that the Governor's attorneys were further going to argue why  
20 they should pay zero penalty.

21 Q. And then how did that meeting -- did that meeting  
22 ultimately impact the final resolution of the complaints or the  
23 consent orders that were then executed?

24 A. I don't believe it did, no. I don't believe it was  
25 helpful. Kevin left the meeting and said that he was not going



1 to talk to anybody again about these matters before the  
2 hearing, and we didn't -- we did not come to an agreement in  
3 that meeting.

4 Q. Did Miss LaBerge interact with anyone in the  
5 Governor's office during this investigative process?

6 A. Yes, she did.

7 Q. Who?

8 A. She told me that she was going to go meet with  
9 Chris Riley and Ryan Teague because she was -- she was  
10 told -- this is what she told me -- that she was told that the  
11 Governor's people had a different desire on how they wanted the  
12 outcome of the case versus what Randy Evans wanted to do,  
13 because Randy Evans wanted to have these advisory opinions, he  
14 wanted to go to trial on it -- or a hearing; it's a hearing --  
15 on all of the issues, and that the Governor's people were  
16 conveying that's not what the Governor's true wishes are, that  
17 the true wishes are that they want to settle, because they do  
18 not want to go to hearing with this because that they did not  
19 want to ultimately end up in the Attorney General's office  
20 prosecuting this because at the time that was discussion that  
21 Sam Owens, the Attorney General, would be a potential political  
22 rival for the Governor. That's what I was told that's what the  
23 Governor's stance was, which was different than what Randy  
24 Evans was conveying to me.

25 Q. But ultimately the complaints were resolved with a

1 consent order and there were no hearings, correct?

2 A. On these three, yes.

3 Q. Okay. Did Miss LaBerge ever make any comments  
4 about her relationship with the Governor or his staff?

5 A. Quite frequently, yes.

6 Q. What would she say?

7 A. She would say when -- there was many occasions  
8 which she and I would be on conference calls with a third  
9 person -- well, she would put it on speaker phone; I wouldn't  
10 classify it as a conference call -- but I would be involved in  
11 a conversation which was on speaker phone, and when the person  
12 would get upset and say: Well, I just want to go to your boss;  
13 who can I go to that's over you? And I heard her say more  
14 times than I can count: I report to the Governor; the Governor  
15 is my boss.

16 And there were other occasions when she had gotten  
17 into a conflict with the Secretary of State's human resource  
18 director over an employee matter, and her office was right next  
19 to mine and the walls were really thin, and I always heard her  
20 conversations, just because its proximity, and she was on a  
21 phone call and she stated to this person that -- to this person  
22 at the Secretary of State's office that: I'm going to  
23 just -- I'm just going to go straight to the Governor with  
24 this; I'm just going to go straight over with this; you'll hear  
25 back about this. And Holly left the agency and she said: I'm

1 going to the Governor's office.

2 And what ended up happening is the agency got  
3 separated from the Secretary of State's office and -- after she  
4 went and spoke to the Governor -- and we were attached to a new  
5 agency, which was the Office of Accountancy.

6 Q. Did Holly make any comments about her involvement  
7 in the settling of the Deal complaints?

8 A. I heard her tell people quite frequently that: I  
9 handled the Nathan Deal case, meaning she herself did.

10 MR. BLACK: Thank you, Miss Murray-Obertein.

11 THE COURT: Cross?

12 MR. WEBB: Thank you, your Honor.

13 CROSS-EXAMINATION

14 BY MR. WEBB:

15 Q. Miss Murray-Obertein, I don't have much to go over  
16 with you, but I want to get into this \$56,100 initial  
17 offering --

18 A. Yes.

19 Q. -- and how we got to where we got to.  
20 You're an attorney.

21 A. Yes.

22 Q. You do litigation.

23 A. Yes.

24 Q. Correct?

25 A. I did.

1 Q. My understanding from your testimony was that with  
2 regard to case 33-A -- can you refresh your memory as to what  
3 that was? That, I think, had to do with --

4 A. It had to do with campaign disclosure reports.

5 Q. Right. And that's the one where apparently there  
6 is just a whole list of bad reports that were made, or faulty  
7 reports that were made, correct?

8 A. Yes.

9 Q. Okay. With regard to that particular one, you  
10 would agree that Mr. Deal's attorneys, Mr. Evans and  
11 Mr. Vincent, they were making a really huge deal that those  
12 violations were technical defects and that they were never  
13 given proper notice under the law about those.

