

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

GEORGIA ASSOCIATION OF
PROFESSIONAL PROCESS
SERVERS; et al.,

Petitioners,

v.

THEODORE JACKSON, as Sheriff of
Fulton County; et al.,

Respondents.

*
*
*
* CIVIL ACTION FILE
* NO. 2013-CV-237446
*
*
*
*
*
*
*

PETITIONERS' MOTION FOR SUMMARY JUDGMENT

The Petitioners move this Court, pursuant to O.C.G.A. 9-11-56, for entry of summary judgment in their favor on the following claims which are set forth in their Petition:

- 1) Declaratory judgment and corresponding injunctive relief with respect to the proper construction of O.C.G.A. 9-11-4.1 ("Statute") and the denial of due process and/or unconstitutional delegation of legislative authority to Respondents caused by Respondents' current conduct intended to nullify the Statute. *See* Counts 1,4 and 5.
- 2) Writ of Mandamus to enforce O.C.G.A. 9-11-4.1 and remedy Respondents' ongoing conspiracy to nullify said statute and thereby violate the Georgia Constitution. *See* Counts 2 and 3.

In support of their motion, Petitioners have filed the following original, sealed depositions, including the exhibits attached to each deposition:

- 1) Deposition of James Terry Norris, the Executive Director of the Georgia Sheriff's Association;

- 2) Deposition of Sheriff Thomas E. Brown, Jr., DeKalb County;
- 3) Deposition of Sheriff R. L. (Butch) Conway, Gwinnett County;
- 4) Deposition of Sheriff Gary Gullede, Paulding County;
- 5) Deposition of Sheriff Victor Hill, Clayton County;
- 6) Deposition of Sheriff Theodore Jackson, Fulton County;
- 7) Deposition of Sheriff Duane Piper, Forsyth County; and
- 8) Deposition of Sheriff Neil Warren, Cobb County.

Petitioners submit the following affidavits in support of their motion. *See* Exhibits 1 and 2 attached hereto.

- 1) Affidavit of Deborah Duchon, President of GAPPS (Exh. 1).
- 2) Affidavit of Sheriff Roger Garrison, Cherokee County (Exh. 2)

Petitioners annex to this motion their Statement of Theories of Recovery and Undisputed Material Facts as required by Superior Court Rule 6.5. Petitioners have also filed a brief in support of their motion for summary judgment, and request oral argument to assist the court in deciding the substantive issues on which this important case will turn.

Respectfully submitted this 11 day of July, 2014.



A. Lee Parks
Georgia Bar No. 563750
lparks@pcwlawfirm.com
Harlan S. Miller
Georgia Bar No. 506709
Of Counsel
hmillers@pcwlawfirm.com
Counsel for Petitioners

Parks, Chesin & Walbert, P.C.
75 Fourteenth Street, Suite 2600
Atlanta, GA 30309
(404) 873-8000 Tel. (404) 873-8050 Fax

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

GEORGIA ASSOCIATION OF
PROFESSIONAL PROCESS
SERVERS; et al.,

Petitioners,

v.

THEODORE JACKSON, as Sheriff of
Fulton County; et al.,

Respondents.

*
*
*
* CIVIL ACTION FILE
* NO. 2013-CV-237446
*
*
*
*
*
*
*

CERTIFICATE OF SERVICE

I hereby certify that I have this day, July 11, 2014, served counsel of record with the foregoing ***PETITIONERS' MOTION FOR SUMMARY JUDGMENT*** by placing copies of same in the United States mail with proper postage thereon addressed to the following counsel of record:

Richard A. Carothers, Esq.
Michael E. Hobbs, Esq.
Carothers & Mitchell, LLC
1809 Buford Highway
Buford, GA 30518
Attorneys for Respondent Conway

Donald A. Cronin, Esq.
O'Quinn & Cronin, LLC
103 Keys Ferry Street
McDonough, GA 30253
Attorneys for Respondent Gullledge

Deborah L. Dance, Esq.
Lauren S. Bruce, Esq.
Cobb County Attorney's Office
100 Cherokee Street, Suite 350
Marietta, GA 30090
Attorneys for Respondent Warren

Jack R. Hancock, Esq.
A. Aliz Sabzevari, Esq.
Freeman, Mathis & Gary, LLP
661 Forest Parkway, Suite E
Forest Park, GA 30297
Attorneys for Respondent Hill

Ken E. Jarrard, Esq.
Kenneth P. Robin, Esq.
Aaron Meyer, Esq.
Jarrard & Davis, LLP
105 Pilgrim Village Drive, Suite 200
Cumming, GA 30040
Attorneys for Respondent Piper

E. Charles Reed, Jr., Esq.
Duane E. Pritchett, Esq.
DeKalb County Attorney's Office
1300 Commerce Drive, 5th Floor
Decatur, GA 30030
Attorneys for Respondent Brown

Steven Rosenberg, Esq.
Fulton County Attorney's Office
141 Pryor Street, SW, Suite 4038
Atlanta, GA 30303
Attorneys for Respondent Jackson



A. Lee Parks
Georgia Bar No. 563750
PARKS, CHESIN & WALBERT, P.C.

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

| | | |
|---------------------------------|---|-------------------------|
| GEORGIA ASSOCIATION OF |) | |
| PROFESSIONAL PROCESS |) | |
| SERVERS; et al., |) | |
| |) | CIVIL ACTION FILE |
| Petitioners, |) | NO. <u>2013CV237446</u> |
| |) | |
| v. |) | |
| |) | |
| THEODORE JACKSON, as Sheriff of |) | |
| Fulton County; et al., |) | |
| |) | |
| Respondents. |) | |

AFFIDAVIT OF DEBORAH A. DUCHON

COMES NOW DEBORAH A. DUCHON, who, after being duly sworn, deposes and states as follows:

1.

I am over the age of eighteen (18) years, a citizen of the United States and a resident of the State of Georgia. I am president of Petitioner, Georgia Association of Professional Process Servers (GAPPS), and have been certified as a process server by Sheriff Theodore Jackson pursuant to O.C.G.A. §9-11-4.1 and the Rules and Regulations issued by the Judicial Council of Georgia (JCG) (collectively the "Statute").

2.

On February 19, 2014, former sheriff, Sheriff Thomas E. Brown, Jr., during his deposition in this matter, testified that he had changed the policy of the DeKalb County Sheriff's Office regarding the authorization of



certified process servers to serve process some 90 days prior to his deposition. Prior to that time, it had been his policy that NO certified process servers would be allowed to serve process in DeKalb County. Since that time, according to then sheriff, Sheriff Brown, he had directed his designee for implementation of the Statute, Major Wanda Collins, to allow all qualified process servers who had been certified pursuant to O.C.G.A. §9-11-4.1 to serve civil process in DeKalb County. (Brown's deposition at 29, 53, 54).

3.

In my capacity as president of GAPPS, I immediately informed our certified members that they should present Major Collins with their requests for authorization, known as Form 4, to serve process in DeKalb County. Some twenty (20) Form 4 requests were provided to me by our certified members for delivery to Major Collins.

4.

On February 20, 2014, I directed certified process server Bruce R. Smith, Jr., to deliver to Major Collins twenty (20) Form 4 requests, each of which was signed and filled out by the twenty certified process servers filing the required notice of intent to serve process in DeKalb County. Initially, Major Collins refused to come out of her office, claiming she knew nothing about Sheriff Brown's authorization to approve Form 4 requests submitted by qualified, certified process servers. However, after a period of time, she did come out and accepted the twenty (20) Form notices.

5.

Because Sheriff Brown's retirement was scheduled for February 28, 2014, we checked with Major Collins on February 21 and February 24,

2014, to be sure she had signed the Form 4 requests. Major Collins put us off and stated that she was “too busy” to take care of the matter.

6.

On March 4, 2014, (four days following Sheriff Brown’s retirement), the GAPPS office received nine (9) of the twenty (20) Form 4 requests that had been delivered to Major Collins. I was informed that the remaining Form 4 requests were sent back directly to the signatories. All were sent back with a letter from Major Collins dated February 27, 2014 (the day before Sheriff Brown’s retirement), informing us that additional documents would be required before authorization would be granted for the certified process servers to serve process in DeKalb County. A copy of that letter is attached as Exhibit A.

7.

Although Major Collins’s request for additional documents was not in accordance with the Statute, I directed Mr. Smith to deliver four packets containing these requested documents to Major Collins on March 5. Each packet contained the requested documents for myself, Mr. Smith, and certified process servers Virginia C. Smith and Paul K. Tamaroff.

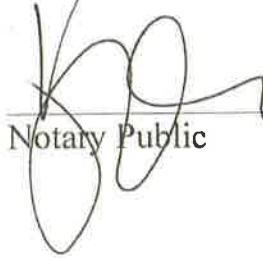
8.

During the subsequent two-month period, we made numerous telephone calls to Major Collins. On all but two such occasions, a voice mail had to be left asking for status. These voice mails were never returned. On the two occasions when Major Collins answered the telephone, she confirmed receiving the applications, but she would not state when the applications would be approved or denied. She would only state that they were very busy and that the applications were not a priority for that office. No approved Form 4’s have ever been returned.

FURTHER AFFIANT SAYETH NAUGHT.


DEBORAH A. DUCHON

Sworn to and subscribed before
me this the 8th day of July,
2014, at Atlanta, Georgia.


