

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

THE MERCHANT LAW FIRM, P.C. :
 :
v. :
 : Case No. 24CV001325
FULTON COUNTY DISTRICT :
ATTORNEY'S OFFICE; DISTRICT :
ATTORNEY FANI WILLIS :

**STATE'S NOTICE IN RESPONSE TO COURT'S ORDER WITH
OBJECTIONS TO AMBIGUITY, OVERREACH AND COURTESY
DISCLOSURES**

Comes now, District Attorney Fani T. Willis and the Office of the Fulton County District Attorney, by and through the undersigned counsel, and submits this response to the Court's recent order for "additional" production of documents.

1. The Court has ordered the District Attorney to produce, to the extent they have not already produced, "A copy of all NDA/confidentiality agreements that employees are required to sign."

The record could not be clearer: the Plaintiff has already been given the confidentiality and non-disclosure agreements from employees of the District Attorney's Office. This isn't speculation—it's documented, acknowledged, and even cited by this Court on page 4 of its own order. The Office took deliberate and exhaustive steps to ensure full compliance, including an office-wide outreach to locate every possible agreement. As heard during the testimony, Plaintiff admitted

to receiving 122 documents responsive to this request.¹ To now act as if these documents were never produced is disingenuous at best and blatantly misleading at worst. The court is aware that responsive documents and additional others have already been produced.

2. The Court has ordered the District Attorney to produce, to the extent they have not already produced, “A list of attorneys with names hired by Willis.”

The Court’s demand for a list of attorneys hired by District Attorney Willis, including dates of hire, is legally and factually flawed. This court stated in its final order, “While the ORA does not require Defendants to create documents that do not exist, it cannot be reasonably believed that Defendants do not have the requested information, in some documentary form (including electronically).” However, as was made clear during litigation, no such list exists within the District Attorney’s Office.

Under *OCGA § 50-18-71(j)*, “no public officer or agency shall be required to prepare new reports, summaries, or compilations not in existence at the time of the request.” The Court’s continued insistence shows a troubling disregard for the law and a bias toward the Plaintiff.

Just because a party assumes a department is the custodian of certain records does not make it so. Under the Open Records Act, the requester has an obligation

¹October 21, 2024 Transcript, Page 36, Line 3.

to identify the correct custodian of records, and it is not the duty of this agency to educate requestors on basic civics or how public record requests should be properly directed. Under *OCGA § 50-18-70 et seq.*, public agencies are only required to produce records that are within their custody or control, and any request for records outside that scope is both improper and unenforceable.

The Georgia Supreme Court is clear in *Felker*². The Georgia Supreme Court stated “a public records custodian would subject himself to an ORA suit every time he located and produced documents because a citizen could always speculate about the existence of additional documents. The legislature could not have intended for an ORA request to be used to trap an unsuspecting public official in this way.”³ Yet, that is exactly what this Court appears to be encouraging.

Furthermore, the District Attorney’s Office is not, and has never been, the custodian of the employment records requested by the Plaintiff. This Office, in an effort to comply with this unlawful order that relies on speculation and hyperboles, contacted the Fulton County Human Resources Department. It should be noted that the Fulton County Human Resources Department also had no documents responsive to the Plaintiff’s request. Based on information and belief, the Human Resources Department had to pull a Fulton County employee away from other

² *Felker v. Lukemire*, 267 Ga. 296, 1996.

³ *Id* at 299.

duties to the County to create such a list. The employee was unable to complete such request. The Director of Human Resources for the entire County stopped his work servicing the constituents and assisted in creating the list attached. Certainly, the steps taken to provide attorney names and other information related to employees are not required anywhere in the statute, and the office had to take meaningful time away from the work that keeps citizens safe to satisfy this Court's speculation and conjecture. We hope the court will encourage the Plaintiff not to harass these present and former public servants. This list is being provided in good faith and we believe the list to be accurate, however, because we are not the custodian of records and do not maintain the records, we cannot speak to its accuracy.

The court, itself, stated during the evidentiary portion of the proceeding "...he could easily have said, well, of course, we have a list of all the attorneys that work for us, because we pay their bar dues...but we just don't have that list associated also with the date that were hired. That would've been a fair response..."⁴ The list now in the Court's possession⁵ was compiled and provided by Fulton County Human Resources Department. The District Attorney's Office neither generates, maintains, nor has access to these records in the ordinary course

⁴ Transcript -October 21, 2024, Page 187, Lines 4-12.

⁵ Exhibit 1

of business. Suggesting otherwise ignores the basic structure of County government and misrepresents how public records are managed. Demanding that this Office be held accountable for records it does not control and legally should not be required to compile is in direct conflict with the law. It reflects a disregard for established legal boundaries and sets a dangerous precedent: that an agency can be faulted for not producing documents that did not exist within Fulton County Government. As stated by the Supreme Court in *Felker*⁶, the Georgia Legislature did not intend for the Open Records Act to work this way.

3. The Court has ordered the District Attorney to produce, to the extent they have not already produced, “Promotional Materials”, “Rebranding Materials” and “C.M. Payments.”

The Court copied the original request from the Plaintiff. The Court also noted in its order “...the hearing demonstrated that no meaningful search effort was made to determine if materials responsive to this request existed or to locate and produce such documents.” As is part of the record, the District Attorney’s Office reached out to the Fulton County Information Technology Department and obtained all emails regarding Critical Mention as that was the search term used.⁷ Prior to this order, the Plaintiff acquired the documentation of payment for Critical Mention. Based on the testimony and the complete record of this case, there are no

⁶ *Felker v. Lukemire*, 267 Ga. 296, 1996

⁷ Judicial Notice of the August 30, 2024, Notice of Filing (subpoenas) and exhibits.

outstanding matters related to Critical Mention, as this matter was sufficiently litigated.

As this court is well aware, the terms “promotional materials” and “rebranding materials” have no legal definitions. During the evidentiary portion of these proceedings, the Court *assisted* the Plaintiff by stating “...he could easily ... have a list.... generate a really pretty booklet that promotes all the great work that our lawyers do, right but we just don't have that list associated also with the date that were hired. That would've been a fair response...”⁸ It is impermissible and outside the spirit of the Open Records Act to create a “fair response” standard under the law since one does not exist.

The Plaintiff could not even articulate what “promotional” or “branding” material meant to her. Despite efforts to clarify the nature and scope of these requests, the Court has provided no definition, presumably because the court does not know what the Plaintiff is referring to. If the court considered the evidence, it would know that the Plaintiff said she actually submitted the request for “promotional” material to the purchasing department, not the District Attorney’s Office.⁹ However, during Plaintiff’s questioning of witnesses, she used the Office of the District Attorney’s 2024 Winter Report as an example of “promotional”

⁸ October 21, 2024, Transcript, Page 36, Line 3

⁹ October 21, 2024, Transcript, Page 39, Lines 1-9

material.¹⁰ It should be noted that the Plaintiff conceded the District Attorney's Winter Report was not promotional material. Additionally, even though Plaintiff had a copy of the report, if the report is what she was seeking, she did not request it by name or any financial information at any time.

The District Attorney's Winter Report is a 35-page report that serves as an informational guide. Pages 1-7- give information about the District Attorney's Office, a photo of those employees designated as leaders, and a table of contents. Pages 8-9 informs the public of leaders in the Major Crimes Division and that Division's accomplishments. Pages 10-11 informs constituents about how to receive much needed resources for children as they return to school. Pages 12-13 provide information on the Special Victims Division and its leaders. Pages 14-15 provides the community with resources on how to receive food during the Thanksgiving Holiday and how constituents can volunteer through the holiday season. Pages 16-23 educates constituents on the remaining Divisions and provides contact information for those Division Leaders. Pages 24-25 provide information for children and families about how they can get services during the holidays to address food insecurity and additional vital resources. Pages 26-27 introduced the community to leaders within the District Attorney's Office. Pages 28-29 let citizens know how to enroll their children into the REACH mentoring

¹⁰ <https://www.youtube.com/watch?v=WY9MA-LcduU-> Timestamps- 6:09:23 to 6:09:49

program, our citizen's court watch program, services for the LGBTQ community and victim witness self-care events. Pages 30-31 provides constituents with direct contact information to every attorney leader within the District Attorney's office. Page 32-34 provides constituents with resources within the District Attorney's Office in addition to external resources. This book is dedicated to informing the public which the District Attorney is required to do. Surely, this Court is not suggesting that the District Attorney's Office be required to produce this as there is no reasonable interpretation that a Winter Report could be classified as "promotional" nor ask the Office of the District Attorney to produce something the Plaintiff already has.

The District Attorney's Office is obligated to assist victims in their most vulnerable moments, and providing information is part of our core responsibility to help those in crisis. These are not "promotional" materials—they are tools of empowerment and recovery. Therefore, we have been unable to provide any payment information as there remains no clarity. The Open Records Act was never meant to be a vehicle for exploiting public service documents for litigation; it is meant to ensure access to public records that serve the public good.