14 A. Correct. And I disagreed with that argument  
15 vehemently.

16 Q. But their contention was that if they amended those  
17 defects, then everything would be okay.

18 A. Yes, that's exactly what they said.

19 Q. So that's what they said, right?

20 A. Yes.

21 Q. So that was a bone of contention between you and  
22 them.

23 A. Yes.

24 Q. Now, you also would agree with me that you were not  
25 sure which direction the commissioners would go on that,

1 whether the alleged violations were technical defects or  
2 whether or not there was proper notice.

3 A. Based on the conversations that I had with Kevin  
4 Abernethy, that I was not comfortable that he would agree with  
5 the argument, because there were many, many occasions where  
6 I've gone in front of him with the same violations that were  
7 categorized as civil defects.

8 Q. Well, let's ask a question about this, though. The  
9 contention of Mr. Evans and Mr. Vincent, however, was that  
10 there is a provision in the code, isn't there -- this is the  
11 law -- that you're supposed to find the technical defects and  
12 then you're supposed to give the person what they call notice  
13 for those defects.

14 A. Correct.

15 Q. And you have to do it by a statutory process; isn't  
16 that correct?

17 A. That is correct.

18 Q. Now, your contention was that when they got a  
19 letter from you, they had something called constructive notice;  
20 isn't that correct?

21 A. Yes.

22 Q. And there is a legal argument to be made one way or  
23 the other about that, isn't there?

24 A. Yes.

25 Q. And that particular issue was not at all settled,

1 was it?

2 A. I don't understand your question.

3 Q. Well, at the time, when you were talking with  
4 Mr. Vincent and with Mr. Evans, that issue, whether or not they  
5 got proper statutory notice of these defects, that wasn't  
6 resolved yet, was it? I mean, after all, you were worried how  
7 the Commission was going to resolve it, weren't you?

8 (Pause.)

9 A. Initially, I was, yes, but not towards the end, no,  
10 absolutely not.

11 Q. Okay. If the Commission had come out and said that  
12 they didn't get proper statutory notice, then Deal wouldn't  
13 have to pay anything, would he? It would have been zero.

14 A. Only on these violations.

15 Q. I understand that, and those are the only ones  
16 we're talking about.

17 A. Okay.

18 Q. On those particular violations, if it was found by  
19 the Commission that statutory notice had not been given, then  
20 the Deal campaign may have ended up paying zero, right?

21 A. There was a slim possibility, yes, very slim.

22 Q. But there was a possibility, nonetheless.

23 A. There was a slim possibility because when they went  
24 to amend, they didn't amend all of -- they didn't amend near  
25 all of the defects that they claim they did, so I was still

1 comfortable by the end that we could proceed with the hearing  
2 because there were still hundreds and hundreds of violations  
3 that they ultimately never addressed and they had accepted  
4 constructive notice, so the days leading up to it, that no, I  
5 was comfortable that we had enough in the violations that they  
6 did not cure, which they claim that they did, that it would be  
7 still thousands of dollars.

8 Q. Now you also, as it relates to those alleged  
9 violations in 33-A, you didn't think those violations were a  
10 very big deal, did you?

11 A. Yes, I did.

12 Q. Well, I think that you have once described them as  
13 just being lazy, didn't you?

14 A. The individual violations, but I personally -- and  
15 I said this to many people within the agency and Kevin  
16 Abernethy himself -- the problem that I saw --

17 MR. WEBB: Your Honor, unresponsive; that's not the  
18 question that I asked her.

19 I'm going to ask you --

20 THE COURT: I'll sustain it.

21 MR. WEBB: Miss Murray-Obertein --

22 THE COURT: You need to answer the question, okay?

23 BY MR. WEBB:

24 Q. -- you have once said that that was just laziness,  
25 didn't you?

1 (Pause.)

2 A. Laziness --

3 Q. Did you say it, or did you not?

4 A. I believe I did, yes.

5 Q. With regard to the allegations in 33-B --

6 A. Yes.

7 Q. -- according to the document that we looked at,  
8 that matter was settled for \$600, wasn't it?

9 A. Pursuant to negotiation, yes, it was.

10 Q. And you had offered a consent order seeking about  
11 \$35,000?

12 A. Yes.

13 Q. Okay. You actually have said before that: To be  
14 fair, the Commission would normally have settled that  
15 particular issue for around \$3,500, haven't you?