Notary Public





DeKalb County Sheriff's Headquarters & Jail

4415 Memorial Drive
Decatur, Georgia 30032
404-298-8100 404-298-8101<fax>
www.dekalbsheriff.org

Thomas E. Brown, Sheriff

Jeffrey L. Mann, Chief Deputy
4415 Memorial Drive
Decatur, Georgia 30032
(404)298-8148
(404)298-8101<fax>

Administrative Division
4415 Memorial Drive
Decatur, GA 30032
(404)298-8100

Court Division
556 N. McDonough
Decatur, GA 30030
(404)371-3061

Field Division
4415 Memorial Drive
Decatur, GA 30032
(404)298-8402

Jail Division
4425 Memorial Drive
Decatur, GA 30032
(404)298-8515

February 27, 2014

Ms. Deborah A. Duchon
Georgia Association of Professional Process Servers
Post Office Box 7710
Atlanta, GA 30357

Dear Ms. Duchon:

This letter is in response to your recent inquiry concerning the approval or disapproval of the Authorization Request to Serve Process in DeKalb County. We are unable to process the twenty (20) requests because of missing documents. I'm returning nine (9) requests to you because of no contact information listed for them. Nine (9) requests have been returned to Ms. Jayne Rauser of Diversified Legal Services and two (2) requests have been returned to TFP Company. Below is a list of required documents that are needed to process the requests. The documents are required for all applicants that are requesting authorization.

1. A letter of intent to serve in DeKalb county per O.C.G.A. 9-11-4.1
2. Copy of completion of the process server course
3. State issued certificate
4. Certified oath - copy of Form 3 from the county that certified him/her
5. Copy of issued photo ID
6. Copy of Form 4

Exhibit A

I'm enclosing the documents that were received by our office so that you may return the completed packages.

Sincerely,



Major Wanda R. Collins
Office of Professional Standards
Background and Recruitment
Commander

STATE OF GEORGIA
COUNTY OF CHEROKEE

AFFIDAVIT OF SHERIFF ROGER GARRISON

I, Roger Garrison, before the below named officer duly authorized to administer oaths, do hereby swear and attest to the following:

1.

I am over the age of 18 and I am not suffering from any mental or physical disabilities that would prevent me from testifying under oath.

2.

I am the duly elected Sheriff of Cherokee County, and provide this declaration based on my personal knowledge for use in the pending civil action Georgia Association of Professional Process Servers, et al. v. Theodore Jackson, as Sheriff of Fulton County et al., Civil Action File No. 2013CV237446.

3.

I am familiar with O.C.G.A. Section 9-11-4.1 (the "Statute") which became law in 2010. I am also familiar with the Georgia Certified Process Server Program and the Rules and Regulations implementing same, promulgated by the Judicial Council of Georgia, acting through the Administrative Office of the Courts.

4.

Under the Statute, the Sheriff is responsible for certification of qualified persons who submit completed applications for certification to serve civil process.

The qualifications, terms and conditions for certification are set forth in the Statute and the implementing Rules and Regulations. I certify all applicants who meet the statewide criteria for certification as being qualified to serve process in the State of Georgia.

5.

The Statute also requires a certified process server to submit notice to the sheriff of any county where they intend to serve civil process. As I read the Statute, the scope of a sheriff's discretion in responding to a notice received by a certified process server of their intent to serve process in the sheriff's county of jurisdiction, is limited to determining whether the person providing notice is duly certified and otherwise qualified to serve process pursuant to the qualifications for certification set forth in the Statute. I do not believe the Statute permits a sheriff to deny a certified process server the right to work, unless they are not properly certified. That is why I approve all notices of intent to serve process in Cherokee County that are submitted to me from private process servers who I determine to be properly and currently certified.

6.

The General Assembly passes laws, or amends laws, in ways I do not personally agree with in virtually every annual session. However, once those laws are signed into law by the Governor, it is my duty as a law enforcement officer to enforce those laws. The proper enforcement of this Statute requires me to approve all notices of intent to serve civil process in Cherokee County submitted by private process servers who have obtained their statewide certification under the Statute and provided proof that their certification is current.

FURTHER AFFIANT SAYETH NAUGHT




ROGER GARRISON

Sworn to and subscribed before me
this 8 day of July, 2014.



Notary Public

My Commission Expires: 5/2/2018


IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

GEORGIA ASSOCIATION OF
PROFESSIONAL PROCESS
SERVERS; et al.,

Petitioners,

v.

THEODORE JACKSON, as Sheriff of
Fulton County; et al.,

Respondents.

*
*
*
* CIVIL ACTION FILE
* NO. 2013-CV-237446
*
*
*
*
*
*
*

**PETITIONERS' BRIEF IN SUPPORT
OF MOTION FOR SUMMARY JUDGMENT**

Petitioners submit their brief setting forth the undisputed facts and controlling statutory and case law that entitle them to summary judgment on their claims and to the relief requested in their Petition.

1. INTRODUCTION

This important case is brought by and on behalf of state certified private process servers seeking the right to work in Georgia ("Certified Servers"). Petitioners challenge the legality of the effects of the openly acknowledged conspiracy engaged in by the Respondent Sheriffs, acting in concert with all but two of the other 159 Georgia Sheriffs, and the Georgia Sheriffs' Association ("Association"). The brazen purpose of this conspiracy is to nullify O.C.G.A. § 9-11-4.1 (the "Statute"), which was passed by the General Assembly in 2010. The Statute's laudable purpose was to establish a uniform statewide licensing process to ensure that only qualified individuals were certified to work

as private process servers in the state of Georgia. The Statute was designed to address the reality that busy Sheriff's Departments, already under financial pressure due to shrinking budgets, are often without the resources to promptly serve civil process in a cost efficient manner. By affording litigants an alternative to service by a taxpayer funded deputy sheriff, the Statute created a privately funded service option for attorneys and litigants in need of timely service by a licensed professional.

The conspiracy is being carried out by the Respondents and the co-conspirator Sheriffs, via a blanket refusal to permit any state Certified Server to work within their county of jurisdiction (hereinafter "County"). The effect of this ban is to deny them their right to work in 157 out of 159 Georgia counties. The collective impact of the conspiracy has been to render Petitioners' state certification to serve civil process statewide worthless.

The Sheriffs make no excuse for their efforts to nullify the Statute. Their Association, acting on behalf of Respondents and its other member Sheriffs, posted this notice on its website shortly after the Statute became law in 2010:

*****ATTENTION PROCESS SERVERS*****

The Sheriffs of Georgia have agreed to oppose any further expansion of "certified process servers." All Sheriffs will exercise their authority under the current law and **PROHIBIT ALL** certified process servers from serving process in every county.

* This message is provided to you as a courtesy, so potential applicants can make a better informed financial decision regarding the certification process.¹

¹ See Exhibit 6 to Deposition of Terry Norris, Executive Director of the Georgia Sheriffs' Association. The reference to an "informed financial decision" is based on the fact that the total cost of the training incurred in the certification process, as well as the background check, the surety bond premium and other administrative costs, is approximately \$700.00.

To date, Respondents have sought to legally justify their conspiracy by relying on an incorrect and ultimately unconstitutional interpretation of the Statute. They contend that a Sheriff possesses an “absolute and unreviewable right” to block implementation of the Statute in their County; i.e., that the Statute is operative only in counties where the Sheriff allows it to go into effect. This “local option” interpretation of the Statute cannot be squared with well settled rules of statutory construction. Moreover, the conspiracy to prohibit all Certified Servers from working constitutes a gross abuse of the limited discretion afforded the Sheriffs in the certification process established by the Statute. Petitioners request this Court construe the Statute so to fulfill its intended purpose and remediate the Respondents’ unlawful acts.

Sheriff Roger Garrison of Cherokee County has provided an affidavit that sets forth the correct interpretation and application of O.C.G.A. ¶ 9-11-4.1. See Exhibit 2 to Petitioners’ Motion for Summary Judgment. He has refused to become a part of the conspiracy to nullify the Statute, despite the pressure put on him by fellow Sheriffs to “toe the party line,” and has correctly construed the Statute as requiring Certified Servers be allowed to work.

II. STATEMENT OF FACTS

A. The Rules and Regulations Governing the Statewide Certified Process Server Program

The objective qualifications for state certification as a process server are set forth in O.C.G.A. §9-11-4.1(b)(1)(A)-(E). They include completion of a 12-hour course of

instruction, passing a test administered by the Administrative Office of the Courts to ensure competency, posting of a surety bond, U.S. citizenship and a criminal background check. Absent “good cause,” all persons satisfying these criteria are legally entitled to state certification. O.C.G.A. §9-11-4.1(a).

The Judicial Council of Georgia, acting through the Administrative Office of the Courts (“AOC”), was delegated the responsibility of establishing rules and regulations to govern the statewide Certified Process Server Program (“Rules”). *Id.* These Rules were promulgated by the Judicial Council of Georgia in early 2011, and made effective by the Administrative Office of the Courts on May 31, 2012. See Exhibit 1 to the Petition.

The Rules establish a comprehensive certification process to ensure that private process servers are well trained and registered. Art. 5 at 9-13. In Article 1 of the Rules, the Judicial Council of Georgia clearly states that the purpose of the Statute is: “. . . to permit civil process to be served in the State of Georgia by persons deemed by the Sheriffs of any county in Georgia **to have met the criteria to be certified to serve process** in addition to Sheriffs, marshals and permanent process servers.” (Emphasis added).

The certification of a private person who successfully completes the training, passes the test, obtains the required surety bond, completes the background check, and meets all other requirements for certification is, ironically, performed by the Sheriffs. It is their duty under the Statute to actually certify the applicants as qualified to serve process upon the presentation of a completed application evidencing they have met all the requirements for certification under the Statute and the implementing Rules.