Plaintiff defined “re-branding” material as “like when you walk into the District Attorney’s Office new advertisement type things, ...”¹¹ A reasonable person would have no idea what is meant by “new advertisement type things.”

As a result of the Court’s lack of guidance on the definition of “promotional” and “re-branding” material, the Office remains unable to identify any responsive documents under those categories. The Open Records Act requires the requestor place the public agency in a position to know what documents they seek.¹²

Lastly, let’s be clear about the very real work that the District Attorney’s Office does to help the community. Sharing vital information about services—whether it’s resources for victims, mentoring programs for children, or guidance for families—is not promotional material. It is a necessary and integral part of the public service we provide. This Office is tasked with serving the people of Fulton County, especially those who find themselves in their darkest hours. To classify these crucial resources as promotional is not just legally wrong—it is a fundamental misunderstanding of the essential role that this Office plays in the lives of citizens who are suffering or in need. Our mission is to help, to provide hope, and to make a positive difference during people’s worst times.

¹¹ *Id.*

¹² O.C.G.A. § 50-18-71(g)

4. The Court has ordered the District Attorney to “Deliver to Plaintiff payment...”

The District Attorney, since the day she was elected, does not control or authorize any transactions dealing with public funds unilaterally. All transactions of these matters are done within the compliance of State and local law and supported and approved by the Chief Financial Officer of Fulton County. The District Attorney, as a leader and practicing attorney in this very courthouse for 29 years, is fully aware that prominent African American figures are scrutinized when it comes to the use of public funds. To end this matter and move forward in fulfilling her constitutional duties which is the work that matters for the people of this County, the District Attorney has consulted with the Chief Financial Officer of Fulton County’s Finance department to facilitate distribution of monies pursuant to the court’s order.

The Plaintiff should contact the Chief Operating Officer, Sharon Whitmore at Sharon.Whitmore@fultonCountyga.gov and follow the steps as directed by the CFO. There is no need for this Plaintiff to contact this office to harass any employee by any means (phone call, text message or email) related to payment.

Conclusion

Despite the Court allowing the Plaintiff’s inappropriate and unethical conduct throughout these proceedings, this office has gone well beyond what is

legally required by statute to comply with this Court's order.¹³ Plaintiff has sent over 100 individual Open Record Requests contained within 18 separate request numbers to the District Attorney's Office.¹⁴ Never once was she charged for a single document. She, along with other republican advocates, flooded the District Attorney's Office with countless similar and almost identical requests. This type of group effort to abuse the Open Records Act was argued before the Court, however, this Court failed to reprimand this bad faith conduct.

It is impossible to ignore the glaring disparity in how this case has been handled by the court compared to the normal course of litigation surrounding the Georgia Open Records Act. In fact, the Court's conduct prompted the Fulton County Attorney – an office that practices daily in the Fulton County Superior Court and which is not known for aggressive statements and actions – to file a motion to recuse the judge on September 12th, 2024¹⁵ with an affidavit attached from an Assistant County Attorney.¹⁶

As stated in the County Attorney's recusal motion, this very Court granted leave to the Plaintiff and allowed her to add additional parties without allowing the County or the Office of the District Attorney an opportunity to respond. The Court

¹³ <https://www.youtube.com/watch?v=WY9MA-LcduU-> Timestamp- 1:22:21-1:23:28

¹⁴ Exhibit 2

¹⁵ Exhibit 3

¹⁶ Exhibit 4

did not allow another Judge to review the motion to rescue, as is common practice, but instead decided on her own accord that she had not acted with bias.¹⁷

As stated in County Attorney’s recusal motion, in the context of this litigation, the court has allowed the Plaintiff to weaponize her professional status and the legal process with near total impunity. At multiple stages of the litigation, the court acted not as a neutral fact finder but as a facilitator and ally of the Plaintiff. Despite Plaintiff’s filings being riddled with misrepresentations, unsupported claims, and procedural abuse—conduct that reflects clear bad faith – the court has taken the unprecedented step of ordering the District Attorney’s Office to create records that do not exist – an order that contravenes the text of the Open Records Act and all judicial opinions – prior to this court’s order – regarding the application of the Act and the obligation that it imposes on Georgia state and local government agencies.¹⁸

The serious, day-to-day work of the District Attorney’s Office continues—work that is critical to the stability and safety of our communities. From securing justice for victims of violent crime, to protecting the rights of children and the elderly, to connecting families with life-saving support services, the work of a District Attorney is not just essential—it is imperative. This Office serves

¹⁷ Exhibit 5

¹⁸ <https://www.youtube.com/watch?v=Wa4X3B36PwU>- Timestamp- 3:00-3:28

countless individuals and families across Fulton County, often in their most vulnerable moments. As the twice elected District Attorney, who won the most recent election with a resounding primary win of 87% and general election win of 68%, District Attorney Willis fulfills her oath daily by focusing on the matters that mean the most to the people she serves. Every hour and dollar spent defending against these baseless distractions is time and funding pulled away from citizens of Fulton County. The people of this County deserve a justice system that prioritizes service over spectacle and substance over Plaintiff's self-promotion. This litigation has served no legitimate public interest and has instead become a stage for the Plaintiff's personal grievances and attention-seeking antics.

In closing, in no way does the District Attorney agree with this Order. However, we understand there has been collusion of republican appointees and actors who have done everything they can to bend and break the law to advantage this and other similarly situated persons. The District Attorney's primary interest is serving her constituents and not special interests. Let it be unequivocally stated: the decision not to appeal in no way concedes the legality or legitimacy of this Order.

We reiterate that the District Attorney's Office has made every reasonable effort to comply with the Court's Orders. We assert that any further obligations

must align with the law, the scope of the Office's authority, and the bounds of reasonable interpretation.



Andrea Alabi
Legal Counsel
Fulton County District Attorney's Office
Georgia Bar No. 117044

Exhibit 1

Fulton County
District Attorney's Office
Attorney Staffing Activity

Dept Name	Employee Name	Effective Dt	Status	Separation Date
DISTRICT ATTORNEY	ATKINSON, NATALIE SHERREL	5/25/2022	SEPARATION	3/27/2024
DISTRICT ATTORNEY	PATTEN, CELESTE VICTORIA	6/7/2023	ACTIVE	
DISTRICT ATTORNEY	PATTEN, CELESTE VICTORIA	4/12/2023	ACTIVE	
DISTRICT ATTORNEY	GIDDINGS, SAMIA PATRICE	12/20/2023	ACTIVE	
DISTRICT ATTORNEY	HOWELL, DAVID	7/6/2022	SEPARATION	10/19/2022
DISTRICT ATTORNEY	DILLIGARD, JAZMIN	11/20/2024	ACTIVE	
DISTRICT ATTORNEY	GRANT, JUDITH	3/17/2021	SEPARATION	10/7/2021
DISTRICT ATTORNEY	SAURI, LATARA AKIA	11/8/2023	SEPARATION	10/26/2024
DISTRICT ATTORNEY	DAVIS, JOYA	4/28/2021	SEPARATION	8/18/2021
DISTRICT ATTORNEY	GOURDINE, RAMIKA	6/23/2021	SEPARATION	10/27/2021
DISTRICT ATTORNEY	FLEMING, TALITHA	6/23/2021	ACTIVE	
DISTRICT ATTORNEY	REIMER, KATHERINE LAUREN	6/23/2021	ACTIVE	
DISTRICT ATTORNEY	JORDAN, JULIAN	7/31/2024	SEPARATION	12/4/2024
DISTRICT ATTORNEY	JONES, MARQUEZ	1/29/2025	ACTIVE	
DISTRICT ATTORNEY	EASTON, JAYNA	12/4/2024	SEPARATION	1/15/2025
DISTRICT ATTORNEY	ANDREWS, MICHELLE	6/22/2022	ACTIVE	
DISTRICT ATTORNEY	SCOTT, ALBERT	5/25/2022	SEPARATION	3/28/2024
DISTRICT ATTORNEY	QUALLS, AMBER	6/22/2022	SEPARATION	10/12/2022
DISTRICT ATTORNEY	MCCULLEY, KAREEM	10/26/2022	SEPARATION	1/16/2024
DISTRICT ATTORNEY	BRIDGES, BETHANY	2/1/2023	ACTIVE	
DISTRICT ATTORNEY	HERCULES, DANIELLE	7/17/2024	ACTIVE	
DISTRICT ATTORNEY	FIELDS, KELLIE	9/13/2023	SEPARATION	10/21/2023
DISTRICT ATTORNEY	REED, SCOTT	12/6/2023	ACTIVE	
DISTRICT ATTORNEY	WOODS, AMARI	1/29/2025	ACTIVE	
COUNTY MANAGER	WILLIAMS, TERRIEA	8/18/2021	ACTIVE	
COUNTY MANAGER	JORDAN, JULIAN	8/18/2021	SEPARATION	12/4/2024
COUNTY MANAGER	SHAPIRO, ROBERT	9/15/2021	SEPARATION	12/4/2024
COUNTY MANAGER	WIGGINS, JE'LEAH	9/15/2021	SEPARATION	9/28/2024
COUNTY MANAGER	KANSWE, BRIAN	10/13/2021	SEPARATION	12/4/2021
COUNTY MANAGER	WILLINGHAM, JAZMIN	10/27/2021	SEPARATION	1/9/2025
COUNTY MANAGER	LUGO, ISABELLA	11/10/2021	SEPARATION	6/24/2023
COUNTY MANAGER	PORTER, JACELYNN	8/31/2022	ACTIVE	
COUNTY MANAGER	CRUTCHFIELD, TERRIKA	8/2/2023	ACTIVE	
DISTRICT ATTORNEY	DIXON, RONNIE E	5/26/2021	SEPARATION	8/31/2022
DISTRICT ATTORNEY	KIMBROUGH, KEMUEL A	5/24/2023	ACTIVE	
DISTRICT ATTORNEY	THOMPSON, ELAINE L	5/25/2022	ACTIVE	
DISTRICT ATTORNEY	WILSON, ROBERT HARLEY	1/17/2024	ACTIVE	
DISTRICT ATTORNEY	BOYKIN, TONYA WHITE	1/3/2024	ACTIVE	
DISTRICT ATTORNEY	MAJESKE, KEVIN	3/3/2021	SEPARATION	12/7/2024
DISTRICT ATTORNEY	THOMAS, TRAVIS	1/15/2025	SEPARATION	10/18/2023
DISTRICT ATTORNEY	GOUDY, IVORY	1/15/2025	ACTIVE	
DISTRICT ATTORNEY	NORWOOD, MATTHEW	4/13/2022	SEPARATION	5/15/2024
DISTRICT ATTORNEY	AMJADI, PAREESA	1/20/2021	ACTIVE	
DISTRICT ATTORNEY	SIMMS, MARY MELISSA	2/17/2021	SEPARATION	5/8/2021
DISTRICT ATTORNEY	GREEN, AMANDA	3/3/2021	ACTIVE	
DISTRICT ATTORNEY	SMITH, DEMETRIUS	3/31/2021	ACTIVE	
DISTRICT ATTORNEY	PARRISH, MICHAEL DUWAYNE	3/17/2021	SEPARATION	5/14/2022