16 A. I would -- I would have to spend some time looking  
17 back through it to recall what I think would be fair but --

18 MR. WEBB: Your Honor --

19 BY MR. WEBB:

20 Q. Miss Murray-Obertein, did you ever say that: To be  
21 fair, the Commission would normally have settled that issue for  
22 \$3,500?

23 A. I -- I don't remember if I said that or not.

24 Q. Okay. I'm going to ask you, if you could -- I  
25 don't think you've got your deposition testimony up here. I



1 think I have a copy of it here. Let me find it for you, ma'am.

2 (Pause.)

3 MR. WEBB: Your Honor, I very well may have to just  
4 use my copy and approach her.

5 MS. WORTH: We may have a copy of it.

6 MR. WEBB: That's fine. If Miss Murray-Obertein  
7 doesn't mind, I'll just stand by you, if you don't mind.

8 THE WITNESS: That's fine, as long as you don't  
9 bite.

10 MR. WEBB: I don't bite, I promise you.

11 BY MR. WEBB:

12 Q. You took a deposition in this case on August 1st,  
13 2013, correct?

14 A. Yes.

15 Q. And you swore to tell the truth?

16 A. Yes.

17 Q. And you were asked questions about this case,  
18 weren't you?

19 A. I was asked about all the cases, yes.

20 Q. Okay. And on page 78, if you could, could you read  
21 these questions, starting at line 2 --

22 A. Sure.

23 Q. -- and going down to line 16.

24 A. Sure.

25 Q. Read them out loud, please.

1           A.       This is another consent order in the 2010-33-B  
2 case. Oh, that's the answer to the one above, so that is what  
3 confused me. You started --

4           Q.       I want you to read what I asked you to read.

5           A.       Okay.

6           Q.       And we're talking about No. 33-B, correct?

7           A.       Yes.

8           Q.       Okay. Please read what I asked you to read --

9           A.       Okay.

10          Q.       -- from line 2 to line 16.

11          A.       Okay. This is another consent order in 2010-33-B  
12 case. That was the answer.

13                    Question: Can you tell, is this is a draft or is  
14 this a final consent order?

15                    Answer: It's a final.

16                    Question: And what are the final -- what is the  
17 final assessment to the Governor's campaign in this consent  
18 order?

19                    I said 600.

20                    And what was it reduced from, from your prior draft  
21 consent order?

22                    It was 35,000 in my prior consent order, but to be  
23 fair, we normally would have settled on 33,500 (sic). That  
24 would be something that we would normally do in a case like  
25 that, we'd settle at 3,500.

1 Q. Thank you.

2 And the reason why you would normally do that is  
3 because the process at the Commission was to start at the  
4 highest level and negotiate downward, isn't it?

5 A. That is normally what was done, yes.

6 Q. No. 63. That has to do with the violations over  
7 the limit, I believe? Am I correct?

8 A. I'm sorry, would you repeat the number?

9 Q. 2010-0063.

10 A. Yes. Do you know --

11 Q. I do not know which exhibit number it is.

12 A. Oh, I found it, okay.

13 Q. Okay. And you had initially offered \$10,000 in the  
14 first consent order? I think that's what the piece of paper  
15 says.

16 A. Yes.

17 Q. But after that initial offer, the opposing  
18 counsel -- they actually satisfied you that everything was okay  
19 with two of the allegations that you had with regard to  
20 Troutman Sanders and Troutman Sanders, LLC; and the only thing  
21 that was left was contributions from Mike and Lynn Cottrell;  
22 isn't that correct?

23 A. Yes.

24 Q. And those two over the limits were actually \$100 a  
25 piece, weren't they?

1 A. Yes.

2 Q. Okay.

3 A. I believe so. Sounds right.

4 Q. And actually what happened was that the attorneys  
5 for Governor Deal, Mr. Evans and Mr. Vincent, they supplied you  
6 with documents to explain the other contributions, right?

7 A. That sounds correct, yes.

8 Q. And they satisfied you that those violations were  
9 no longer a problem, didn't they?

10 A. No, not on Mike and Lynn Cottrell; no. That's why  
11 I pursued it.

12 Q. No, no, no. The ones on Troutman Sanders and  
13 Troutman Sanders, LLC.

14 A. Oh, I'm sorry. Yes, yes; that's why I recommended  
15 dismissing everything but those two.

16 Q. Right. But that would have changed the consent  
17 order that you originally drafted for \$10,000, wouldn't it?

18 A. If you want me to give a definitive answer, I'm  
19 going to have to take some time to compare both, because I  
20 don't feel comfortable just answering off the top of my head.