Certification constitutes a license to work statewide as a private process server. However, before a Certified Server works in a particular county, they are required to file a written “notice of intent” to serve civil process with the Sheriff of that county. The Rules provide that a “Sheriff retains the **discretion** to permit or deny a certified process server to operate within the county of (his) jurisdiction.” Art. 2 (D)(2). (Emphasis added.)

Neither the Statute nor the Rules establish any different qualifications or standards for a Sheriff to consider other than those used in the certification process in exercising their discretion to permit or deny the Certified Server the right to serve process within that Sheriff’s County. Art. 3 at 6. Moreover, neither Respondents nor any other Sheriff has even promulgated any objective criteria to govern the exercise of their discretion in this regard since they have publicly stated that they will not approve any Certified Server to work in their County, regardless of their qualifications. Incredibly, Respondent Gullledge has contended that certification under the Statute is not the equivalent of qualification. In his view, a Certified Server is qualified only “if [he] approves them to serve.” Depo 17. It is this kind of nonsensical thinking that has created a problem of constitutional dimensions.

B. The Sheriffs’ Conspiracy to Nullify the Statute

In Count One of their Petition, Petitioners allege that Respondents, acting in concert and conspiracy with their Association and all but two of the other 159 Georgia Sheriffs, have implemented a blanket prohibition intended to deny all Certified Servers, including Petitioners, the right to serve process within their respective Counties. The Respondents and the Association freely admit to their concert of action and agree that their purpose is to

nullify the Statute and thereby circumvent the will of the General Assembly. The Sheriffs have implemented this ban notwithstanding the undisputed fact that these Certified Servers have satisfied all the requirements for statewide certification, as enumerated in the Statute and enabling Rules. While an allegation of such a blatantly unlawful statewide conspiracy by law enforcement officials would normally present a material question of fact unresolvable at summary judgment, the discovery process yielded undisputed evidence that the conspiracy not only exists, but is firmly in place. As testified by Respondent Gulledge, “I think it’s important for sheriffs to stick together on everything . . . [A]nd as long as we’ve got a united front . . . I think we’re in good shape.” Depo 27, 28.

C. The Sheriffs’ Deposition Testimony

Each Respondent freely admitted in their deposition that they have denied every application submitted by a Certified Server to work in their County since the Statute was passed in 2010. They admit that the denials are not based on any review of the notices of intent filed by the Certified Servers since they deem qualifications to be irrelevant to their “exercise of their discretion.” The following is a summary of each Respondent’s testimony regarding their participation in the challenged conspiracy.

1. Respondent **Gary Gulledge** is the Sheriff of Paulding County (“Gulledge”). He testified that it was “up to each individual Sheriff” to determine whether a Certified Server could serve papers in their county. Depo. 17. When asked what a certified process server would have to show him to gain approval, Gulledge candidly admitted that “I wouldn’t approve anybody. I haven’t approved anybody.” *Id.* 18. Gulledge stated that it would not matter how proficient, qualified or experienced the

Certified Server was because individual qualifications did not matter since he will not approve anyone. As a result, all notices of intent are summarily denied by Gullede without any investigation or other inquiry as to the qualifications of the Certified Server in question. *Id.* 19-21. See also ¶ 27 of the Answer to the Petition filed on behalf of Gullede stating “he does not permit private process servers to operate within Paulding County pursuant to O.C.G.A. § 9-11-4.1”. See also *id.* at ¶¶ 35 and 37.

Gullede testified that the only reason he denies Certified Servers the right to serve process in his County is that they are not members of the Sheriff’s Department. *Id.* 20. He agreed that his decision to deny every Certified Server, regardless of their qualifications, the right to work, effectively nullified the Statute. *Id.* 23.

Gullede has taken by Gullede was the exact same position the Association advocated all its member Sheriffs take in a concerted effort to effectively nullify the Statute. The arrogance of the Respondents and conspiring Sheriffs with respect to their decision to deny Certified Servers the right to work by nullifying the Statute, is perfectly captured in the following testimony by Gullede. Depo. 29:

Question: “. . . (I)n fact, the (Statute) really has no viability in Paulding County?”

Answer: “In Paulding County, no.”

Question: “Are you a higher authority than the Georgia General Assembly in Paulding County?”

Answer: “In Paulding County, I would say yes.”

2. Respondent **Duane Piper** is the Sheriff of Forsyth County (“Piper”).

He testified that it was his “discretionary decision” to decide whether Certified Servers

could work in Forsyth County, and admitted that he has denied every application that has been submitted and that every denial was automatic. Depo. 22-24. He admitted he has adopted a blanket policy of denying all requests by Certified Servers to serve process in Forsyth County and further admitted that he does not actually review the notices of intent or evaluate the Certified Server's qualifications since that information would not impact his decision since he does not permit Certified Servers to work in his County. Id. He acknowledged that he has not reviewed the Rules established by the Judicial Council of Georgia which, by law, govern the certification and approval process for private process servers. Id. 56. He also admitted that the post on his department's website advising that he does not permit certified private process servers to work in Forsyth County is accurately reproduced in ¶ 45 of the Petition. See ¶ 45 of Piper's Answer.

3. Respondent **R. L. "Butch" Conway** is the Sheriff of Gwinnett County ("Conway"). Conway testified that he has not approved any Certified Server to work in the County and admitted that he denies everyone, regardless of qualification, experience, background or any other objective criteria. Depo. 14-16. He also admitted that he doesn't conduct any investigation upon receipt of the Certified Server filing the notice of Intent. Id. Conway acknowledged that, under his blanket policy of denial, no Certified Server, regardless of qualifications, could ever serve process in Gwinnett County. He contends that this blanket policy of refusing all applications is an "exercise of discretion," but states that he has chosen to exercise his "discretion" in a way that ensures all Certified Servers, no matter how qualified, will ever serve process in Gwinnett County. Id. 20-22.

In ¶ 53 of his Answer, Conway reconfirmed his ban on prohibiting all Certified Servers from working in Gwinnett County. Conway placed the following post on his website: “I will **NOT** approve private process service in Gwinnett County.” In ¶ 43 of Conway’s Answer to the Petition, he acknowledges that he posted that statement on his website which he says “speaks for itself.”

Conway also admitted it would benefit the taxpayers to have private process servers in place since that would be more economical due to the fact that the Sheriff’s Department is limited by law to a \$50.00 fee per service and that such a low fee does not begin to cover the cost of actual service by a uniformed deputy sheriff deployed in a police cruiser. *Id.* 31, 32. But, the fact taxpayers would benefit from him approving Certified Servers did not dissuade Conway from doing just as his Association dictated and denying all applications. *Id.* 20-22.

4. Respondent **Theodore Jackson** is the Sheriff of Fulton County (“Jackson”). He testified that he was told by the Association that the reason the Statute included a provision giving each Sheriff the discretion to permit or deny certified private process servers the right to serve process in their county of jurisdiction was because some small county “rural sheriffs” were having problems with particular process servers, and they needed to keep the “problem” servers out of their county. Depo. 18-19.

Jackson further testified that the Association recommended to all Sheriffs that they not approve any Certified Servers, as set forth in the Association’s website posting which is reprinted *infra* at p.2. Depo 19-20. Jackson stated that it was the Association that told him to adopt its recommended policy of denying all applications since the Statute would require

him to “approve all if you approve one.” Based upon this gross misreading of the Statute by the Association, Jackson he believes he must “reject all” since he does not want to “approve all.” Depo. 20, 26, 27. Jackson admitted, both in deposition and in his interrogatory responses, that his current policy is to deny all applications regardless of an applicant’s qualifications, training or any other objective criteria. Id. 23-27. He also admitted that applications are not reviewed individually. Id.

Jackson acknowledged that he possessed the discretion to approve Certified Servers to work in Fulton County, but contends that his blanket rule of denying all requests constitutes his exercise of that discretion. He stated that the reason he exercises his discretion to deny all applications is because of the advice he received from the Association that if “he allowed one, he must allow all.” Id. 43 – 45. He has therefore instructed his designees who handle certification applications to deny all requests, regardless of qualifications. Id. at 48. Jackson did state that, if the “approve one, approve all” rationale was not true, or proved to be unlawful, he would review applicants on an individual basis. Id. 45.

Jackson also admitted that the \$50.00 fee the Sheriffs charge for service of process does not cover the actual cost to taxpayers for a deputy sheriff to serve process and that private process servers would actually benefit the taxpayers. Id. 31.

5. Respondent **Neil Warren** is the Sheriff of Cobb County (“Warren”). He testified that he understands that it is within his discretion to permit certified private process servers to serve process in Cobb County. Depo. 15. However, he admitted he automatically denies all applications without regard to qualifications and does not review

applications on an individual basis because he has “not ever and will never” approve any such application. Id. at 16-18. Warren admitted in his Answer that he does not allow any certified private process server to work in Cobb County. See ¶¶ 51 and 53 of Warren’s Answer. Warren also admitted he doesn’t provide any notice of a denial or any hearing or other review of his uniform rejection of all applications. Id. at ¶ 54. Warren admitted that his policies effectively nullify the Statute in Cobb County. Depo. 48.

