

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

HON. FANI T. WILLIS,

Petitioner,

v.

HON. BILL COWSERT, CHAIR OF THE
GEORGIA SENTATE SPECIAL
COMMITTEE ON INVESTIGATIONS,
et al.,

Respondents.

CIVIL ACTION FILE

NO. 24CV011204

**RESPONDENTS' REPLY TO PETITIONER'S BRIEF
IN RESPONSE TO ORDER REGARDING PETITIONER'S
OBJECTIONS TO WITNESS SUBPOENA**

The State Senate Special Committee on Investigations (the "Special Committee"), its Chairman, Senator Bill Cowsert, and the President Pro Tempore of the Senate, Senator John F. Kennedy (collectively, the "Senate Committee") jointly and individually submit this Reply to "Petitioner's Brief in Response to Order Regarding Petitioner's Objections to Witness Subpoena" ("Petr.' Brief")¹ against Petitioner, the Honorable Fani T. Willis, Fulton County District Attorney ("Petitioner").

INTRODUCTION

In its December 23, 2024 Order, this Court denied the Petition for declaratory judgment and injunctive relief. Petitioner did not appeal the denial of her Petition, and those claims, along with any requested relief, have been decided. Accordingly, no other claims in the Petition remain. At this juncture, all that remains is Respondents' Application to Enforce the Subpoena *Duces Tecum* and Witness Subpoena (collectively,

¹ For citation purposes, "Petitioner's Brief in Response to the Court's Order Regarding Petitioner's Objections to Witness Subpoena" will be abbreviated and cited as "Petr.' Br."

the “Subpoenas”). Also in its December 23, 2024 Order, this Court directed Petitioner to provide “more details on the basis of [her] objections,” that the Subpoenas are “overbroad and seek privileged and/or confidential information.” (See Dec. 23, 2024 Order at 5). On January 13, 2025, Petitioner filed her “elaborated” objections to the Subpoenas (the “Jan. 13 Objections”). On January 31, 2025, Respondents filed its Reply to Petitioner’s Jan. 13 Objections (“Resps.’ Jan. 31 Reply”). On February 25, 2025, this Court issued two Orders. The first Order denied Petitioner’s Motion to Dismiss.² The second Order, the “Order Regarding Petitioner’s Objections to Witness Subpoena,”³ found that Petitioner’s initial Jan. 13 Objections to the Subpoenas “are still deficient” and this Court again commanded that Petitioner “file a detailed elaboration” of her arguments and objections made in response to Requests Nos. 1, 2, 3, and 8 of the Subpoena *Duces Tecum*. (See Feb. 25 Order on Petrs.’ Obj. at 1-2).

Since this Court’s Feb. 25 Order on Petitioner’s Objections, Petitioner and the Special Committee have conferred, and both parties agree that the Special Committee does not seek any attorney-client, work-product, or other privileged communications in connection with the Special Committee’s Subpoena *Duces Tecum* Requests. (See Petrs.’ Br. at 1-2). Notwithstanding the above, the Parties may not agree as to the scope of these privileges, however, both parties agree that any dispute related to their scope will be litigated later. (See Petrs.’ Br. at 1).

“Despite a potential disagreement regarding the scope of these privileges, Petitioner has agreed to produce documents previously produced to the United States

² For citation purposes, this Court’s “Order Denying Petitioner’s Motion to Dismiss” will be abbreviated and cited as “Order Denying Petrs.’ MTD.”

³ For citation purposes, this Court’s “Order Regarding Petitioner’s Objections to Witness Subpoena” will be abbreviated and cited as the “Feb. 25 Order on Petrs.’ Obj.”

House Judiciary Committee and public documents previously produced and publicly filed in response in the Atlanta Judicial Circuit in Case No. 23SC188947 and Appellate Case No.A24A1595.” (See Petrs.’ Br. at 2). Both parties agree that these productions, will satisfy the production of documents to be given to the Special Committee, however this agreement does not waive any future subpoenas or objections to them. (See Petrs.’ Br. at 2). Both parties also agree that Petitioner’s production is not a concession by the parties as to the merits of any disputed issues in this suit. (See Petrs.’ Br. at 2).