21 Q. Well, let's just put it this way: You said that  
22 you start fines at the very top for each violation, right?  
23 Don't you do that?

24 A. Yes, but --

25 Q. So you find out that two of the violations of the

1 three that you had in your original consent order, they were no  
2 longer violations; you had been satisfied about those, hadn't  
3 you?

4 A. I would like to take a minute to compare, because  
5 I -- it's been so long, I really honestly don't remember.

6 Q. Take whatever time you need.

7 MR. WEBB: If it would help, I've got Plaintiff's  
8 Exhibit No. 84, your Honor, that I would move to admit.

9 THE COURT: Any objection to Plaintiff's 84?

10 MR. BLACK: No, your Honor.

11 THE COURT: Okay. Plaintiff's 84 is admitted and  
12 you may approach the witness.

13 BY MR. WEBB:

14 Q. I don't know that I have another copy of that,  
15 but do you recognize that document?

16 (Pause.)

17 Q. Do you recognize the document?

18 A. Yes.

19 Q. Okay. And that's the document that -- it's a  
20 letter from you to Randy Evans and explains your conclusion  
21 that the contributions from Troutman Sanders PAC and Troutman  
22 Sanders Unified Arts were not violations of the Act, isn't it?

23 A. Yes.

24 Q. So in the initial consent order you were seeking  
25 \$2,000 for each of the five violations that you had found,

1 correct?

2 A. Yes.

3 Q. Okay. Now you're down to two violations. So based  
4 on your initial consent order, you're really down to \$4,000,  
5 aren't you?

6 (Pause.)

7 Q. If you were seeking \$2,000 for each of the five,  
8 okay -- I know that you said you weren't good at math --

9 A. No, I'm just confused because I'm not following  
10 your line of questions.

11 Q. My line of questioning is is that there were five  
12 violations at one point; information came in that knocked it  
13 down to two violations; that leaves you with only \$4,000 in  
14 fines, right? I mean, based upon the way you did it.

15 A. You mean only in reference to 2010-63.

16 Q. Only in reference to that one, Miss Obertein. We  
17 are only talking about that one; we've already talked about the  
18 other two.

19 A. Okay.

20 Q. Okay?

21 A. Uh-huh.

22 Q. So can you answer my question? You had five  
23 violations at \$2,000 a piece.

24 A. Uh-huh.

25 Q. That would have been \$10,000. And that's what you

1 put in your initial consent order, isn't it?

2 A. Yes.

3 Q. And you found out that three of them were all okay,  
4 satisfied; that's what Plaintiff's 84 is about, isn't it?

5 A. That's -- sounds right -- yes.

6 Q. That leaves you with two more violations, right?

7 A. Yes.

8 Q. That knocks you from 10,000 down to 4,000; two  
9 violations times \$2000, right?

10 A. Yes, that's correct.

11 Q. So based on what you said before, normally you  
12 might have gone down to \$400 for that violation, wouldn't you,  
13 because you start at the top and you negotiate down.

14 A. Based on -- yeah, what Holly directed me to do,  
15 yes.

16 Q. Okay. But that's not just with the Governor's  
17 case; that's in every other case, right?

18 A. From my recollection, yes.

19 Q. Okay. So you're actually treating the Governor the  
20 same way that you treated everybody else; you start at the top  
21 and you're negotiating down, aren't you?

22 A. You mean only in reference to this.

23 Q. Only in reference to that.

24 A. Yes, in this one, yes, that is correct.

25 Q. So, I mean, let's get down to it. It's \$56,000.

1 You never expected that you were going to collect \$56,000, did  
2 you? That was the top.

3 A. Just on those three, yes.

4 Q. Just on those three.

5 A. Yes.

6 Q. Those are the ones we're talking about, right?

7 A. Yes.

8 Q. The airplane issue.

9 A. Yes.

10 Q. You've already testified to this.

11 A. Yes.

12 Q. The legal fee issue.

13 A. Yes.

14 Q. You didn't feel like the law was defined enough to  
15 actually even be able to go forward with that one at that time,  
16 was it?

17 A. For the airplane issues, but I felt confident on  
18 the campaign issues for the legal fees. I felt very confident  
19 on that. And I was -- from my recollection, I only was  
20 initially going to request the advisory opinion on the airplane  
21 issues, but Randy insisted that -- he had a very, very long  
22 argument that he had sent to me that I did not agree with, but  
23 he said he wanted to request an advisory opinion on that issue  
24 himself.