6. Respondent **Victor K. Hill** is Sheriff of Clayton County (“Hill”). In his Answer to the Petition, Hill denied that “he prohibits all certified process servers from doing business or otherwise serving process in Clayton County.” ¶ 49 of Answer. He testified in his deposition that he has a blanket rule that no private process server will ever be approved to serve process in Clayton County. Depo. 47-48. Hill admitted that he has the discretion to approve certified private process servers and that he has not approved any application of a private process server to work in Clayton County, because he has adopted the position of the Association to approve no one. Id. at 30, 48.

7. Respondent **Thomas E. Brown** was the longtime Sheriff of DeKalb County (“Brown”). He has never approved any certified private process server to serve process in DeKalb County. Depo. 28-30. In his Answer to the Petition, Brown stated “he has exercised his discretion in declining permission for [certified process] servers to serve process in DeKalb County. See Answer of Thomas Brown, ¶ 36, filed November 7, 2013. Brown testified he had the discretion to approve certified applications, and that he recently “reconsidered” his position and decided to permit all certified private process servers to work in DeKalb County. He did so within a few weeks of his resignation to run for

Congress. Id. To date, the Interim Sheriff has refused to approve any applications and has left Brown's blanket rejection policy in effect. See affidavit of Deborah A. Duchon attached as Exhibit 1 to the Petitioners' Motion for Summary Judgment.

Brown agreed that the \$50.00 fee afforded by law to cover service by a deputy sheriff does not cover the taxpayers' costs for that service. He acknowledged that private process servers would ameliorate that taxpayer burden and be a more economical way to effect service. Id. 42-43.

D. Position of the Sheriffs' Association

Terry Norris has worked as the Executive Director of the Association since 1995. Depo. at 8. He is the spokesperson for the Association on all matters before the General Assembly and personally conveys the positions of the Association to legislators. Id. at 14. He recalled a meeting with the member Sheriffs in 2010 where they collectively decided they were going to block private process servers from working in their respective counties regardless of any laws passed by the General Assembly. Mr. Norris confirmed that the position of the Association has consistently been to oppose any increase in the use of private process servers. Id. at 22 – 24. He stated that the "real reason" the Association has taken such a harsh position with respect to private process servers is the Georgia Sheriffs' fear that they could lose millions of dollars in service fee revenue if private process servers were permitted to work in Georgia. Id. at 33.

Mr. Norris identified Exhibit 6 to his deposition as an accurate screen shot of the Association's website post advising all certified process servers that no Georgia Sheriff would ever approve them working in their county. Id. at 62. See text of post *infra* at p.2.

He testified that the Association hoped that the post would discourage people from seeking certification since it would be a “waste of money.” Id. He identified Exhibit 7 to his deposition as the Association’s letter to all Georgia Sheriffs urging them to post a similar message on their websites. Id. at 63. Many Sheriffs complied. See, e.g., Exhibits 5-8 to the Petition.

Mr. Norris admitted that the Statute has been effectively nullified by virtue of the Sheriffs’ concerted refusal to allow private certified process servers to work in their respective counties. While Mr. Norris acknowledged that the Statute was beneficial to the public, it was not a law the Sheriffs would ever permit to go into practical effect. Id. at 66-68, 78-80.

Under the Statute, the Association is required to maintain the certified private process server registry. Mr. Norris testified there are some 130 persons on the list, but only 46 are approved to actually serve process in Georgia, and 39 of those are in Cherokee County where the Sheriff permits certified private process servers to serve process. Id. at 85-87. That means that there are only 7 private certified process servers (five of which were approved by a former Sheriff of Forsyth County who has been replaced by Respondent Piper who approves no one) that have been approved to serve process in one of the remaining 158 counties in Georgia. Id. at 87. Despite the fact that numerous requests for approval have been submitted to the Sheriffs, Norris acknowledges that the Sheriffs, including the Respondents, have summarily denied all requests, without any individual consideration of the qualifications of each Certified Server who filed a notice, all in furtherance of the conspiracy to effectively nullify the Statute. Id. at 91.

Exhibit 15 to the Norris deposition is a letter dated March 21, 2011, which was sent to all members of the General Assembly by Wendell Willard, Chairman of the Judiciary Committee. Therein, Chairman Willard sets forth the purpose of the Statute which was to allow Certified Servers to perform this valuable service throughout Georgia and not just in the county where a court has appointed them.

Chairman Willard chronicled the negotiations that led to the passage of the Statute which included his acquiescence to the Association's demand that the General Assembly double the fees Sheriffs can charge for service of process from \$25.00 to \$50.00, a 100% increase, in exchange for its agreement not to oppose passage. *Id.* at 91-92. The Chairman confirmed that: "this was a major component of negotiations and of obtaining support for the bill by the Georgia Sheriffs' Association." *Id.* The Association also insisted on another provision that "allowed a Sheriff to collect a fee of \$80.00 for processing a process server application, \$30.00 of which is sent to the Georgia Sheriffs' Association." The Association, acting on behalf of the Sheriffs, then reneged on virtually everything it promised the Chairman (and in turn the General Assembly) during 2010 session.

Given all the concessions that the Association obtained to benefit either a member Sheriff or the Association itself, Chairman Willard was brutally frank in his assessment of the bad faith exhibited by the Association when it posted the notice on its website of its intent to nullify the Statute.

"Clearly, the Association was not operating in good faith when it asked that its members be given control of the certification and licensure process. These facts address the credibility of the Association's leadership, and shall cause each member of this body to wonder if Sheriffs are to be

given oversight of any further policy adopted by the General Assembly.”

With respect to the language in the Statute requiring certified private process servers to file a notice of intent to serve process with each Sheriff in a county where they intend to work, the Chairman clearly described the legislative intent behind this provision:

“[A] provision was added that allowed a Sheriff the authority to deny someone the ability to conduct private process service in a county, **if the Sheriff had reason to believe the person was not qualified or fit for the work.**” (Emphasis added).

The Chairman’s letter makes clear that the Sheriffs were not provided “absolute discretion” to nullify the Statute. In their effort to “repeal” the Statute, the Respondents and their co-conspirator Sheriffs, have now twisted this provision into the sword its members now use to nullify the Statute, contrary to the legislature’s intent. The website post (Norris Depo. Exh. 6) stands in stark contrast to the promises it made to the sponsors of the Statute in the negotiations that led to the inclusion of this provision in the Statute.

Mr. Norris admitted that the service of process by certified private individuals does not burden the Sheriffs in any way. *Id.* at 96-97. He believes that the private process service industry is “potentially going to grow by leaps and bounds.” *Id.* at 99-100. He tried to justify the collective opposition to the Statute by the Respondents, the Association and its member Sheriffs, as a means to stop the alleged “profiteering” by the private process service industry. He acknowledged that he has no facts upon which to support the bogus allegation of “profiteering” since the litigant or attorney who hires a private process

server can negotiate for the cost of that service. Moreover, no Sheriff has ever raised this as an issue or stated that it is their goal in denying certified process servers to work in their county to stop the growth of an industry which fills an admitted need in the civil justice system that has been recognized by the General Assembly in the passage of the Statute.

III. ARGUMENT AND CITATION OF AUTHORITY

A. **The Discretion Afforded the Sheriffs Under the Statute is Not Absolute**

The Statute provides that Certified Servers “shall be entitled to serve in such capacity for any court of the state, anywhere in the state, provided the sheriff of the county for which process is to be served allows such servers to serve process in such county.”

O.C.G.A. § 9-11-14.1(a). The Statute plainly requires each Sheriff approve a Certified Server, who files a proper notice of intent to actually serve civil process within their County, unless they are no longer certified or are otherwise unqualified under the Statute and implementing Rules. Instead, the Sheriffs have wrongly bifurcated the certification into a two-step process, with the first step being certification. After certification comes the “authorization” to work stage, which entails submission of the Form 4 Notice of Intent to serve process in a County. However, O.C.G.A. 9-11-4.1(b)(2) provides that “a sheriff . . . shall review the application, test score, criminal record check, and such other information or documentation as required by that sheriff and determine whether the applicant shall be approved for certification and **authorized to act as a process server . . .**” (Emphasis added). The criteria for determining the issue of authorization is clearly set forth in the Statute, and the Respondents are not permitted to ignore same. Thus, certification includes the authorization to actually serve process under the Statute. The Form 4 notice is strictly

that; a notice of intent filed pursuant to 9-11-4.1(h). The Sheriff has no authority to deny a Certified Server the right to work if they are properly certified.

The Sheriffs' decision to deny all Certified Servers the right to work, regardless of qualifications, is contrary to the plain language of the Statute and the clear intent of the legislature in passing the Statute. This "stone wall" of rejection was the approach advocated by the Association and blindly followed by 157 of 159 Georgia Sheriffs. Such a gross abuse of discretion cannot pass constitutional muster because it is intended to frustrate the purpose and intent of the legislation by rendering the Statute meaningless and thereby constitute an arbitrary and capricious denial of Petitioners' right to due process of law.

1. Respondents' Interpretation of the Statute Renders the Statute Meaningless.

The Sheriffs, in conspiracy with the Association, brazenly admit that their purpose is to nullify the purpose of the Statute, i.e., creation of a certification system that produces private process servers **to work** in Georgia. Respondents' position is based on an improper interpretation of the Statute based on the false premise that the General Assembly ceded to them absolute veto power over the entire certification process by giving each Sheriff total discretion to deny all Certified Servers the right to work in their County. That cannot be as it is the tantamount to ceding to the Sheriffs the ability to turn the statutorily established certification process into an empty mockery of the legislature's intent, and Petitioners certifications into worthless pieces of paper.