Fulton County
District Attorney's Office
Attorney Staffing Activity

Dept Name	Employee Name	Effective Dt	Status	Separation Date
DISTRICT ATTORNEY	ALMAND, LAURA	3/31/2021	SEPARATION	2/23/2022
DISTRICT ATTORNEY	SALMAN, JONATHAN	5/12/2021	ACTIVE	
DISTRICT ATTORNEY	SCATES CHARAKUPA, MYCHAL	5/26/2021	ACTIVE	
DISTRICT ATTORNEY	ADKINS, CHRISTIAN	7/31/2024	ACTIVE	
DISTRICT ATTORNEY	WEINTRAUB, ELIZABETH	5/25/2022	SEPARATION	10/25/2023
DISTRICT ATTORNEY	BRODERICK, AISHA	7/6/2022	SEPARATION	4/24/2024
DISTRICT ATTORNEY	LONG, ABIGAIL	2/15/2023	SEPARATION	10/11/2023
DISTRICT ATTORNEY	MARQUEZ, FRANCISCO	5/24/2023	ACTIVE	
DISTRICT ATTORNEY	CRUTCHFIELD, TERRIKA	11/6/2024	ACTIVE	
DISTRICT ATTORNEY	MCGILLICUDDY, CAITLIN	12/4/2024	ACTIVE	
DISTRICT ATTORNEY	MCFARLANE, PAULA	12/6/2023	SEPARATION	12/7/2024
DISTRICT ATTORNEY	BROWN, MARIO	12/4/2024	ACTIVE	
COUNTY MANAGER	REESE, ELNA L	4/13/2022	ACTIVE	
COUNTY MANAGER	ADAMS, JASON JOSEPH	8/4/2021	ACTIVE	
COUNTY MANAGER	BARNHILL, PAUL	11/8/2023	SEPARATION	10/27/2021
COUNTY MANAGER	SHAH, FURHAWN	10/27/2021	SEPARATION	4/19/2022
COUNTY MANAGER	FORTUNE, RONCHEROS DOUGLAS	11/24/2021	SEPARATION	1/31/2023
COUNTY MANAGER	ADKINS, CHRISTIAN	9/15/2021	ACTIVE	
COUNTY MANAGER	RUSSELL, DANIELLE	9/15/2021	ACTIVE	
COUNTY MANAGER	BURKE, STACEY	9/15/2021	ACTIVE	
COUNTY MANAGER	SIMMONS, AUDREY	10/13/2021	ACTIVE	
COUNTY MANAGER	CLARK, CHRISTINIA COVORA	10/13/2021	ACTIVE	
COUNTY MANAGER	PEEPLER, DION	5/25/2022	SEPARATION	12/3/2024
COUNTY MANAGER	WILLIAMS, MICHELLE	3/15/2023	ACTIVE	
COUNTY MANAGER	RUTLAND, JOYA	8/16/2023	ACTIVE	
COUNTY MANAGER	WEBB, MICHAEL	9/13/2023	SEPARATION	12/18/2024
DISTRICT ATTORNEY	DAUGHTRY II, JACOB S	9/15/2021	SEPARATION	9/6/2023
DISTRICT ATTORNEY	SAMPSON, IDIONGO E	11/6/2024	ACTIVE	
DISTRICT ATTORNEY	PUTNAM, STEPHEN RANDOLPH	8/18/2021	SEPARATION	3/24/2022
DISTRICT ATTORNEY	MARS, JAWARA OSAYANDE	1/6/2021	ACTIVE	
DISTRICT ATTORNEY	RAO, GAUTAM	1/20/2021	ACTIVE	
DISTRICT ATTORNEY	JOHNSON, TIFFANI ANNISSE	7/3/2024	ACTIVE	
DISTRICT ATTORNEY	ROBINSON, CHRISTINA MCCORD	11/6/2024	ACTIVE	
DISTRICT ATTORNEY	ROBINSON, CHRISTINA MCCORD	5/12/2021	ACTIVE	
DISTRICT ATTORNEY	CHRISTIAN, SHANIQUA ANTWANETTE	2/3/2021	ACTIVE	
DISTRICT ATTORNEY	DOHERTY, BURKE OLIVIA	3/26/2025	SEPARATION	10/25/2023
DISTRICT ATTORNEY	HUNTER, MARIA	8/18/2021	ACTIVE	
DISTRICT ATTORNEY	BROWN, TERI E	5/25/2022	ACTIVE	
DISTRICT ATTORNEY	PATRICK, LANCE CURTIS	1/29/2025	ACTIVE	
DISTRICT ATTORNEY	AMJADI, PAREESA	11/20/2024	ACTIVE	
DISTRICT ATTORNEY	HARTSFIELD, JILL	3/3/2021	SEPARATION	11/13/2021
DISTRICT ATTORNEY	ROSENWASSER, ELIZABETH CONARD	2/17/2021	SEPARATION	1/21/2023
DISTRICT ATTORNEY	WILLIAMS, TERRIEA	8/28/2024	ACTIVE	
DISTRICT ATTORNEY	RUSSELL, DANIELLE	11/6/2024	ACTIVE	
DISTRICT ATTORNEY	WIGGINS, JE'LEAH	9/11/2024	SEPARATION	9/28/2024
DISTRICT ATTORNEY	NIX, MEGAN	11/6/2024	ACTIVE	
DISTRICT ATTORNEY	CLARK, CHRISTINIA COVORA	11/20/2024	ACTIVE	