25 Q. And that's what litigation's all about, isn't it?



1 You agree to something and you think something the other person  
2 doesn't? I mean, that's really what it boils down to, isn't  
3 it?

4 A. Yes.

5 Q. And you actually have said at one point -- you said  
6 you believe that there was unsettled law in the campaign  
7 finance laws and the Commission rules regarding that particular  
8 issue.

9 A. Which particular issues?

10 Q. The one with the legal fees. I mean, there was  
11 something to be decided, wasn't there?

12 A. On the legal fees? Geez, I'm trying to remember  
13 how we ended this.

14 Q. I'll make it easy for you. Have you ever said that  
15 the allegations about the payments of the attorneys' fees, the  
16 Gubernatorial campaign funds, have you ever said that was  
17 unsettled law?

18 A. I believe so, yes.

19 Q. Okay.

20 MR. WEBB: I don't have anything further, your  
21 Honor.

22 THE COURT: Any redirect, Mr. Black?

23 MR. BLACK: Thank you, Judge.

24 / / /

25 / / /

1 REDIRECT EXAMINATION

2 BY MR. BLACK:

3 Q. Miss Murray-Obertein, I'm going to direct you to  
4 the same section that Mr. Webb just had you read on page --

5 A. Yes.

6 Q. -- 78 of your deposition.

7 A. Yes.

8 Q. And I want you to reread the section that he had,  
9 which started, I believe, on line 2; is that correct?

10 THE COURT: Is there a question you're going to ask  
11 her --

12 MR. BLACK: Yes.

13 THE COURT: -- that's attached to it --

14 MR. BLACK: There is.

15 THE COURT: -- before you give her the transcript?

16 MR. BLACK: Absolutely.

17 THE COURT: Okay. What is that?

18 MR. BLACK: That question is going to be to --

19 THE COURT: Well, ask that first, okay, so we all  
20 can get an orientation to where you're going. Because  
21 just asking her to read her deposition is not -- it's not  
22 proper foundation, anyways.

23 MR. BLACK: Your Honor, my question is based on the  
24 fact that the next --

25 THE COURT: Well, ask her; don't ask me. I'm just

1 telling you that's not proper, what you're doing right  
2 now.

3 (Pause.)

4 MR. BLACK: Your Honor, if I may, I believe if  
5 additional lines in the deposition --

6 THE COURT: Look, there has to be a question that's  
7 posed to her --

8 MR. BLACK: Okay.

9 THE COURT: -- before you can ask her about her  
10 transcript. You just walked up there and said: I'd like  
11 you to reread this, okay? There is no question. Are you  
12 asking her to refresh her recollection? Are you going to  
13 impeach her? Are you going to rehabilitate her? So what  
14 are you going to do?

15 MR. BLACK: Your Honor, I would like to  
16 rehabilitate her based on additional context to the  
17 section that Mr. --

18 THE COURT: Well, you need to ask a question in  
19 regards to that.

20 MR. BLACK: Unfortunately, the question is based on  
21 the additional segment; I think it's an unfair context.

22 THE COURT: Well, ask it. Ask it.

23 (Pause.)

24 BY MR. BLACK:

25 Q. In the questions Mr. Webb asked in the segment he

1 had you reread from your deposition, do you recall that it said  
2 you would normally start at \$35,000 and you would work your way  
3 down to \$3500?

4 A. It would depend on the facts, but you would start  
5 at the top, and the minimum that Holly had used was \$100 per  
6 violation, but there was space in between those two numbers.

7 Q. But in the Deal complaints, is it -- did you  
8 deviate from the typical negotiation procedure down to a  
9 workable amount?

10 A. Yes.

11 Q. And how did you -- how did the regular procedure  
12 deviate?

13 A. The regular procedure deviated because I was given  
14 a number of \$3,350 and I was told to make the consent orders  
15 work. So I had to take out violations in 33-A and I had -- I  
16 was told that they weren't going to pay more than 600 in B, and  
17 so I had to juggle violations, take things out, to meet the  
18 number that I was told I had to accept.

19 Q. Thank you.

20 In regard to the Troutman Sanders complaints that  
21 Mr. Webb was just discussing, the amount he said that you may  
22 have said were not violations was \$4,000? Is that correct?