The law is well-settled that a party cannot justify their actions by relying upon an interpretation of a statute that renders the law a meaningless nullity. Georgia courts “do not construe statutes to render any provision meaningless.” State v. Luster, 204 Ga. App. 156, 160 (1992). See also Central Georgia Power Co. v. Parnell, 11 Ga.App. 779 (1912) (“Any other rule would practically nullify the statute and defeat the object sought to be accomplished by the General Assembly”). “A legislative body should always be presumed to mean something by the passage of an Act and an Act should not be so construed as to render it absolutely meaningless.” Hardison v. Booker, 179 Ga. App. 693, 695 (1986). As such, Georgia courts do not interpret statutes in a manner that would “thwart the avowed purpose of the legislature.” Id.

This established principle was recently confirmed by the Georgia Supreme Court in its recent decision of Williamson v. The State, No. S13G1133, 2014 WL 2025127, at *2 (Ga. May 19, 2014). In that case, the State urged the court to adopt an interpretation of O.C.G.A. § 17-7-170(b) that would allow courts not to include, in calculating the two terms during which a speedy trial request must be honored, any terms where there were not enough jurors empaneled to hear the case. Id. The Supreme Court rejected this interpretation since it would require a defendant to wait for a trial to be held at the convenience of the State and thereby render the speedy trial statute meaningless. Id.

State v. Torres, 290 Ga. App. 804, 806-07 (2008), is an analogous decision that rejected an interpretation of the statute in question because it would nullify its intended purpose. In Torres, the question was whether a police officer had to follow the specific procedures required by O.C.G.A. § 40-13-2.1(a) when making an arrest for failure to sign

a traffic citation. The State argued for an interpretation of the statute that would give police officers the option of deciding whether to adhere to the statutorily mandated procedures depending on the situation. Id. The court rejected this argument because it would permit the police officers to circumvent the statute in its entirety, specifically ruling “[n]either police officers nor this Court can nullify a legitimate statute by interpreting it so that compliance with the same is optional.” Id. at 806. (Emphasis added).

Yet, the arguments rejected in both Williamson and Torres form the basis for Respondents’ position in this case. They acknowledge their interpretation of the Statute would effectively nullify its effect and thereby make the certification process largely pointless. It is absurd to think that the General Assembly would establish a statutory statewide certification process for private process servers which cost each applicant \$700.00, but, in that same Statute, delegate to the Sheriffs unreviewable discretion to unconditionally nullify the certification process. This Court should follow Williamson and Torres, and reject Respondents’ interpretation of the Statute since the unfettered discretion they claim it affords them to nullify the certification process would render the Statute meaningless. Such a result would clearly be contrary to the legislature’s intent, and run afoul of well settled rules of statutory construction.

2. Respondents’ Active Conspiracy to Nullify the Statute Denies Petitioners Due Process of Law.

It cannot be disputed that the Sheriffs’ blanket rule banning Certified Servers from working in their County constitutes a gross abuse of the limited discretion afforded the

Sheriffs in the certification process by the Statute. As such, it violates Petitioners' rights to due process of law, and is therefore redressable via a writ of mandamus.

The case law supports Petitioners' request for a writ of mandamus. In Pryor Organization, Inc. v Stewart, 274 Ga. 487 (2001), the newly elected Sheriff of Spalding County purported to "exercise his discretion" by prohibiting the plaintiff from continuing to write bonds. Plaintiff sought a writ of mandamus to require the Sheriff allow him to work. The Supreme Court agreed with the plaintiff:

The Sheriff's discretion is not absolute, but is circumscribed by the statutes from which his authority derives. [cit] O.C.G.A. §17-6-50 establishes the qualifications of "professional bondspersons." *If Pryor met those statewide qualifications, then the refusal to permit it to conduct business at the county level cannot be upheld. The Sheriff's decision, under those circumstances, would be "without legal justification or excuse,....arbitrary, illegal and capricious and an abuse of discretion."*

Id. at 488. (Emphasis added).

The situation hypothesized by Justice Carley is precisely what is presented by the Sheriffs' conspiracy to nullify the Statute. If Respondents deny a Certified Serve the ability to work in their County, they must base it on the applicant's failure to meet the objective criteria set forth in the Statute and implementing Rules which set forth the qualifications required both for certification as a statewide process server and authorization to work in any particular County.

Certification is the legal equivalent of qualification. Respondents' attempt to circumvent that undeniable fact by contending that subpart (h) of the Statute, which states that a Certified Server can work only if "... the Sheriff of the county for which process is

to be served allows such servers to serve process in their county.” But, due process necessitates far more than mere fiat—it requires the Sheriff employ specific objective criteria based on qualifications to determine whether a Certified Server will be permitted to serve process in their County. That approach insures there is a statewide standard for the exercise of the Sheriff’s discretion that is consistent with the criteria for qualifications created by the Statute and implementing Rules. Several appellate decisions based on analogous circumstances cement this well settled point.

In Arras v. Herrin, 255 Ga. 11 (1985), plaintiff sought a license to sell alcoholic beverages. It was undisputed that he satisfied all the objective requirements contained in the liquor sales ordinance, but the County Commission denied the license relying on a subpart in the ordinance which purportedly gave it absolute discretion over the issuance of such licenses. The trial court refused to issue the writ of mandamus, but the Supreme Court reversed and held the Commissions’ “absolute discretion” argument contravened due process:

Due process constraints dictate that . . . Commissioners may not deny Arras a license...by exercising the “absolute discretion” provided in [the ordinance]. Local municipal governing authorities may no longer deny liquor licenses without justification merely by labeling an alcoholic beverage license a “privilege” and not a “right.” [cit] While . . . governments have the right to regulate sales of intoxicating beverages as a valid exercise of police powers, the power to regulate . . . does not exempt the state from the operation of the 14th Amendment. [cit] Absolute and uncontrolled discretion by governing authorities to issue licenses invites abuse. An exercise of discretion by . . . governments must be tempered with “ascertainable standards ... by which an applicant can intelligently seek to qualify for a license...” [cit] Thus, in Georgia a liquor licensing ordinance must provide “sufficient

standards to control the discretion of the governing authority and adequate notice to applicants of the criteria for issuance of a license.” [cit]

The ordinance in question contained objective standards . . . , and . . . Arras met these objective standards. Instead of relying on these standards, the Board based its denial on the vague language of the ordinance which confers an “absolute discretion” on the Board to make a “final” determination as to whether the location is “proper” and in the “best welfare” and “best interests” of Camden County. **These words contain no standard to control the discretion of the Board and thereby deny due process.**

Id. at 11. (Emphasis added).

Just as in Arras, the right to become certified as a private process server—upon satisfaction of the specified objective requirements—serves no purpose if Respondents, acting in concert and conspiracy with the Sheriffs, are allowed to ban them from actually working. The Legislature plainly did not intend such an illogical and unfair result.

Numerous other decisions confirm the elementary legal principle that a public official’s exercise of discretion to approve or deny a citizen the right to work in an area where licensure is provided by the State must be governed **by objective standards**. In Fulton County v. Bartendfeld, 257 Ga. 766 (1988), plaintiff sought a special use permit to create a landfill, and met all of the objective criteria specified in the ordinance for issuance of the permit. Relying on Arras, the Court issued the writ of mandamus, holding that:

[S]ince the applicant . . . complied with all objective conditions and prerequisites set out in the local zoning ordinance for . . . issuance of the permit, and since the board of commissioners’ **denial thereof constitutes an act of discretion which is lacking in any articulable, objective ground of support**, the appellee has a clear legal right to issuance of the permit, thereby entitling applicant to issuance of the writ commanding

grant of the application by the local authorities. (Emphasis added).

Id. at 770. See also Crymes v. DeKalb County, 258 Ga. 30, 364 S.E.2d 852 (1988)(Plaintiff entitled to special use permit where all objective requirements satisfied).

The Sheriffs' "blanket rule" is also contrary to the decision in Ga. Dept. Of Trans. v Peach Hill Properties Inc., 278 Ga. 198 (2004). There, plaintiff sought a permit to develop land so near an airport that FAA regulations required he obtain permission from the State Department of Transportation ("DOT"). The DOT applied a blanket rule that it would not grant such exemptions from the limitations on buildings near airports under any circumstances. Just as it did in Arras, *supra*, the Supreme Court held such a blanket rule impermissible:

" . . . The federal aviation regulatory scheme vests state aviation agencies with discretion as to whether to request a landfill exemption from the FAA. [cit]. In order to exercise that discretion, it is incumbent upon state aviation agencies to develop ascertainable standards to gauge whether landfill operators qualify for an exemption request.

. . . , DOT has given no guidelines . . . as to how to qualify for an exemption. Instead, DOT enacted a blanket policy refusing to seek any exemptions from the FAA on the part of landfill operators. This, DOT could not do. It could not close its eyes to the . . . exemption process. **It was required to establish objective guidelines enabling it to determine whether to request an exemption in any given case.**

Id. at 201 (Emphasis added).

In passing the Statue, the legislature promulgated the objective requirements necessary for certification. Once those requirements are satisfied, the discretion of a Sheriff is constitutionally limited to circumstances where the applicant is denied

certification for “good cause shown.” O.C.G.A. § 9-11-14.1(a). A Sheriff cannot prohibit a Certified Server from working unless they lose their certification or subsequently engage in misconduct that would authorize the revocation of their certification. Under the Statute, revocation can occur in specific situations such as when the process server 1) fails to renew the certification; 2) fails to provide evidence of completion of the annual five-hour CE courses; or 3) has their certification suspended by a judge based on allegations of serious misconduct presented by a Sheriff. See O.C.G.A. § 9-11-4.1(c); Article 11 of the Rules and Regulations.