Fulton County
District Attorney's Office
Attorney Staffing Activity

Dept Name	Employee Name	Effective Dt	Status	Separation Date
DISTRICT ATTORNEY	PENNINGTON, TIMOTHY	11/6/2024	ACTIVE	
DISTRICT ATTORNEY	BARNEY-DUCK, ALICIA	12/8/2021	ACTIVE	
DISTRICT ATTORNEY	HAND, PIERCE	12/8/2021	SEPARATION	12/17/2022
DISTRICT ATTORNEY	JONES, CHARLES	12/8/2021	ACTIVE	
DISTRICT ATTORNEY	DIXON, JANA	2/16/2022	SEPARATION	8/2/2024
DISTRICT ATTORNEY	DIXON, JANA	10/11/2023	SEPARATION	8/2/2024
DISTRICT ATTORNEY	UHELSKI, DANE	5/25/2022	SEPARATION	7/6/2024
DISTRICT ATTORNEY	PEEPLES, DION	6/7/2023	SEPARATION	12/3/2024
DISTRICT ATTORNEY	HAWKINS, JEFFREY	8/31/2022	ACTIVE	
DISTRICT ATTORNEY	PORTER, JACELYNN	11/6/2024	ACTIVE	
DISTRICT ATTORNEY	WILLIAMS, MICHELLE	11/20/2024	ACTIVE	
DISTRICT ATTORNEY	DOLAN, COURTNEY	3/15/2023	SEPARATION	10/14/2023
DISTRICT ATTORNEY	RUTLAND, JOYA	9/11/2024	ACTIVE	
DISTRICT ATTORNEY	JACKSON, AVERIEL	10/11/2023	ACTIVE	
DISTRICT ATTORNEY	DAVIS, RASHIDA	2/26/2025	ACTIVE	
COUNTY MANAGER	SAMPSON, IDIONGO E	4/12/2023	ACTIVE	
COUNTY MANAGER	WAKEFORD, FRANCIS MCDONALD	9/15/2021	ACTIVE	
COUNTY MANAGER	ROBINSON, CHRISTINA MCCORD	8/16/2023	ACTIVE	
COUNTY MANAGER	AMJADI, PAREESA	3/30/2022	ACTIVE	
COUNTY MANAGER	BANKS-BROWNE, JENNIFER	11/10/2021	SEPARATION	3/1/2023
COUNTY MANAGER	MILLER, TARRANCE LEON	10/27/2021	ACTIVE	
COUNTY MANAGER	WEEMS, MELISSA	8/18/2021	SEPARATION	9/19/2023
COUNTY MANAGER	BEMIS, KAREN	9/15/2021	SEPARATION	8/31/2022
COUNTY MANAGER	HALL, PATRICK	9/15/2021	SEPARATION	6/17/2023
COUNTY MANAGER	BURNETTE, ROBIN	9/15/2021	SEPARATION	4/20/2024
COUNTY MANAGER	NIX, MEGAN	10/13/2021	ACTIVE	
COUNTY MANAGER	PRIDDY, LATEVIA	10/13/2021	SEPARATION	1/22/2022
COUNTY MANAGER	CANE, ALEXANDER	10/27/2021	SEPARATION	1/7/2023
COUNTY MANAGER	EASTON, JAYNA	11/10/2021	SEPARATION	1/15/2025
COUNTY MANAGER	PENNINGTON, TIMOTHY	11/10/2021	ACTIVE	
COUNTY MANAGER	KLADIS, MARIO	9/28/2022	ACTIVE	
COUNTY MANAGER	BROOKS, KAYLA	10/26/2022	ACTIVE	
COUNTY MANAGER	MARSH, PRECIOUS	2/15/2023	SEPARATION	3/27/2024
DISTRICT ATTORNEY	TURNER, JOHN M	1/20/2021	ACTIVE	
DISTRICT ATTORNEY	MCFARLANE, NAILAH GRANT	9/15/2021	SEPARATION	11/8/2023
DISTRICT ATTORNEY	WIGHT, THOMAS D	2/3/2021	ACTIVE	
DISTRICT ATTORNEY	TURNER, ERICA N	2/16/2022	SEPARATION	2/28/2024
DISTRICT ATTORNEY	RAO, GAUTAM	8/31/2022	ACTIVE	
DISTRICT ATTORNEY	ABBATE, ADAM ROBERT	2/3/2021	ACTIVE	
DISTRICT ATTORNEY	WAKEFORD, FRANCIS MCDONALD	2/16/2022	ACTIVE	
DISTRICT ATTORNEY	VARGAS, MEIGHAN COLLEEN	2/17/2021	SEPARATION	8/28/2021
DISTRICT ATTORNEY	ZELLNER, NATALIE	1/6/2021	ACTIVE	
DISTRICT ATTORNEY	ALLEN, SONYA	2/3/2021	SEPARATION	12/4/2024
DISTRICT ATTORNEY	WOOTEN, JOHN W	4/26/2023	ACTIVE	
DISTRICT ATTORNEY	DAVENPORT, RUSHONDRA	3/3/2021	ACTIVE	
DISTRICT ATTORNEY	MILLER, TARRANCE LEON	7/17/2024	ACTIVE	
DISTRICT ATTORNEY	SPERRY, CHRISTOPHER	8/31/2022	ACTIVE	

Fulton County
District Attorney's Office
Attorney Staffing Activity

Dept Name	Employee Name	Effective Dt	Status	Separation Date
DISTRICT ATTORNEY	FICKETT, ROBERT	12/8/2021	SEPARATION	7/23/2022
DISTRICT ATTORNEY	ROBERSON, DAVID	2/16/2022	SEPARATION	5/13/2023
DISTRICT ATTORNEY	HOLMES, DAVID	2/16/2022	SEPARATION	9/10/2022
DISTRICT ATTORNEY	NEY, ADAM	2/16/2022	ACTIVE	
DISTRICT ATTORNEY	OLLIVIERRE, LARISSA	9/28/2022	ACTIVE	
COUNTY MANAGER	HERRING, KENYA B	9/15/2021	ACTIVE	
COUNTY MANAGER	WOLFE, SANDRA K	9/15/2021	ACTIVE	
COUNTY MANAGER	RAO, GAUTAM	10/27/2021	ACTIVE	
COUNTY MANAGER	BERNICK, ALEX	3/1/2023	ACTIVE	
COUNTY MANAGER	CAREY, KIMBERLY M	10/27/2021	ACTIVE	
COUNTY MANAGER	ALABI, ANDREA	10/25/2023	ACTIVE	
COUNTY MANAGER	WILLIAMS, THOMAS	8/18/2021	SEPARATION	8/20/2022
COUNTY MANAGER	GRINER, THOMAS	9/15/2021	ACTIVE	
COUNTY MANAGER	RILEY, DENISE ADELE	12/20/2023	ACTIVE	
COUNTY MANAGER	ADCOCK, CAITLIN	9/28/2022	SEPARATION	4/5/2024
COUNTY MANAGER	JAFARY, ARASH	11/23/2022	SEPARATION	1/27/2024
COUNTY MANAGER	HERTZOG, PETER	3/1/2023	SEPARATION	12/4/2024
COUNTY MANAGER	MCGILICUDDY, CAITLIN	8/16/2023	ACTIVE	
COUNTY MANAGER	GIBSON, TAMIKA	9/27/2023	SEPARATION	8/16/2024
COUNTY MANAGER	BROWN, MARIO	12/20/2023	ACTIVE	
DISTRICT ATTORNEY	HICKS, REDELL JAVOYNE	6/21/2023	SEPARATION	1/1/2024
DISTRICT ATTORNEY	CARLSON, MICHAEL SCOTT	4/14/2021	SEPARATION	3/26/2025
DISTRICT ATTORNEY	ALLEN, ANA-HELENA RODRIQUEZ	5/26/2021	ACTIVE	
DISTRICT ATTORNEY	ARMSTRONG, KEVIN CHRISTOPHER	2/3/2021	ACTIVE	
DISTRICT ATTORNEY	WOOTEN, JOHN W	2/3/2021	ACTIVE	
DISTRICT ATTORNEY	DAVIS, VIRGINIA	5/26/2021	SEPARATION	2/16/2023
DISTRICT ATTORNEY	GRINER, THOMAS	8/28/2024	ACTIVE	
DISTRICT ATTORNEY	JACKSON, PATRICIA LOUISE	4/14/2021	SEPARATION	8/18/2021
DISTRICT ATTORNEY	ALEXANDER, ADELINE NICOLE	4/14/2021	SEPARATION	7/28/2021
DISTRICT ATTORNEY	WIGHT, THOMAS D	11/10/2021	ACTIVE	
DISTRICT ATTORNEY	TOOLE-SAKHANOKHO, RAMONA	3/3/2021	ACTIVE	
DISTRICT ATTORNEY	RHODES, LAMAR S	1/6/2021	ACTIVE	
DISTRICT ATTORNEY	HYLTON, SIMONE NATHANIA	2/3/2021	ACTIVE	
DISTRICT ATTORNEY	SPRINKEL, MICHAEL ALLEN	12/8/2021	ACTIVE	
DISTRICT ATTORNEY	HAMM, JAMELL Y	12/8/2021	ACTIVE	
DISTRICT ATTORNEY	WINFREY, EARNELLE PRITCHETT	12/8/2021	ACTIVE	
DISTRICT ATTORNEY	PETERSON, JULIANNA	12/8/2021	ACTIVE	
DISTRICT ATTORNEY	GROFFSKY, RACHAEL MARA	2/3/2021	SEPARATION	10/30/2021
DISTRICT ATTORNEY	WILSON, MICHAEL DEWAYNE	12/8/2021	ACTIVE	
DISTRICT ATTORNEY	BRIDGES, RODERICK	4/13/2022	ACTIVE	
COUNTY MANAGER	JANSSEN, LAURA A	11/10/2021	SEPARATION	2/23/2023
COUNTY MANAGER	BROWN, DWAYNE A	7/21/2021	SEPARATION	9/23/2021
COUNTY MANAGER	SPERRY, CHRISTOPHER	7/21/2021	ACTIVE	
DISTRICT ATTORNEY	GEARY, DONALD PAUL	5/26/2021	SEPARATION	10/1/2022
DISTRICT ATTORNEY	YOUNG, DAYSHA D	6/22/2022	ACTIVE	
DISTRICT ATTORNEY	MACK, YOLANDA ROLLAND	2/3/2021	SEPARATION	12/5/2024
DISTRICT ATTORNEY	TOOLE-SAKHANOKHO, RAMONA	10/27/2021	ACTIVE	