23 A. That's what he said, yes.

24 Q. But were the amounts of the violations that you  
25 were proposing still in the 40, \$50,000 range?

1 A. Initially?

2 Q. Yes.

3 A. Yes.

4 Q. So just wiping out \$4,000, would that have come  
5 close to knocking out the entire proposed fines that you had  
6 proposed against the Deal campaign?

7 A. Based on that question, no.

8 Q. No. In any cases that you have -- that you had at  
9 the Ethics Commission, in the other cases besides the Deal  
10 complaints, were you ever given a number that you were asked to  
11 back into at the end?

12 A. No.

13 MR. WEBB: Your Honor, that's been asked and  
14 answered.

15 THE COURT: I'm going to sustain the objection.  
16 Plus, you're leading her. It's your witness on direct,  
17 right? Who, what, when, where, why.

18 MR. BLACK: Okay.

19 BY MR. BLACK:

20 Q. The civil penalty that you initially proposed in  
21 your draft consent orders, they were -- they ended up being  
22 administrative fees, correct?

23 MR. WEBB: Your Honor --

24 MR. BLACK: I apologize. I need this to go into my  
25 next question. I know it's cumulative and --

1 THE COURT: No, it's leading. It's leading. And  
2 it's cumulative, but it's leading.

3 MS. WORTH: It's more leading than it is  
4 cumulative.

5 BY MR. BLACK:

6 Q. Do you believe that civil penalties are serious?

7 MR. WEBB: Your Honor, I'm going to object on the  
8 basis of relevancy.

9 THE COURT: I'm going to sustain the objection.

10 BY MR. BLACK:

11 Q. Did you keep detailed records of your investigation  
12 into the Deal complaints?

13 A. Yes.

14 Q. And has anybody sought those records after you  
15 resolved the Deal complaints?

16 A. Yes.

17 Q. Who?

18 A. The FBI.

19 Q. When did the FBI request -- or when did the FBI  
20 inquire into --

21 MR. WEBB: Your Honor, I'm going to object. This  
22 is redirect.

23 THE COURT: Yes.

24 MR. WEBB: And, you know, it goes beyond the scope  
25 of my cross.

1 MR. BLACK: Your Honor, the scope of his cross went  
2 into the propriety of 33-A; I believe 33-B was mentioned.

3 MR. WEBB: Your Honor, my -- mine had to do with  
4 the fines that were proposed and came, actually. I didn't  
5 say anything about whether or not there were violations.  
6 I don't have any argument with that, but we're talking  
7 about 56,000; we're talking about 6,000? This goes beyond  
8 the scope of my cross, your Honor.

9 MR. BLACK: Your Honor, if I may, it actually goes  
10 right to the heart of the fact that violations were  
11 started at a high amount, ended at a low amount, and --

12 THE COURT: I think you've kind of covered that.  
13 You've plowed that ground pretty well. So do you have any  
14 other basis? If not, I'm going to sustain the objection.

15 MR. BLACK: I will move on.

16 Thank you, Miss Murray-Obertein.

17 THE COURT: Anything further, sir?

18 MR. WEBB: No, your Honor. Thank you.

19 THE COURT: All right. May Miss Murray-Obertein be  
20 permanently or temporarily excused, Counsels?

21 MR. WEBB: Permanently.

22 MR. BLACK: No, we release Miss Murray-Obertein.

23 THE COURT: Permanently?

24 MR. BLACK: Permanently.

25 (Conclusion of excerpted testimony.)

# Exhibit K



**IN THE OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA**

**DYANE SIMMONS, et al.,**

**Petitioners,**

v.

**MICHELLE STRONG, et al.,**

**Respondents.**

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**Docket No.:**  
**OSAH-GOV-REF-0900349-60-**  
**MALAH**

**MOTION TO QUASH**

COMES NOW Thurbert E. Baker, the Attorney General of Georgia and counsel by operation of law for Governor Sonny Perdue and Secretary of State Karen Handel, O.C.G.A. §§ 45-15-3, 45-15-34, and moves to quash subpoenas that have been received by the Office of the Governor and Office of the Secretary of State and which seek to compel, respectively, the Governor and the Secretary of State to attend the hearing in this matter and to testify.