B. A Writ of Mandamus Should Issue to Compel Respondents to Perform Their Proper Legal Duty Under the Statute

“Mandamus is the proper remedy for improper government inaction—the failure of a public official to perform a clear legal duty.” Southern LNG, Inc. v. MacGinnitie, 294 Ga. 657, 755 S.E.2d 683 (2014). A writ of mandamus will issue if (1) no other adequate legal remedy is available to effectuate the relief sought; and (2) the applicant has a clear legal right to such relief. See also Richard Ruskell, Davis & Shulman’s Ga. Practice & Procedure, § 29:2 (2013–2014 ed.); McClung v. Richardson, 232 Ga. 530, 207 S.E.2d 472 (1974).

Petitioners have a clear legal right to the relief sought and do not have any other adequate remedy at law. Baker v. Gwinnett County, 267 Ga. App. 839, 845 (2004). In Bibb County v. Monroe County, 294 Ga. 730, 734, 755 S.E.2d 760, 766 (Ga., 2014), the Georgia Supreme Court defined a “clear legal right to the relief sought” exists when a petitioner seeks to compel the performance of a public duty that a public official is

required by law to properly perform, and has failed to do so. See Bland Farms, LLC v. Ga. Dept. of Agriculture, 281 Ga. 192, 193, 637 S.E.2d 37 (2006); Gilmer County v. City of East Ellijay, 272 Ga. 774(1), 533 S.E.2d 715 (2000); Aspinwall v. Harris, 217 Ga. 485, 486–487, 123 S.E.2d 652 (1962).

Where performance is required by law, a clear legal right to relief exists both where the public official fails entirely to act or where, in taking such required action, the official or agency commits a **gross abuse of discretion**. Ga. Dept. of Transp. v. Peach Hill Properties, Inc., 278 Ga. 198(2), 599 S.E.2d 167 (2004); Persons v. Mashburn, 211 Ga. 477, 86 S.E.2d 319 (1955). Here, Respondents' blanket refusal to permit any certified private process server work, regardless of merit, constitutes the grossest abuse of discretion possible since Respondents openly acknowledge this collective contempt for the Statute and that their purpose is to nullify the Statute.

It is undisputed that the intent of the Statute was to afford Petitioners the right to work as process servers throughout Georgia. It is axiomatic that a public official cannot exercise the "discretion" conferred upon him by statute in a manner that works to nullify the very law from which that discretion emanates. Such conduct constitutes a gross abuse of that discretion that equates to a failure to act that sustains the issuance of a writ of mandamus.

Respondents may contend mandamus is improper because Petitioners have another avenue for pursuing the relief they seek that is "equally convenient, complete and beneficial." North Fulton Med. Ctr., Inc. v. Roach, 265 Ga. 125, 127–128, 453 S.E.2d 463 (1995). However, the case law is clear that, absent a prescribed review

process like certiorari or some other meaningful review by a neutral third-party empowered to compel the public official's compliance with the law, mandamus is available. See McClung v. Richardson, 232 Ga. at 533–534, 207 S.E.2d 472 (reversing grant of mandamus where decision of personnel review board reviewable by certiorari). Here, there is no other adequate legal remedy as there is no review process that could remedy Respondents' nullification of the Statute.

Because the Statute at issue requires official action by Respondents, mandamus is available to compel the taking of the discretionary act in some objective form. See, e.g., Ga. Dept. of Transp. v. Peach Hill Properties, Inc., 278 Ga. at 200–201, 599 S.E.2d 167 (mandamus appropriate where agency adopted policy barring any exemptions despite applicable law requiring agency to consider exemption requests). Dougherty County v. Webb, 256 Ga. 474(1), 350 S.E.2d 457 (1986) (Mandamus was proper to compel the county commission to consider all evidence offered in connection with the plaintiff's zoning application); Citizens & S. Nat'l Bank v. Independent Bankers Assn., 231 Ga. 421, 425, 202 S.E.2d 78 (1973) (Mandamus was proper to require banking officials to take action to enforce banking laws); and Thomas v. Ragsdale, 188 Ga. 238(3), 3 S.E.2d 567 (1939) (Mandamus was held to be proper to compel board of county commissioners to pass objective regulations to govern the sale of liquor).

Respondents have not alleged, much less proven, any legitimate reason to prohibit all Certified Servers from working in their County. Respondents' wilful and gross abuse of the limited discretion afforded them under the Statute violates Petitioners' right to due process of law and justifies the issuance of a writ of mandamus to compel Respondents to

individually consider each application to work as a Certified Server in their County, and deny such certification only for good cause shown or for the reasons set forth in O.C.G.A. §9-11-4.1(c).

C. The Court May Alternatively Strike the Contested Provision from the Statute as an Impermissible Delegation of Legislative Authority

While it is patently clear the General Assembly would never provide the Sheriffs the discretion to effectively repeal the Statute, should the Court conclude that the provision in the Statute which reads “provided that the sheriff of the county for which process is to be served allows such servers to serve process in such county,” does afford Respondents unfettered discretion to bar Certified Servers from working in their County, without cause or reason, then it must be stricken from the Statute as unconstitutional. Absent objective standards established by the legislature which objectively define the circumstances under which such broad discretion may lawfully be exercised, such a provision denies Petitioners due process of law.

If the General Assembly actually intended to delegate legislative authority to non-legislative branch officers like the Sheriffs to determine where a state certified process server could work, such a delegation is unconstitutional unless “the General Assembly has also provided sufficient guidelines for the delegatee.” Dept. of Transportation v. City of Atlanta, et al., 260 Ga 699, 703 (1990). The Statute is silent in that regard unless you properly apply the qualifications established for certification.

In Mitchell v. Wilkerson, 258 Ga. 608, 372 S.E.2d 432 (Ga. 1988), the Supreme Court held that the public official recall statute amounted to an unconstitutional delegation

of legislative power because it provided that persons initiating a recall petition were required to state the basis for the recall. Because the underlying constitutional provision required that the grounds for recall be provided by law, the statute's delegation of power to persons initiating the petition to specify the grounds for recall was constitutionally impermissible: "The statutory attempt to transfer the selection of the reasons to the applicant amounts to an impermissible delegation of legislative authority.

In HCA Health Services of Georgia, Inc. v. Roach 265 Ga. 501, 458 S.E.2d 118 (Ga.,1995). Plaintiff contended that the State agency's construction of its authority under O.C.G.A. § 31-6-47(c) would permit it to do far more than merely administer an existing enactment of the General Assembly. The agency was seeking complete and unbridled authority to determine what health care facilities are subject to the Act, since it would then have the power to exempt any facility from the mandate of the Act. This construction of O.C.G.A. § 31-6-47(c) was rejected since it would render that statutory provision an unconstitutional**121 delegation of the legislative power "to define the thing to which the statute is to be applied....' [Cit.]"). See also, Sundberg v. State, 234 Ga. 482, 216 S.E.2d 332(Ga. 1975)("Statute held unconstitutional as an improper delegation of legislative power if it authorizes an executive board or officer to decide what shall and what shall not be an infringement of the law, because any statute which leaves the authority to a ministerial officer to define the thing to which the statute is to be applied is invalid."); Howell v. State, 238 Ga. 95, 230 S.E.2d 853 (1976) (legislative enactment making criminal a violation of "any of the rules or regulations promulgated by [an executive branch] commission" was held to be an improper delegation of legislative power).

If the Court reads the Statute as delegating to the Sheriffs the power to prohibit all Certified Servers from working in their County, the provision creating such power would constitute an unlawful delegation of legislative authority. The fact Respondents have engaged in such an abuse of the Statute reflects both their disdain for the legislative process, and the fact they as Sheriffs consider themselves above the law.

Respondents admitted use of a blanket ban to nullify the Statute demonstrates that, even if they did possess the power to bar certain Certified Servers for reasons other than those found in the Statute, they have not done so. Nor do the Rules provide sufficient guidelines so to limit the exercise of such power in a way that is consistent with constitutional limits on the delegation of legislative authority. The fact the Statute lacks any guidelines makes subpart (h) unconstitutional.

In such circumstances, courts are permitted to “blue pencil” the law. “When a statute cannot be sustained as a whole, the courts will uphold it in part when it is reasonably certain that to do so will correspond with the main purpose which the legislature sought to accomplish by its enactment, if, after the objectionable part is stricken, enough remains to accomplish that purpose.” Union City Board of Zoning Appeals v. Justice Outdoor Displays, Inc., 266 Ga. 393, 404 (1996). See also Fortson v. Weeks, 232 Ga. 472 (1974). The Supreme Court of Georgia has repeatedly held this to be the law. Elliott v. State, 91 Ga. 694, 17 S.E. 1004 (1893); Hancock v. State, 114 Ga. 439 (1901).

Removal of the contested provision preserves the legislative intent behind the Statute and allows the statewide certification process for private process servers to

continue to provide litigants with a private alternative method for serving process, and ensure those persons have been vetted and certified via a highly regulated state approved process. The Rules established by the Statute and the Regulations promulgated by the JCG will continue to govern the certification and re-certification process, and the purpose of the Statute as intended by the General Assembly be vindicated once the arbitrary and capricious position of the Respondents and the Association is rejected.