District Attorney's Office

Attorney Staffing Activity

Dept Name	Employee Name	Effective Dt	Status	Separation Date
DISTRICT ATTORNEY	LOVE, ADRIANE LATRELL	4/26/2023	ACTIVE	
DISTRICT ATTORNEY	JENKINS, GEORGE ALLAN	6/22/2022	ACTIVE	
DISTRICT ATTORNEY	DUTCHER, BRUCE	1/6/2021	ACTIVE	
DISTRICT ATTORNEY	BOYKIN, TONYA WHITE	12/4/2024	ACTIVE	
DISTRICT ATTORNEY	BOND, DEXTER QUINTEN	1/6/2021	ACTIVE	
DISTRICT ATTORNEY	DISANTIS, JEFFREY	1/6/2021	ACTIVE	
DISTRICT ATTORNEY	WATKINS, ELLIOTT	2/3/2021	ACTIVE	
DISTRICT ATTORNEY	ALLEN, SONYA	12/8/2021	SEPARATION	12/4/2024
DISTRICT ATTORNEY	HUTCHERSON, KENNETH L	4/14/2021	ACTIVE	
DISTRICT ATTORNEY	FAUCETTE, VINCENT JAMES	11/9/2022	ACTIVE	
DISTRICT ATTORNEY	WOODS-ROBERTS, LASHAWNDA	10/13/2021	ACTIVE	
DISTRICT ATTORNEY	JENKINS, GEORGE ALLAN	3/17/2021	ACTIVE	
DISTRICT ATTORNEY	PAWLAK, RUTH	8/3/2022	ACTIVE	
DISTRICT ATTORNEY	YOUNG, DAYSHA D	2/17/2021	ACTIVE	
DISTRICT ATTORNEY	ROSENBAUM, FAYE POUS	8/3/2022	ACTIVE	

Exhibit 2

Ashleigh Merchant ORRs

Run Date: 09/03/2024 10:24 PM

Reference No	Create Date	Customer Full Name	Summary	Assigned Dept	Required Completion Date	Completed/ Closed
R007353-090123	9/1/2023	Ms. Ashleigh Merchant	<p>I am seeking copies of any and all bids, contracts, or agreements for the appointment and payment of the following contractors with Fulton County:</p> <p>The Law Offices of Nathan Wade Christopher Campbell PC The Cross Firm LCC Anna Cross Bondurant Mixon & Elmore LLP and Terrance Bradley.</p> <p>These individuals all appear to have been paid for services rendered to the District Attorney's Office and I am seeking their invoices, contracts, county approval of these vendors and any other documents regarding the contracting and payment of these vendors.</p>	District Attorney	9/15/2023	Yes
R007647-091123	9/11/2023	Ms. Ashleigh Merchant	<p>I am seeking a copy of the application and any accompanying documentation for the issuance of a county badge or county entrance card and/or District Attorney's badge for Nathan Wade. The District Attorney would have made the application or submitted the request for a badge to be issued and I am requesting any and all documentation in regards to that issuance. Thank you!</p>	Sheriff	9/21/2023	Yes
R007843-091523	9/15/2023	Ms. Ashleigh Merchant	<p>I believe that the county attorney would have this information but I am not sure. I am seeking a copy of any procedures, rules, laws, or other county policy that governs a county agency requesting money for outside legal assistance such as a contract lawyer. I am trying to obtain the policy and procedure for the approval of the funds to pay an a non-county employee lawyer and the process for review and oversight of the payment of these services. Thank you!</p> <p>Ashleigh Merchant</p>	Finance	12/6/2023	Yes
R007844-091523	9/15/2023	Ms. Ashleigh Merchant	<p>I am seeking copies of the monthly CARES act reports for the District Attorney's Office showing how CARES act money was spent each month.</p>	District Attorney	10/20/2023	Yes

Reference No	Create Date	Customer Full Name	Summary	Assigned Dept	Required Completion Date	Completed/ Closed
<u>R007858-091523</u>	9/15/2023	Ms. Ashleigh Merchant	I am seeking copies of any oaths of office or paperwork appointing Nathan Wade as a special prosecutor and evidence of who performed the oath or appointment and where said oath or appointment is publicly filed. I am also seeking paperwork or files demonstrating when and by whom nathan Wade was issued a county ID, Key card or badge. Thank you	Office of the District Attorney	10/3/2023	Yes
<u>R000129-010424</u>	1/4/2024	Ms. Ashleigh Merchant	I am seeking copies of any and all bids, contracts, or agreements for the appointment and payment of the following contractor with Fulton County: The Law Offices of Nathan Wade and/or Nathan Wade. I am seeking his invoices, contracts, county approval of these vendors and any other documents regarding the contracting and payment of these vendors. I submitted an open record request 4 months ago for this same data and so I am seeking updated records for all invoices and payments and contracts and agreements since my last request. Thank you.	Office of the District Attorney	1/31/2024	Yes
<u>R000198-010824</u>	1/8/2024	Ms. Ashleigh Merchant	I am seeking personnel records. I am requesting a list of all attorneys (with their names and dates of hiring) hired by the District Attorney since Ms. Willis became District Attorney included the date hired. Thank you!	Office of the District Attorney	1/25/2024	Yes
<u>R000272-010924</u>	1/9/2024	Ms. Ashleigh Merchant	I am seeking a copy of any and all correspondence to and/or from vendor Critical Mention, Inc. including copies of all contracts and/or payments and all analytics and/or reports to and/or from Critical Mention, Inc. and any member of the District Attorney's Office.	Office of the District Attorney	1/31/2024	Yes
<u>R000305-010924</u>	1/9/2024	Ms. Ashleigh Merchant	I am seeking a copy of any and all documents, agreements, contracts, memos or any written documents that employees, staff, or independent contractors of the District Attorney's office have been required to sign regarding speaking to the media and/or confidentiality.	Office of the District Attorney	1/31/2024	Yes
<u>R000481-011424</u>	1/14/2024	Ms. Ashleigh Merchant	I am seeking any and all contracts, agreements, vendor documents, and communications between any county entity and the vendor TVEyes Inc.	District Attorney	1/31/2024	Yes

Reference No	Create Date	Customer Full Name	Summary	Assigned Dept	Required Completion Date	Completed/Closed
<u>R000483-011424</u>	1/14/2024	Ms. Ashleigh Merchant	I am writing in regards to a prior request R007353-090123. It appears after further research that you did NOT provide all the documents that were responsive to my request. I requested copies of all contracts with John Floyd and I was only provided one that expired in 2022. Based on statements made in the press that there may be additional contracts that are more recent, I would like for you to please re-run my open records and make sure that you actually did provide me with all the contracts/agreements that existed. Thank you!	Office of the District Attorney	1/18/2024	Yes
<u>R000515-011624</u>	1/16/2024	Ms. Ashleigh Merchant	I am requesting a copy of any and all requests for vacation or time off for employee Fani Willis from January 1, 2020 until current.	Office of the District Attorney	2/1/2024	Yes
<u>R000528-011624</u>	1/16/2024	Ms. Ashleigh Merchant	reports and itemization that were required by law to be submitted to the county as the local governing authority showing what was done with all property and funds obtained through forfeiture including but not limited to reports showing where the funds went and who was paid out of the funds.	Office of the District Attorney	1/26/2024	Yes
<u>R000579-011724</u>	1/17/2024	Ms. Ashleigh Merchant	I am requesting copies of the annual ethics disclosures for DA Fani Willis that are required to be sent annually to the Clerk to the Commission under Fulton ordinance 2-79. A copy of the blank forms is available on the website but I am seeking the completed and filed annual forms for Fani Willis during her entire time as the elected District Attorney. Thank you!	Office of the District Attorney	2/22/2024	Yes
<u>R000580-011724</u>	1/17/2024	Ms. Ashleigh Merchant	I am seeking a copy of any and all travel reimbursements, including vouchers, requests for reimbursement, communication regarding reimbursement and proof of reimbursement, for District Attorney Fani Willis for the years 2020, 2021, 2022, 2023 and 2024. Thank you!	Office of the District Attorney	1/31/2024	Yes