Neither the Governor nor the Secretary of State are proper witnesses to this matter. Neither has unique knowledge not available to the parties through other witnesses; neither the Governor nor the Secretary of State has any personal knowledge at all as to the function or operation of Clayton County schools or the individual actions of the Respondents. The subpoenas on the Governor and the Secretary of State, as critical government officials at the head of the executive branch, Ga. Const. Art. V, Sec. I, Para. I; Art. V. Sec. II, Para. I, Art. V. Sec. III, Para. I, are patently unreasonable and oppressive, particularly in light of the absent or *de minimis* testimony they could provide. Moreover, the Governor is the referring agency in this matter and subpoenaing him to testify in a matter under his consideration is patently improper.

For these reasons, as more fully elaborated in the brief filed herewith in support of this motion to quash, the subpoenas on governor Sonny Perdue and Secretary of State Karen Handel should be quashed.<sup>1</sup>

This 11 day of August, 2008.

Respectfully submitted,

THURBERT E. BAKER      033887  
Attorney General

DENNIS R. DUNN      234098  
Deputy Attorney General



---

STEFAN E. RITTER      606950  
Senior Assistant Attorney General

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40 Capitol Square, SE  
Atlanta, GA 30334  
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Facsimile: (404) 657-9932

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<sup>1</sup> Respondents also attempted to subpoena the Superintendent of Schools, Karen Handel, but have withdrawn that subpoena. Thus, as withdrawn, it is not addressed here.

**CERTIFICATE OF SERVICE**

I do hereby certify that I have this day served the foregoing **Motion to Quash** by depositing a copy of the same to be delivered via United States Mail, addressed as follows:

Albert B. Wallace  
P O Box 565  
Jonesboro, GA 30237

W. Rod Johnson  
1604 Battlecreek Drive  
Jonesboro, GA 30238

This 11th day of August, 2008.



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STEFAN RITTER

Senior Assistant Attorney General

**IN THE OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA**

**DYANE SIMMONS, et al.,**

**Petitioners,**

**v.**

**MICHELLE STRONG, et al.,**

**Respondents.**

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**Docket No.:**  
**OSAH-GOV-REF-0900349-60-**  
**MALAH**

**BRIEF IN SUPPORT OF MOTION TO QUASH**

**Statement of the Case**

On or about August 6, 2008, subpoenas were received by (a) Office of the Governor and direct to Governor Sonny Perdue; (b) the Office of the Secretary of State and directed to Secretary of State Karen Handel, and (c) the Department of Education and directed to State Superintendent of Schools Kathy Cox. The subpoenas ostensibly call for each of this high ranking State officials to personally attend the hearing of this matter on August 12, 2008, beginning at 8:30 a.m. to be sworn as witnesses. (See Exhibits A, B, and C hereto). On information and belief of the undersigned, none of these officials personally received the subpoenas; the Governor, for instance, was not even in the United States at the time.

The matter before this tribunal involves alleged violations of the Georgia Code of Ethics, O.C.G.A. § 45-10-3, by the Respondents. The matter reached this tribunal upon referral by the Governor who received a complaint from the Petitioners. The Governor is the ultimate referring agency and decision maker in this matter. *See* O.C.G.A. § 45-10-4. As to the allegations of the Petition, the Governor, the Secretary of State, and the Superintendent have no relevant factual

knowledge. They therefore seek to quash these subpoenas as improper, unreasonable and patently oppressive.<sup>1</sup>

## II. Argument and Citation of Authority

### **THE SUBPOENAS ARE PATENTLY OPPRESSIVE AND UNREASONABLE AND SHOULD BE QUASHED**

The Governor and the Secretary of State are government officials at the head of the executive branch and are involved in the day to day operation of the State. *See* Ga. Const. Art. V, Sec. I, Para. I; Art. V. Sec. II, Para. I, Art. V. Sec. III, Para. I. They have no direct personal knowledge of any of the substantive allegata of the Petition against the Respondents. And what *de minimis* information they may have on the background of the case – if any, which is doubtful – can be supplied by other witnesses. Indeed, neither the Governor nor the Secretary of State have any personal knowledge of the conduct of business of the Respondents, which forms the core of the Complaint.

OSAH's rules of procedure and Code Section 9-11-45(a)(1) permit quashing a subpoena that is unreasonable and oppressive. *See also* O.C.G.A. § 24-10-22(b); *Washburn v. Sardi's Restaurants*, 191 Ga. App. 307, 310 (1989). It is fundamental, moreover, that the decision maker in a matter is immune against civil process and proceedings in connection with their performance of their decisions and functions. *See, e.g., Banks v. Benham*, 270 Ga. 91, 92 (1998); *West End Warehouses, Inc. v. Dunlap*, 141 Ga. App. 333 (1977)

Wherefore, the subpoenas as patently unreasonable and oppressive should be quashed.