Nevertheless, Respondents will still respond to Petitioner’s latest objections, so as to preserve any arguments or issues for future litigation and on appeal, and in doing so, Respondents incorporate all of its prior arguments made in this action.

ARGUMENT AND CITATION TO AUTHORITY

A. Petitioner Has Waived Her Objections to the Witness Subpoena

Notably, and similar to Petitioner’s Jan. 13 Objections, Petitioner’s Brief does not provide any specific or general objections, based on relevance, overbreadth, or privilege, to the Special Committee’s Witness Subpoena. (See Petrs.’ Jan. 13 Objections at 15); (See generally Petrs.’ Br.). Even if she did however, she has no basis to object to the Witness Subpoena at this juncture in light of the Court’s December 23, 2024 Order, which held that the Special Committee was duly authorized to issue the Subpoenas. (See Dec. 23, 2024 Order at 2-3). Additionally, any privilege objections made at this time would be premature, as her questioning before the Special Committee may not implicate any such privileged communications, and if they did, the appropriate time to object to such questions would be when they are made.

Therefore, the Petitioner has waived her objections to the Witness Subpoena and this Court should order Petitioner comply with the Witness Subpoena at a time and date designated by the Special Committee.

B. Petitioner's Privilege Objections to the Subpoena *Duces Tecum* Are Insufficient

As instructed by this Court, Petitioner again expounds upon her objections to the Subpoena *Duces Tecum*. (See Feb. 25 Order on Petrs.' Obj. at 1-2). Specifically, Petitioner asserts multiple objections, based on the attorney-client privilege, work-product privilege, and the law enforcement privilege, to the following Requests: 1, 2, 3, and 8. (See Petrs.' Br. at 2-11). Respondents will address each of Petitioner's objections, in order, as laid out in Petitioner's Brief.

(1) Petitioner's Objections Based on the Attorney-Client Privilege

In Petitioner's Brief, she provides two primary arguments to support her position that the attorney-client privilege applies in this instance. First, she asserts that herself, the Fulton County District Attorney's Office (the "FCDA"), and Mr. Nathan Wade, have an attorney-client relationship sufficient to establish the privilege. (See Petrs.' Br. at ¶¶ 1-3). Second, she asserts that the communications responsive to Requests Nos. 1, 2, and 8 are subject to the attorney-client privilege because they were made with the intention of getting or receiving legal advice. (See Petrs.' Br. at ¶¶ 4-6). Respondents' will address each of these arguments in-kind.

To reiterate, however, the parties have conferred on these Requests, and the Special Committee does not seek any further production of documents from Petitioner. Respondents merely respond to Petitioner's objections to preserve its arguments and these issues for any future litigation and on appeal.

i. Petitioner has failed to establish the existence of the attorney-client relationship.

First, Petitioner has not fulfilled her burden in establishing that the attorney-client privilege exists between herself, the FCDA, and Mr. Wade, and, accordingly, her objections to Requests 1, 2, and 8, of the Subpoena *Duces Tecum*, hold no merit.

To preface before addressing Petitioner’s arguments *infra.*, the “attorney-client privilege is one of the oldest privileges for confidential communications known to the common law” and “has long been recognized in Georgia.” State v. Ledbetter, 318 Ga. 457, 461 (2024) (internal quotation marks omitted). To that end, Georgia’s attorney-client privilege is governed by Georgia case law and statute—codified in O.C.G.A. § 24-5-501(a)(2): “There are certain admissions and communications excluded from evidence on grounds of public policy, including, but not limited to, the following: ... Communications between attorney and client.” Id. at 461.

Here, Petitioner remarkably concludes, without any supporting Georgia authority, that an attorney-client relationship exists between herself, the FCDA, and Mr. Wade. (See Petr. Br. at ¶ 1). In so concluding, she asserts that “the Fulton County District Attorney’s office is the client, and Mr. Wade was the attorney,” and that such privilege purportedly applies to “cases involving government actors,” “extends to agents, officers, or representatives of a governmental entity,” and “specifically applies in cases where the government has, as here, hired outside or special counsel.” (See Petr. Br. at ¶¶ 1-3). However, Petitioner’s characterization of the attorney-client relationship in this instance is simply mistaken.