D. Respondents' Conspiracy also Violates Petitioners' Liberty of Interest in Their Right to Engage in a Constitutionally Protected Licensed Profession Regulated by the State


Petitioners have a constitutional protected liberty interest in their right to work. “[Liberty] denotes not merely freedom from bodily restraint, but also the right of the individual....to engage in any of the common occupations of life...”. *Hornsby v. Allen*, 326 F.2d 605 (5th Cir. 1964). *See also, Fairfax MK Inc. v. City of Clarkston*, 274 Ga. 520, 555 S.E.2d 522 (2001) (In order to satisfy the requirements of substantive due process, the ordinance must “serv[e] some public purpose and....the means adopted by the ordinance are reasonably necessary for the accomplishment of the purpose, and are not unduly oppressive upon the persons regulated...”); *City of Lilburn v. Sanchez*, 268 Ga. 520, 522(2), 491 S.E.2d 353 (1997) (“[A] municipal ordinance is a valid exercise of the police power if it is substantially related to the public health, safety, or general welfare.... So long as an ordinance realistically serves a legitimate public purpose, and it employs means that are reasonably necessary to achieve that purpose, without unduly oppressing the individuals regulated, the ordinance must survive a due process challenge.”).

The principles established in these cases make clear that Respondents' wholesale ban prohibiting Certified Servers from plying their trade for reasons that are utterly devoid of any legitimate underlying rationale or justification, is unreasonable, arbitrary, and capricious, and therefore denies Petitioners their liberty and constitutes a substantive due process violation. *See, Silverstein v. Gwinnett Hosp. Auth.*, 861 F.2d 1560 (11th Cir. 1988). Such a violation is redressable both by declaratory and injunctive relief achieved via issuance of a writ of mandamus.

IV. CONCLUSION

The concerted actions of Respondents acting in conspiracy with Georgia's Sheriffs and the Association to deny Petitioners their ability to make a living, is plainly in violation of the Statue and Petitioners' rights to due process of law. The Court is requested to grant Petitioners' motion for summary judgment and enter an appropriate remedial order.

Respectfully submitted this 11 day of July, 2014.



A. Lee Parks
Georgia Bar No. 563750
lparks@pcwlawfirm.com
Harlan S. Miller
Georgia Bar No. 506709
Of Counsel
hmilller@pcwlawfirm.com
Counsel for Petitioners

PARKS, CHESIN & WALBERT, P.C.
75 Fourteenth Street, Suite 2600
Atlanta, GA 30309
(404) 873-8000 Telephone
(404) 873-8050 Fax

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

GEORGIA ASSOCIATION OF
PROFESSIONAL PROCESS
SERVERS; et al.,

Petitioners,

v.

THEODORE JACKSON, as Sheriff of
Fulton County; et al.,

Respondents.

*
*
*
* CIVIL ACTION FILE
* NO. 2013-CV-237446
*
*
*
*
*
*

CERTIFICATE OF SERVICE

I do hereby certify that I have this day served a copy of the foregoing **PETITIONERS' BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT** via United States mail with proper postage thereon addressed to the following counsel of record:

Richard A. Carothers, Esq.
Michael E. Hobbs, Esq.
Carothers & Mitchell, LLC
1809 Buford Highway
Buford, GA 30518
Attorneys for Respondent Conway

Donald A. Cronin, Esq.
O'Quinn & Cronin, LLC
103 Keys Ferry Street
McDonough, GA 30253
Attorneys for Respondent Gullede

Deborah L. Dance, Esq.
Lauren S. Bruce, Esq.
Cobb County Attorney's Office
100 Cherokee Street, Suite 350
Marietta, GA 30090
Attorneys for Respondent Warren

Jack R. Hancock, Esq.
A. Aliz Sabzevari, Esq.
Freeman, Mathis & Gary, LLP
661 Forest Parkway, Suite E
Forest Park, GA 30297
Attorneys for Respondent Hill

Ken E. Jarrard, Esq.
Kenneth P. Robin, Esq.
Aaron Meyer, Esq.
Jarrard & Davis, LLP
105 Pilgrim Village Drive, Suite 200
Cumming, GA 30040
Attorneys for Respondent Piper

E. Charles Reed, Jr., Esq.
Duane E. Pritchett, Esq.
DeKalb County Attorney's Office
1300 Commerce Drive, 5th Floor
Decatur, GA 30030
Attorneys for Respondent Mann

Steven Rosenberg, Esq.
Fulton County Attorney's Office
141 Pryor Street, SW, Suite 4038
Atlanta, GA 30303
Attorneys for Respondent Jackson

This 11 day of July, 2014.



A. Lee Parks
Georgia Bar No. 563750
PARKS, CHESIN & WALBERT, P.C.
75 Fourteenth Street, Suite 2600
Atlanta, GA 30309
(404) 873-8000 Telephone
(404) 873-8050 Fax
Email: Lparks@pcwlawfirm.com

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

GEORGIA ASSOCIATION OF
PROFESSIONAL PROCESS
SERVERS; et al.,

Petitioners,

v.

THEODORE JACKSON, as Sheriff of
Fulton County; et al.,

Respondents.

*
*
*
* CIVIL ACTION FILE
* NO. 2013-CV-237446
*
*
*
*
*
*
*

**PETITIONERS' STATEMENT OF THEORIES OF
RECOVERY AND MATERIAL UNDISPUTED FACTS
IN SUPPORT OF THEIR MOTION FOR SUMMARY JUDGMENT**

Pursuant to Uniform Superior Court Rule 6.5, Petitioners submit the following statement setting forth their theories of recovery and the material facts which do not present any genuine issue for determination at trial ("Material Facts").

A. **MATERIAL FACTS**

1) Respondents, acting in concert and conspiracy with the Georgia Sheriffs' Association ("Association") and all but two of the 159 Georgia Sheriffs, have acted to effectively nullify O.C.G.A. 9-11-4.1 (the "Statute") by refusing to permit any private process server who successfully completes the statewide certification process provided for in the Statute ("Certified Server") to work in their respective county of jurisdiction ("County").

2) Respondents' refusal to permit any Certified Server to work in their County is based on Respondents' contention that Sheriffs possess an "absolute an

unreviewable right” to prohibit all Certified Servers, regardless of their qualifications or any other objective factor, from working in their County.

3) As required by the Statute, Respondents regularly certify applicants who meet the objective requirements for certification as a private process server. Respondents then refuse to permit the very same Certified Servers they have just certified from working in their County without providing them any reason for the denial or any access to a meaningful review process through which the Certified Server can challenge the Sheriff’s decision.

4) The Statute delegated rule making authority to implement the certification process to the Judicial Council of Georgia which, acting through the Administrative Office of the Courts, promulgated the Rules and Regulations that govern the statewide Certified Process Server Program (“Rules”). (Exh. 1 to Petition). In Article 1 of the Rules, the Judicial Council of Georgia articulated the purpose of the Statute: “. . . to permit civil process to be served in the State of Georgia by persons deemed by the Sheriff of any county in Georgia to have met the criteria to be certified to serve process” The reference to “criteria” for certification is limited to those objective requirements provided for in the Statute and the implementing Rules.

5) To date, Respondents’ refusal to permit any Certified Server to work in their County is not based on any review of their qualifications, or any articulated and demonstrated failure to comply with the criteria established for certification by the Statute and the Rules.

B. THEORIES OF RECOVERY

1) Declaratory Judgment and Implementing Injunctive Relief (Counts One and Five)

In Count One, Petitioners seek a declaratory judgment construing the Statute so to effectuate its clear purpose and intent, and an injunction prohibiting Respondents from continuing to act in a manner which they admit is specifically intended to nullify the Statute. The specific declaratory relief sought (¶ 62 of Petition) is warranted by the undisputed facts and the well settled rule of construction that requires the Court avoid any construction of a statute that would nullify its purpose or render the statute, or any divisible subpart, unconstitutional. (¶¶ 61-62 of Petition).

The Petition seeks an alternative declaratory judgment as to the scope of any discretion the Court finds the Statute to afford the Sheriffs in reviewing a notice of intent to serve process filed by a Certified Server and to limit that discretion so that it is exercised in a lawful and constitutional manner that is consistent with the Statute. In addition, Count Five raises the insular issue of the geographic scope of the Sheriffs' discretion when Certified Servers serve process via second original on defendants residing in other counties if a Sheriff has refused to permit that Certified Server to serve process in their County. Given the limited discretion a Sheriff possesses to deny a private process server state certification, the Statute cannot be read to then confer unbridled discretion to deny the Certified Server the right to work in other counties just because the civil action is filed in that Sheriff's County and Petitioners seek a declaratory judgment to that effect.

2) **Mandamus (Counts Two and Three)**

All Certified Servers possess a “clear legal right” to practice the profession for which the state has certified them to be qualified. The intended benefits of state certification have been greatly diminished, if not effectively eliminated by Respondents, acting in concert and conspiracy with 157 of 159 Georgia Sheriffs and the Association. The stated purpose of the conspiracy is to nullify the Statute. Where a public officer is delegated a statutory duty to determine the qualifications of a citizen seeking a state license, a writ of mandamus will issue to remedy “arbitrary and capricious” conduct by any public official who refuses to carry out his or her duties as proscribed by said statute and any implementing rules. Count Two seeks the issuance of a writ of mandamus that requires Respondents to permit a Certified Server to work in their County if they have met the qualifications.