**[signatures on following page]**

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<sup>1</sup> Respondents also attempted to subpoena the Superintendent of Schools, Karen handle, but have withdrawn that subpoena. Thus, as withdrawn, it is not addressed here.

Respectfully submitted,

THURBERT E. BAKER      033887  
Attorney General

DENNIS R. DUNN      234098  
Deputy Attorney General



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Telephone: (404) 656-7298  
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OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA

DYANE SIMMONS, et al.,

PETITIONER,

v.

MICHELLE STRONG, et al.,

RESPONDENT.

DOCKET NUMBER:  
OSAH-GOV-REF-0900349-60-MALIHI

**TO:** Name: GOV. SONNY PERDUE  
Address: THE OFFICE OF THE GOVERNOR  
STATE OF GEORGIA  
203 STATE CAPITAL  
ATLANTA, GEORGIA 30334

**SUBPOENA**

YOU ARE HEREBY COMMANDED to appear on behalf of the  Petitioner  Respondent  
to be

sworn as a witness

produce the documents on the attached list

at the following date, time, and location

**Date:** AUGUST 12, 2008  
**Time:** 8:30 A.M.  
**Location:** THE OFFICE OF STATE ADMINISTRATIVE HEARINGS  
230 PEACHTREE STREET, NW, SUITE 850  
ATLANTA, GA 30303

This subpoena is issued on the 6<sup>th</sup> day of August, 2008.



Lois F. Oakley  
Chief Judge  
Office of State Administrative Hearings

QUESTIONS ABOUT THIS SUBPOENA	PROOF OF SERVICE
<p>If you have questions about this subpoena contact: Name: <u>LESLIE KALI EASON, Esq.</u> Telephone: <u>(678) 553-7330</u></p>	<p>I have this ____ day of _____, 20__ served this subpoena: Name: _____ Telephone: (____) _____</p>

OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA

RECEIVED  
SECRETARY OF STATE et al.,

2008 AUG -6 AM 10:18 PETITIONER,

FRONT OFFICE

MICHELLE STRONG, et al.,

RESPONDENT.

DOCKET NUMBER:  
OSAH-GOV-REF-0900349-60-MALIHI

TO: Name: KAREN HANDEL  
Address: THE OFFICE OF THE SECRETARY OF STATE  
214 STATE CAPITAL  
ATLANTA, GEORGIA 30334

SUBPOENA

X 7-4  
Tommy Culligan - Consultant  
Services  
C.A.B.

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Lois F. Oakley  
Chief Judge  
Office of State Administrative Hearings

RECEIVED  
SECRETARY OF STATE  
2008 AUG -7 PM 1:55

QUESTIONS ABOUT THIS SUBPOENA	PROOF OF SERVICE
If you have questions about this subpoena contact:	I have this ____ day of _____, 20__ served this subpoena:
Name: <u>LESLIE KALIEASON, Esq.</u>	Name: _____
Telephone: (678) 553-7330	Telephone: (____) _____

Complete  
and  
return  
to  
C.A.B.



OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA

DYANE SIMMONS, et al ,

PETITIONER,

v

DOCKET NUMBER:  
OSAH-GOV-REF-0900349-60-MALIHI

MICHELLE STRONG, et al ,

RESPONDENT

TO: Name KATHY COX  
STATE SUPERINTENDANT OF SCHOOLS  
Address 2066 TWIN TOWERS EAST  
205 JESSE HILL JR. DR. SE  
ATLANTA, GEORGIA 30334

SUBPOENA

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Office of State Administrative Hearings

QUESTIONS ABOUT THIS SUBPOENA

If you have questions about this subpoena contact

Name LESLIE KALIEASON

Telephone: (678) 553-7330

PROOF OF SERVICE

I have this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ served  
this subpoena:

Name: \_\_\_\_\_

Telephone: (\_\_\_\_\_) \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I do hereby certify that I have this day served the foregoing **Brief in Support of Motion to Quash** by depositing a copy of the same to be delivered via United States Mail, addressed as follows:

Albert B. Wallace  
P O Box 565  
Jonesboro, GA 30237

W. Rod Johnson  
1604 Battlecreek Drive  
Jonesboro, GA 30238

This 11th day of August, 2008.



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STEFAN RITTER  
Senior Assistant Attorney General