It is clear from the Professional Services Agreement between the FCDA and Mr. Wade, that Mr. Wade was to provide services on behalf of and work directly for the

FCDA—in essence, serving as an employee or agent of the FCDA. (See Petrs.’ Br., Ex. A) (“Attorney Consultant agrees to provide legal services in connection with advising, researching, and participating in matters involving anti-corruption litigation matters.”). See generally O.C.G.A. § 15-18-20 (providing district attorneys with the power to hire additional district attorneys, deputy district attorneys, other attorneys . . . and other employees or independent contractors . . .). Accordingly, Mr. Wade cannot be the “attorney,” and Petitioner cannot be the “client” in this relationship, as they both stand in the same shoes— both were agents of the FCDA who represent the true client, the **people** of the State of Georgia. See Ga. Const. art. VI, Sec. 8, Para. I(d) (“It shall be the duty of the district attorney to **represent the state** . . .”) (emphasis added); Roman v. State, 910 S.E.2d 609, 616 (Ga. Ct. App. 2024) (“In our criminal justice system, **the district attorney represents the people of the state** in prosecuting individuals who have been charged with violating our state’s criminal laws.”) (emphasis added). Thus, Petitioner’s characterization of the purported attorney-client relationship between herself, the FCDA, and Mr. Wade is inaccurate, and does not support her position that the *communications* between these parties are inherently privileged.

Moreover, in support of her objections and characterization of the attorney-client privilege, Petitioner primarily cites federal case law and case law from other jurisdictions, none of which are governing or applicable. (See Petrs.’ Brief at ¶¶ 2-3); See also, Fed. R. Evid. 501 (“[I]n a civil case, state law governs privilege regarding a claim or defense for which state law supplies the rule of decision.”); Agnor’s Georgia Evidence § 12:4. Attorney-client privilege (“There is no analog to Georgia Rule 501 in the Federal Rules of

Evidence.”). More specifically, Petitioner cites United States v. Jicarilla Apache Nation,⁴ Neece v. City of Chicopee,⁵ Suffolk Constr. Co. v. Div. of Capital Asset Mgmt.,⁶ Better Gov't Bureau v. McGraw (In re Allen),⁷ and In re State Com'n of Investigation,⁸ however, none of these cases apply or interpret Georgia's attorney-client privilege and all of them are factually distinguishable—none of them concern or stand for the proposition that the attorney-client privilege can be established and successfully claimed by a district attorney or district attorney's office over their *communications* with outside, special counsel, while the parties are performing their prosecutorial functions.⁹

Furthermore, Petitioner only cites two supporting Georgia authorities, but neither provide any significant insight or support for establishing the attorney-client relationship between Petitioner and Mr. Wade. (See Petrs.' Brief at ¶ 2, citing 1995 Op. Att'y Gen. 95-1 (“Opinion 95-1”) and O.C.G.A. § 50-18-72(41) (Georgia's Open Records Act or “ORA”). For instance, Opinion 95-1 provides clarification regarding the attorney-client privilege but *only* as applied to the Attorney General and Department of Law, not district attorneys or district attorneys' offices. See 1995 Op. Att'y Gen. 95-1. Further, the Attorney General is distinct from district attorneys—the Attorney General gets its power solely from the

⁴ 564 U.S. 162, 169-170 (2011).

⁵ 106 F.4th 83, 98-99 (1st Cir. 2024).

⁶ 449 Mass. 444, 450 (Mass. Supreme Ct. 2007).

⁷ 106 F.3d 582, 589-605 (4th Cir. 1997).

⁸ 226 N.J.Super. 461, 544 A.2d 893 (N. J. App. Div. 1988).