Reference No	Create Date	Customer Full Name	Summary	Assigned Dept	Required Completion Date	Completed/ Closed
<u>R000581-011724</u>	1/17/2024	Ms. Ashleigh Merchant	I am seeking any and all correspondence or communication between Purchasing and the District Attorney's Office for 2021 until present regarding the following: (1) Outside Counsel: any payment, requests for payment, process for hiring/bids and paying outside counsel. This includes the referenced "retraining" of the District Attorney by purchasing that we discussed during the BOC meeting in November 2023. (2) Promotional Material: any payment, requests for payments, process for hiring/bids and paying vendors for promotional material including promotional brochures, fliers, or mailers. (3) Re-branding: any payment, requests for payment, process for hiring/bids and paying vendors for re-branding material (4) Critical Mention: any payment, requests for payment, bids, process for hiring/bids and paying Critical Mention (5) TVEye: any payment, requests for payment, process for hiring/bids and paying TV Eye	Office of the District Attorney	1/31/2024	Yes
<u>R000675-011824</u>	1/18/2024	Ms. Ashleigh Merchant	In Re Prior Request: R000272-010924 I requested documents regarding Critical Mention in R000272-010924 and got a set of emails but I asked for the analytics and documents that are clearly referenced and attached to those emails. The service, Critical Mention, was contracted by the DA to monitor the media. In monitoring the media, reports with analytics were provided to the DA's office monthly. It appears from the emails that Jeff DiSantis, Fani Willis, Jeremy Murray, Pallavi Purkayastha, Robin Bryant and Reta Keppler may all have accessed these reports on a regular basis. These reports are of public media and paid for by public funds and subject to open records.	Office of the District Attorney	5/29/2024	Yes
<u>R007813-071724</u>	7/17/2024	Ms. Ashleigh Merchant	I am seeking copies of digital calendars and schedules for January 1, 2020 until December 31, 2023 for the following Fulton County employees: Jeff DiSantis and Michael Hill.	Office of the District Attorney	9/30/2024	No

Reference No	Create Date	Customer Full Name	Summary	Assigned Dept	Required Completion Date	Completed/ Closed
<u>R007814-071724</u>	7/17/2024	Ms. Ashleigh Merchant	<p>First: I am seeking all emails to and/or from any of the following employees with the term "critical mention" for the period of January 1, 2020 until present: Jeff DiSantis (Jeff.DiSantis@fultoncountyga.gov), Robin Bryant (Robin.Bryant@fultoncountyga.gov), Reta Keppler (Reta.Keppler@fultoncountyga.gov), Jazmin Dilligard (Jazmin.Dilligard@fultoncountyga.gov), Jeremy Murray (Jeremy.Murray@fultoncountyga.gov), Fani Willis (Fani.WillisDA@fultoncountyga.gov)</p> <p>Second: I am also seeking a power point named "Media Relations Executive Team Presentation 11-30-21.pptx" that was attached to an email sent November 30, 2021 from Jeff Disantis to Jazmin Dillard, Jeremy Murray and Fani Willis (emails same as above).</p> <p>Third: I am seeking the "analytics graph" that was attached as a PDF to an email sent sometime between February 15, 2021 and February 16, 2021 from Critical Mention to Jeff DiSantis (email above). The analytics graphs are labeled "Fani Willis" and "Fulton County District Attorney".</p>	Office of the District Attorney	9/30/2024	No
<u>R009053-081524</u>	8/15/2024	Ms. Ashleigh Merchant	<p>Thank you!!</p> <p>I am seeking the P- card (purchasing card) and T-card (travel card) receipts, invoices, and statements for purchases made from January 1, 2020 until now by Fani Willis, Dexter Bond, or Jeff DiSantis.</p>	Purchasing	8/29/2024	No

Exhibit 3

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

THE MERCHANT LAW FIRM,)	
Plaintiff)	
v.)	CIVIL ACTION
)	FILE NO.: 24CV001325
FULTON COUNTY DISTRICT)	
ATTORNEY'S OFFICE, FULTON)	
COUNTY, GEORGIA, FANI WILLIS,)	
in her official capacity, and FANI)	
WILLIS in her individual capacity,)	
Defendants)	
_____)	

**DEFENDANTS' MOTION FOR RECUSAL OF JUDGE RACHEL R. KRAUSE
AND MOTION TO STAY PROCEEDINGS**

COME NOW Defendants Fulton County District Attorney's Office, Fulton County, Georgia, and District Attorney Fani Willis, in her official capacity ("Defendants") and file this Motion for Recusal of Judge Rachel R. Krause pursuant to Superior Court Rule 25 *et seq.*, and Motion to Stay Proceedings. Defendant hereby requests that Judge Krause be disqualified and recused from presiding over any and all matters related to this civil action. Defendants further request that the proceedings in this case be stayed pending resolution of Gonzalez v. Miller, Case No. S24A0617.

I. Timeliness of Motion.

Superior Court Rule 25.1 requires that the affiant present his motion for recusal or disqualification within five (5) days after he learns of the alleged grounds for disqualification, and not later than ten (10) days prior to the hearing which is the subject of recusal or disqualification, "unless good cause is shown for failure to meet such time requirements." Defense counsel first learned of the grounds for disqualification on September 5, 2024, when Defendant learned that this Court was not going to dismiss Plaintiff's claims against all

Defendants despite well established law. Thus, Defendants' Motion is timely.

II. Grounds for Recusal and Disqualification.

A. The Georgia Supreme Court Has Established the Recusal Standard.

Canons 1 and 2 of the Code of Judicial Conduct require all judges to uphold and maintain the integrity and independence of the judiciary; to avoid impropriety and the appearance of impropriety in all their activities; and to perform the duties of judicial office impartially and diligently.

The Commentary of Canon 2 establishes that the test for impropriety is “. . . whether the conduct would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired.” Judicial Code of Conduct, Canon 1, Commentary [3]. Additionally, Canon 2 provides that judges shall disqualify “. . . in any proceeding in which their impartiality might reasonably be questioned. . . .” Judicial Code of Conduct, Canon 2, Rule 2.11 (A).

Following these principles, the Georgia Supreme Court in King v. State, 246 Ga. 386, 389 (1980), held that it was not a prerequisite to disqualification that “any actual impropriety on the part of the trial court judge” be shown, but the fact that his impartiality “might reasonably be questioned” was sufficient for disqualification.

In Birt v. State, 256 Ga. 483 (1986), the Georgia Supreme Court relied upon the Georgia Code of Judicial Conduct and King v. State, 246 Ga. 386 (1980) as the standard for determining when a judge should be recused. The Birt Court quoted then Canon 2¹ of the Georgia Code of Judicial Conduct, which states that a judge “must avoid all impropriety and *appearance* of impropriety.” Birt v. State, 256 Ga. 483, 486 (1986)(emphasis in original). The Court also

¹ The Judicial Code of Conduct and Canons were updated January 1, 2016. This language is now found in Judicial Code of Conduct, Canon 1, Commentary [2].

quoted then Canon 3(C)(1)² which provides that “[j]udges should disqualify themselves in proceedings in which their impartiality *might reasonably be questioned*, including but not limited to instances where: (a) the judge has a personal bias or prejudice concerning a party or a party’s lawyer.” *Id.* (emphasis in original). Finally, the Court quoted its earlier decision in King v. State, *supra*, holding that the “fact that his impartiality ‘might reasonably be questioned’ suffices for his disqualification.” *Id.*

Judicial Canons regarding recusal “come[] into play when the conduct or the remarks of a judge raise a legitimate inquiry as to impartiality.” BITT Int’l Co., Inc. v. Fletcher, 259 Ga. App. 406, 410 (2003)(referring to former Canon 3(E)(1) regarding recusal).

B. Superior Court Rule 25.3 Requires this Court to Allow Another Judge to Hear the Motion to Recuse if Certain Prerequisites are Met.

This Court is required to allow another judge to hear this Motion to Recuse if it (1) determines that the motion is timely, (2) determines that the affidavit is legally sufficient, and (3) finds that recusal would be warranted if some or all of the facts set forth in the affidavit are true. Superior Court Rule 25.3. The first prerequisite is addressed *supra*. Additionally, the accompanying affidavit has been properly sworn and executed by an individual competent to speak truthfully regarding matters related to the present motion. Finally, the accompanying affidavit establishes facts that warrant recusal. See Affidavit of Brad Bowman, a true and correct copy of which is attached hereto as “Exhibit 1” and incorporated herein by reference. The following is a synopsis of the information contained within the accompanying affidavit.