Mandamus is also sought on alternative legal theories (Counts Three and Four). Should the Court find the language used in that subpart (h) of the Statute does vest the Sheriffs with unfettered and absolute discretion to deny Certified Servers the right to work in their County, then the Court is requested to find that subpart of the Statute be void due to (1) vagueness and; (2) as an impermissible delegation of the legislative authority to the Sheriffs that has resulted in the arbitrary and discriminatory application of the Statute with potentially 159 different standards used for determining whether a Certified Server can work in a particular County. (¶¶ 72-73 of Petition).

Respondents' incorrect interpretation of the Statute results in an impermissible delegation of legislative authority to the Sheriffs to usurp the will of the Legislature which was expressed via its passage of the Statute. Such a broad delegation of authority would be unconstitutional. "The legislative, judicial, and executive powers shall forever remain separate and distinct; and no person discharging the duties of one shall at the same time exercise the functions of either of the others except as herein provided." 1983 Ga. Const., Art. I, Sec. II, Par. III. The legislative branch enacts the law, the judiciary interprets those laws and the executive branch enforces those laws until they are amended or held to be unconstitutional. *Harbuck v. State*, 280 Ga. 775, 631 S.E.2d 351 (Ga.,2006). While a delegation of legislative authority is permissible when accompanied by sufficient guidelines for the delegatee, *Dept. of Transp. v. City of Atlanta*, 260 Ga. 699, 703(1), 398 S.E.2d 567 (1990), no such "guidelines" have been provided by the Legislature in this case.

Count Four asserts an additional constitutional basis for Petitioners' due process claims, which justify both declaratory relief and the issuance of a writ of mandamus. The Liberty interest citizens possess under the Due Process Clause of the Georgia and United States' Constitutions protects their right to pursue their chosen profession; i.e., "the common occupation of life" without being afforded due process of law by virtue of the complaint of conspiracy to nullify the Statute, conduct which Respondents freely admit to have engaged in for one specific reason: to nullify the Statute. The Sheriffs' blanket rule forbidding Certified Servers from plying their trade constitutes an arbitrary, capricious and unlawful infringement on their federally protected liberty interest to engage in the

common occupations of life. *See, Schware v. Board of Bar Examiners*, 353 U.S. 232, 238-39, 77 S.Ct. 752, 755-56, 1 L.Ed.2d 796 (1957) (“A State cannot exclude a person . . . from any . . . occupation in a manner or for reasons that contravene the Due Process or Equal Protection Clause of the Fourteenth Amendment.”); *Meyer v. Nebraska*, 262 U.S. 390, 399, 43 S.Ct. 625, 626, 67 L.Ed. 1042 (1923).¹

Respectfully submitted this 11th day of July.



A. Lee Parks
Georgia Bar No. 563750
lparks@pcwlawfirm.com
Harlan S. Miller
Georgia Bar No. 506709
Of Counsel
hmliller@pcwlawfirm.com

Counsel for Petitioners

PARKS, CHESIN & WALBERT, P.C.
75 Fourteenth Street, Suite 2600
Atlanta, GA 30309
(404) 873-8000 Telephone
(404) 873-8050 Fax

1 Count Six is not part of this motion as material issues of fact exist as to whether the Respondents Piper and Hill wrongfully refuse to certify applicants. Count Seven is Petitioners' claim to recovery of attorney fees which requires factual determinations and is also not a part of this motion.

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

GEORGIA ASSOCIATION OF
PROFESSIONAL PROCESS
SERVERS; et al.,

Petitioners,

v.

THEODORE JACKSON, as Sheriff of *
Fulton County; et al., *
*

Respondents. *

*
*
*
* CIVIL ACTION FILE
* NO. 2013-CV-237446
*
*
*
*
*
*
*

CERTIFICATE OF SERVICE

I hereby certify that I have this day, July 11, 2014, served counsel of record with the foregoing *Petitioners' Statement of Theories of Recovery and Material Undisputed Facts in Support of Their Motion for Summary Judgment* by placing copies of same in the United States mail with proper postage thereon addressed to the following counsel of record:

Richard A. Carothers, Esq.
Michael E. Hobbs, Esq.
Carothers & Mitchell, LLC
1809 Buford Highway
Buford, GA 30518
Attorneys for Respondent Conway

Donald A. Cronin, Esq.
O'Quinn & Cronin, LLC
103 Keys Ferry Street
McDonough, GA 30253
Attorneys for Respondent Gullledge

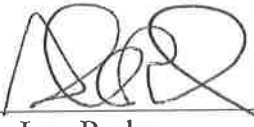
Deborah L. Dance, Esq.
Lauren S. Bruce, Esq.
Cobb County Attorney's Office
100 Cherokee Street, Suite 350
Marietta, GA 30090
Attorneys for Respondent Warren

Jack R. Hancock, Esq.
A. Aliz Sabzevari, Esq.
Freeman, Mathis & Gary, LLP
661 Forest Parkway, Suite E
Forest Park, GA 30297
Attorneys for Respondent Hill

Ken E. Jarrard, Esq.
Kenneth P. Robin, Esq.
Aaron Meyer, Esq.
Jarrard & Davis, LLP
105 Pilgrim Village Drive, Suite 200
Cumming, GA 30040
Attorneys for Respondent Piper

E. Charles Reed, Jr., Esq.
Duane E. Pritchett, Esq.
DeKalb County Attorney's Office
1300 Commerce Drive, 5th Floor
Decatur, GA 30030
Attorneys for Respondent Brown

Steven Rosenberg, Esq.
Fulton County Attorney's Office
141 Pryor Street, SW, Suite 4038
Atlanta, GA 30303
Attorneys for Respondent Jackson


A. Lee Parks
Georgia Bar No. 563750

PARKS, CHESIN & WALBERT, P.C.
75 Fourteenth Street, Suite 2600
Atlanta, GA 30309
(404) 873-8000 Telephone (404) 873-8050 Fax

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

GEORGIA ASSOCIATION OF
PROFESSIONAL PROCESS
SERVERS; et al.,

Petitioners,

v.

THEODORE JACKSON, as Sheriff of
Fulton County; et al.,

Respondents.

*
*
*
* CIVIL ACTION FILE
* NO. 2013-CV-237446
*
*
*
*
*
*
*

PETITIONERS' NOTICE OF FILING
ORIGINAL DISCOVERY MATERIALS

COME now, Petitioners, and hereby gives notice of their filing with the Court, the following original sealed depositions with exhibits:

- 1) Deposition of James Terry Norris; Executive Director of the Georgia Sheriffs' Association
- 2) Deposition of Sheriff Thomas E. Brown, Jr., DeKalb County;
- 3) Deposition of Sheriff R. L. (Butch) Conway, Gwinnett County;
- 4) Deposition of Sheriff Gary Gullede, Paulding County;
- 5) Deposition of Sheriff Victor Hill, Clayton County;
- 6) Deposition of Sheriff Theodore Jackson, Fulton County;
- 7) Deposition of Sheriff Duane Piper, Forsyth County; and
- 8) Deposition of Sheriff Neil Warren, Cobb County.

This 11 day of July, 2014.



A. Lee Parks

Georgia Bar No. 563750

lparks@pcwlawfirm.com

Harlan S. Miller

Georgia Bar No. 506709

Of Counsel

hmillers@pcwlawfirm.com

Counsel for Petitioners

PARKS, CHESIN & WALBERT, P.C.

75 Fourteenth Street, Suite 2600

Atlanta, GA 30309

(404) 873-8000 Telephone

(404) 873-8050 Fax

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

GEORGIA ASSOCIATION OF
PROFESSIONAL PROCESS
SERVERS; et al.,

Petitioners,

v.

THEODORE JACKSON, as Sheriff of
Fulton County; et al.,

Respondents.

*
*
*
* CIVIL ACTION FILE
* NO. 2013-CV-237446
*
*
*
*
*
*

CERTIFICATE OF SERVICE

I hereby certify that I have this day, July 11, 2014, served counsel of record with the foregoing *Petitioners' Notice of Filing Original Discovery Materials* by placing copies of same in the United States mail with proper postage thereon addressed to the following counsel of record:

Richard A. Carothers, Esq.
Michael E. Hobbs, Esq.
Carothers & Mitchell, LLC
1809 Buford Highway
Buford, GA 30518
Attorneys for Respondent Conway

Donald A. Cronin, Esq.
O'Quinn & Cronin, LLC
103 Keys Ferry Street
McDonough, GA 30253
Attorneys for Respondent Gullledge

Deborah L. Dance, Esq.
Lauren S. Bruce, Esq.
Cobb County Attorney's Office
100 Cherokee Street, Suite 350
Marietta, GA 30090
Attorneys for Respondent Warren

Jack R. Hancock, Esq.
A. Aliz Sabzevari, Esq.
Freeman, Mathis & Gary, LLP
661 Forest Parkway, Suite E
Forest Park, GA 30297
Attorneys for Respondent Hill

Ken E. Jarrard, Esq.
Kenneth P. Robin, Esq.
Aaron Meyer, Esq.
Jarrard & Davis, LLP
105 Pilgrim Village Drive, Suite 200
Cumming, GA 30040
Attorneys for Respondent Piper

E. Charles Reed, Jr., Esq.
Duane E. Pritchett, Esq.
DeKalb County Attorney's Office
1300 Commerce Drive, 5th Floor
Decatur, GA 30030
Attorneys for Respondent Brown

Steven Rosenberg, Esq.
Fulton County Attorney's Office
141 Pryor Street, SW, Suite 4038
Atlanta, GA 30303
Attorneys for Respondent Jackson



A. Lee Parks
Georgia Bar No. 563750
PARKS, CHESIN & WALBERT, P.C.