C. Synopsis of Facts Warranting Recusal.

On January 30, 2024, Plaintiff filed an Open Records Act claim against the Fulton County District Attorney’s Office. See Docket. On March 13, 2024, the Fulton County District

² The Judicial Code of Conduct and Canons were updated January 1, 2016. This language is now found in Judicial Code of Conduct, Canon 2, Rule 2.11.

Attorney's Office filed its Answer and Motion to Dismiss as there is clear case law that a district attorney's office is not an entity capable of being sued. See Docket. Plaintiff then filed an Amended Complaint, a Motion to Add a Defendant, and a Brief in Support of its Motion to Add Fulton County as a Defendant between April 16, 2024 and May 13, 2024. See Docket. On May 20, 2024, Fulton County Special Appearance Opposition in Response to Motion to Add Defendant objecting to being added to a case regarding an open records request it never received, so would have had no knowledge of the request, and therefore no duty to respond to said requests. See Docket.

A hearing was held on June 25, 2024. See Docket. The Court declined to dismiss the Fulton County District Attorney's Office or Fulton County and instead granted Plaintiff leave to add even more parties. See June 25, 2024 Order Concerning Deadlines. On July 12, 2024, Plaintiff filed its motion to Add Defendants. See Docket. Without allowing the Fulton County Office of the District Attorney, Fulton County, or District Attorney Willis in her individual or official capacity to respond to Plaintiff's Motion to Add Defendants, and despite Fulton County's previous objection, the Court granted Plaintiff's Motion to Add Defendants a mere ten (10) days later on July 22, 2024. See Docket.

Defendants were then forced to file Answers and Motions to Dismiss - Fulton County Office of the District Attorney (not a legal entity capable of being sued and not an agency under the Open Records Act), Fulton County (never received the open records request at issue and thus had no obligation to respond), District Attorney Willis, individually (never received the open records request at issue and thus had no obligation to respond and is not subject to the Open Records Act as a private citizen), District Attorney Willis, officially (not subject to the Open Records Act and has not waived her immunities, which is the very issue being decided by the

Georgia Supreme Court in Gonzalez v. Miller, Case No. S24A0617). See Docket.

Without ruling on the pending motions to dismiss, the Court held an evidentiary hearing on September 5, 2024. See Notice of September 5, 2024 Hearing via Zoom. During that hearing despite legal precedence, the Court refused to dismiss the Fulton County Office of the District Attorney, Fulton County, or District Attorney Willis in her official capacity. See September 5, 2024 Hearing Transcript, 98:14-102:3, a true and correct copy of which is attached hereto as “Exhibit 2” and incorporated herein by reference.

The Court noted “I am somewhat frustrated by the idea that there are four defendants and none of them are somehow responsible for producing documents.” See September 5, 2024 Hearing Transcript, 98:15-17. It is the Plaintiff’s burden to demonstrate to the Court who is the responsible actor in a lawsuit as a threshold issue.

The Court dismissed District Attorney Willis in her individual capacity because “[s]he was not served with a formal request for records that she was in possession of other than to the extent that the Fulton County D.A. was served with a request.” See September 5, 2024 Hearing Transcript, 99:12-15. This reasoning would certainly extend to Fulton County which was never served with the request and would not have access to the District Attorney’s records; yet Fulton County was not dismissed. Additionally, the Court also declined to dismiss the Fulton County Office of the District Attorney despite clear legal precedent that it is not an entity capable of being sued and no authority extended agency to include that Office.

III. Grounds for Stay of Proceeding

Given that the grounds that would warrant dismissal of the Fulton County District Attorney Fani Willis in her official capacity are before the Georgia Supreme Court, in the interest of judicial economy, Defendants further requests that the proceedings in this case be

stayed pending resolution of Gonzalez v. Miller, Case No. S24A0617.

IV. Conclusion

Based upon the appearance of impropriety and this Court's potential bias and conflict of interest against the Defendants, Defendants hereby request that Judge Krause be disqualified and recused from hearing all other matters related to this civil action. This matter should be set down for hearing pursuant to Uniform Superior Court Rule 25.4. Moreover, until such time as the Georgia Supreme Court has ruled in Gonzalez v. Miller, Case No. S24A0617, this matter should be stayed.

Respectfully submitted this 12th day of September, 2024.

OFFICE OF THE COUNTY ATTORNEY

Shalanda M. J. Miller
Georgia Bar No. 122544
Deputy County Counsel
Shalanda.Miller@fultoncountyga.gov

Brad Bowman
Georgia Bar No. 215007
Supervising County Counsel
Brad.Bowman@fultoncountyga.gov

/s/ Sandy Monroe
Sandy Monroe
Georgia Bar No. 537984
Assistant County Counsel
Sandy.Monroe@fultoncountyga.gov

ATTORNEYS FOR DEENDANTS

141 Pryor Street SW, Suite 4038
Atlanta, Georgia 30303
(404) 612-0246 (office)
(404) 730-6324 (facsimile)

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

**THE MERCHANT LAW FIRM,
Plaintiff**

v.

**FULTON COUNTY DISTRICT
ATTORNEY'S OFFICE, FULTON
COUNTY, GEORGIA, FANI WILLIS,
in her official capacity, and FANI
WILLIS in her individual capacity,
Defendants**

**CIVIL ACTION
FILE NO.: 24CV001325**

**CERTIFICATE OF SERVICE OF DEFENDANTS' MOTION FOR RECUSAL OF
JUDGE RACHEL R. KRAUSE AND MOTION TO STAY PROCEEDINGS**

The undersigned counsel certifies that the foregoing pleading was served upon counsel of record by electronic mail with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to all attorneys of record.

This 12th day of September, 2024.

OFFICE OF THE COUNTY ATTORNEY

Shalanda M. J. Miller
Georgia Bar No. 122544
Deputy County Counsel
Shalanda.Miller@fultoncountyga.gov

Brad Bowman
Georgia Bar No. 215007
Supervising County Counsel
Brad.Bowman@fultoncountyga.gov

/s/ Sandy Monroe
Sandy Monroe
Georgia Bar No. 537984
Assistant County Counsel
Sandy.Monroe@fultoncountyga.gov

ATTORNEYS FOR DEENDANTS

141 Pryor Street SW, Suite 4038
Atlanta, Georgia 30303
(404) 612-0246 (office)
(404) 730-6324 (facsimile)

Exhibit 4

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

THE MERCHANT LAW FIRM,)
Plaintiff)

v.)

FULTON COUNTY DISTRICT)
ATTORNEY'S OFFICE, FULTON)
COUNTY, GEORGIA, FANI WILLIS,)
in her official capacity, and FANI)
WILLIS in her individual capacity)
Defendants)

CIVIL ACTION
FILE NO.: 24CV001325

**AFFIDAVIT OF BRAD BOWMAN IN SUPPORT OF
DEFENDANTS' MOTION FOR RECUSAL OF JUDGE RACHEL R. KRAUSE
AND MOTION TO STAY PROCEEDINGS**

Brad Bowman, who appeared before the undersigned notary public duly authorized to administer oaths in this state and after being sworn, deposes and says as follows:

1. I am more than 21 years old and I am under no legal disability which would prevent me from giving this affidavit. I am giving this affidavit based on my own knowledge of the facts stated herein.
2. This affidavit is made for use as evidence in support of Defendants' Motion for Recusal of Judge Rachel R. Krause and Motion To Stay Proceedings in the above-styled case.
3. I was admitted to the Georgia State Bar in 2007 and have practiced law in the State of Georgia since my admission.
4. Since 2022, I have been employed with the Fulton County Attorney's Office.
5. On January 30, 2024, Plaintiff filed an Open Records Act claim against the Fulton County District Attorney's Office. See Docket.
6. On March 13, 2024, the Fulton County District Attorney's Office filed its Answer and Motion to Dismiss as there is clear case law that a district attorney's office is not an

and has not waived her immunities the very issue being decided by the Georgia Supreme Court in Gonzalez v. Miller, Case No. S24A0617). See Docket.

13. Without ruling on the pending motions to dismiss, the Court held an evidentiary hearing on September 5, 2024. See Notice of September 5, 2024, Hearing via Zoom.
14. During that hearing despite legal precedence, the Court refused to dismiss the Fulton County Office of the District Attorney, Fulton County, or District Attorney Willis in her official capacity. See September 5, 2024, Hearing Transcript, 98:14-102:3.
15. The Court noted “I am somewhat frustrated by the idea that there are four defendants and none of them are somehow responsible for producing documents.” See September 5, 2024 Hearing Transcript, 98:15-17.
16. It is the Plaintiff’s burden to demonstrate to the Court who is responsible actor as a threshold issue.
17. The Court dismissed District Attorney Willis in her individual capacity because “[s]he was not served with a formal request for records that she was in possession of other than to the extent that the Fulton County D.A. was served with a request.” See September 5, 2024 Hearing Transcript, 99:12-15.
18. The reasoning applied to District Attorney Willis in her individual capacity would extend to Fulton County: it was never served with the request and would not have access to the District Attorney’s records; yet Fulton County was not dismissed.
19. The Court also declined to dismiss the Fulton County Office of the District Attorney despite clear legal precedent that it is not an entity capable of being sued.
20. The Georgia Supreme Court is reviewing whether a district attorney is subject to the Open Records Act and whether a district attorney has immunity against suits under the

Open Records Act in Gonzalez v. Miller, Case No. S24A0617.

FURTHER AFFIANT SAYETH NAUGHT.

Executed in Fulton County, Georgia this 12th day of September, 2024.



Brad Bowman

Sworn and subscribed to

before me, this 12th day

of September, 2024.



Notary Public

Commission expires: 12/05/25

Mystical Studaway
NOTARY PUBLIC
DeKalb County, GEORGIA
My Commission Expires 12/05/2025

Exhibit 5

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

THE MERCHANT LAW FIRM, P.C.

Plaintiff,

v.

FULTON COUNTY DISTRICT
ATTORNEY'S OFFICE; FULTON
COUNTY, GEORGIA; FANI WILLIS,
in her official capacity; and FANI WILLIS
in her individual capacity,

Defendants.

INDICTMENT NO.

24CV001325

ORDER DENYING MOTION TO RECUSE AND MOTION FOR STAY

This case is before the Court on Defendants' Motion for Recusal of Judge Rachel R. Krause and Motion to Stay Proceedings. (Dkt. 74) Defendants' motion and supporting affidavit were filed on September 12, 2024.

MOTION TO RECUSE

A. Legal Framework

When a party files a recusal motion, the assigned trial judge "shall temporarily cease to act upon the merits of the matter and shall immediately determine (1) whether the motion is timely; (2) whether the affidavit is legally sufficient; and (3) whether the affidavit sets forth facts that, if proved, would warrant the assigned judge's recusal from the case." *Mondy v. Magnolia Advanced Materials, Inc.*, 303 Ga. 764, 766 (2018) (citing *Horn v. Shepherd*, 294 Ga. 468, 471 (2014); *Birt v. State*, 256 Ga. 483, 484 (1986)). Assessing whether these three criteria are met does not involve

an exercise of discretion by the judge whose recusal is sought; but is a question of law to be determined by the assigned judge. See U.S.C.R. 25.3; *Mayor & Aldermen of the City of Savannah v. Batson-Cook Co.*, 291 Ga. 114, 120-21 (2012). “If any one of the conditions is not met, the trial court does not err in denying the motion.” *Daker v. State*, 300 Ga. 74, 78 (2016).

To be timely, a recusal motion must be filed and presented to the judge “not later than five (5) days after” the party first learned of the alleged grounds for disqualification, unless good cause is shown as to why the party could not meet the time requirements. U.S.C.R. 25.1; see also *GeorgiaCarry.Org, Inc. v. James*, 298 Ga. 420, 422 (2016) (the five-day deadline applies to “any and all motions to recuse”).

The affidavit supporting recusal must be “definite and specific” and describe circumstances of extra-judicial conduct or statements, which demonstrate either bias in favor of any adverse party, or prejudice toward the moving party in particular, or a systematic pattern of prejudicial conduct toward persons similarly situated to the moving party, which would influence the judge and impede or prevent impartiality in that action.

U.S.C.R. 25.2. Bare conclusions or assertions as to bias are “not legally sufficient to support the motion or warrant further proceedings.” *Id.* And, “[j]udicial rulings adverse to a party are not disqualifying, as the alleged bias must stem from an extra-judicial source and result in an opinion based on something other than what the judge learned from participating in the case.” *Mondy*, 303 Ga. at 779 (internal quotations omitted).

B. Discussion

1. Timeliness

Defendants' motion and supporting affidavit recites a series of rulings and case management actions by this court between June and August 2024, leading up to a hearing this Court held on September 5, 2024. Defendants' motion was filed significantly more than five (5) days after this Court's case handling and rulings in June, July, and August of 2024 and is therefore untimely as to those matters. However, to the extent Defendants seek recusal based on statements or rulings by this Court at the hearing on September 5, 2024, the Motion for Recusal was timely filed within 5 days of the hearing.¹ Therefore, the Court must next consider the legal sufficiency of Defendant's motion and affidavit as to the timely allegations to determine if transfer to another judge for consideration of the merits of the motion is necessary. U.S.C.R. Rule 25.4; *see e.g., Henderson v. State*, 295 Ga. 333 (2014) (court should only consider timely recusal allegations); *Woodham v. Atlanta Dev. Auth.*, 335 Ga. App. 126 (2015).

¹ Because the time limit is less than seven days, intermediate weekend days are excluded when calculating the due date for filing a recusal motion. See O.C.G.A. § 1-3-1(d)(3); *see also Mayor & Aldermen of City of Savannah v. Batson-Cook Co.*, 291 Ga. 114, 120 (2012). Although Plaintiff correctly points out that Rule 25.1 also limits recusal motions filed 10 days before a hearing, given the short window between the two hearings, the Court does not consider this disqualifying of the State's motion.

2. Legal Sufficiency

Defendants filed an affidavit which, as to timely allegations, asserts the following facts:

- During the September 5, 2024, hearing, “despite legal precedence [sic], the Court refused to dismiss the Fulton County Office of the District Attorney, Fulton County, or District Attorney Willis in her official capacity.” (Bowman, Aff. ¶ 14)
- During the September 5, 2024, hearing, the Court stated, “I am somewhat frustrated by the idea that there are four defendants and none of them are somehow responsible for producing documents.” (Bowman Aff. ¶ 15)

The remainder of Defendants’ affidavit makes argument as to the incorrectness of the Court’s oral rulings on September 5, 2024. (Bowman Aff., ¶¶ 16-20). In other words, Defendants’ recusal motion is “based entirely on the trial judge’s factual and legal rulings at the [] hearing, which are not a proper basis for recusal.” *Mondy*, 303 Ga. at 779 (“[j]udicial rulings adverse to a party are not disqualifying”). Defendants’ “dissatisfaction with the Court’s rulings is not a legally sufficient ground for recusal.” *Butler v. Biven Software, Inc.*, 238 Ga. App. 525, 526 (1999) (citing *Stephens v. Ivey*, 212 Ga.App. 407, 408 (1994))

In fact, nowhere in Defendants’ motion or affidavit do Defendants actually assert that the Court has a bias or what that bias might be. Only in their Conclusion, do Defendants assert – for the first time – that the Court has a “potential bias and

conflict of interest against the Defendants,” creating “the appearance of impropriety.” Even then, Defendants point to no facts, other than the adverse rulings, that would be a legally sufficient basis for recusal. Defendants’ mere conclusions and assertions of bias are “not legally sufficient to support the motion or warrant further proceedings.” U.S.C.R. 25.2.

MOTION FOR STAY

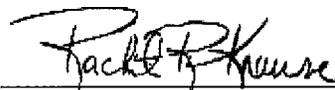
Anticipating that this recusal motion would “in no event...be allowed to delay the trial or proceedings,”² Defendants also, separately, seek a stay of the upcoming hearing on September 19, 2024, while the parties (and the Court) await a ruling from the Georgia Supreme Court in *Gonzalez v. Miller*, Case No. S24A0617. In that case, the Supreme Court is presented with essentially the same issue asserted by Defendants here – that District Attorneys are not governed by or subject to the Open Records Act. While the Supreme Court’s decision will be welcomed when it arrives, this Court has already continued a substantive hearing in this matter once before – in part, for the same reason. And, the Supreme Court’s ruling in *Gonzalez v. Miller* may not be outcome-determinative here, given that non-District Attorneys are parties to this case. As a result, the Court sees no reason to delay the hearing scheduled for September 19, 2024.

² U.S.C.R. 25.1; *see also* *Horn v. Shepherd*, 194 Ga. 468, 473 (2014) (discussing the need “to prevent the use of recusal motions to delay resolution of the case,” including through the use of “remedies for frivolous or vexatious recusal litigation,” citing O.C.G.A. § 9-15-14.)

CONCLUSION

For the foregoing reasons, Defendants' Motion for Recusal of Judge Rachel R. Krause and Motion to Stay Proceedings (Dkt. 74) is hereby DENIED.

IT IS SO ORDERED, this 17th day of September, 2024.



The Honorable Rachel Krause
Fulton County Superior Court
Atlanta Judicial Circuit

Filed and served via eFileGA.