⁹ Jicarilla Apache Nation applied federal privilege law and involved “whether the fiduciary exception [to the attorney client-privilege] applied to the general trust relationship between the United States [, the trustee,] and the Indian tribes [, the trust beneficiary]. Id. at 165-66. Neece applied federal privilege law and involved whether communications between a city's mayor and the city's lead attorney were privileged. Id. at 89-99. Suffolk Constr. Co. applied Massachusetts privilege law and involved documents and communications made between the Massachusetts Division of Capital Asset Management and Maintenance (“DCAM”) and its counsel. Id. at 445-46. Better Gov't Bureau applied federal privilege law and involved the attorney-client privilege as applied between the West Virginia Attorney General and its outside, special counsel. Id. at 589-605. In re State Com'n of Investigation applied New Jersey privilege law and involved the New Jersey School Board Association's assertion of attorney-client privilege over documents and communications made with its outside, special counsel. Id.

Executive Branch and acts as the “legal advisor of the executive department” including executive agencies, whereas district attorneys are quasi-judicial, in that they derive their power from the Judicial Branch but perform only executive functions and only “represent the **state**.” See Ga. Const. art. V, Sec. 3, Para. IV (The Attorney General shall act as the legal advisor of the executive department . . .); Ga. Const. art. VI, Sec. 8, Para. I(d) (“It shall be the duty of the district attorney to represent the state . . .”); Gonzalez v. Miller, 320 Ga. 170, 179-80 (2024) (“In a similar vein, our state Constitution creates district attorneys in Article VI, pertaining to the judicial branch of government, yet it vests district attorneys with executive power . . .”). Thus, as described in Opinion 95-1, the Attorney General is unique in that it represents Georgia’s Executive Agencies, and these agencies fulfill the role of the “client” for the purpose of the attorney-client relationship and privilege. See 1995 Op. Att’y Gen 95-1 (“Only the Attorney General possesses the authority to provide legal services to the executive branch of government.”) (“[T]he lawyer-client relationship may only exist between agency clients and the Attorney General and Department of Law . . .”) (“Only communications between the Attorney General's office and agency officials and employees may be protected by the attorney-client privilege.”). In contrast, district attorneys, and their agents, represent the state, and thus, there is no person or entity which fulfills the role of the “client” in this relationship, for the purposes of privilege as to Petitioner’s communications.

Petitioner again also cites to Georgia’s Open Records Act (“ORA”), which she believes provides sufficient support to show that the “attorney-client privilege applies to public entities.” (See Petrs.’ Brief at ¶ 2, citing O.C.G.A. § 50-18-72(a)(41)). This may be true, however, the ORA’s application of the attorney-client privilege is only specific to open records requests. See O.C.G.A. § 50-18-71. Simply put, the Special Committee’s

Subpoena *Duces Tecum* is not a records request made pursuant to the policies and procedures of the ORA (which would have required Petitioner to respond within three days of receiving the document requests). *Id.* §§ 50-18-71 (procedures for making ORA request), 50-18-72 (exemptions and exceptions to an ORA request). The only relevance of the ORA here is that Petitioner surely cannot refuse to produce documents responsive to the Subpoena *Duces Tecum*, which would otherwise be subject to disclosure under the ORA. *See Gonzalez*, 320 Ga. at 174-80.

Therefore, Petitioner has provided no supporting Georgia authority to suggest that there was a privileged, attorney-client relationship between herself, the FCDA, and Mr. Wade, where the FCDA is acting as the “client” and Mr. Wade as the “attorney.”

ii. Petitioner’s documents and communications responsive to Requests Nos. 1, 2, and 8 are not privileged.

Second, Petitioner has not fulfilled her burden in showing that the communications responsive to Requests Nos. 1, 2, and 8 are subject to the attorney-client privilege.

As mentioned, for Petitioner to establish the attorney-client privilege, she must also show that the “communication[s] must have been made for the purpose of getting or giving legal advice.” *St. Simons Water Front, LLC*, 293 Ga. at 426. However, “because recognition of the privilege operates to exclude evidence and thus impede the truth-seeking process, the [attorney-client privilege] is narrowly construed.” *Id.* at 422. In recognition of this narrow interpretation, the Georgia Supreme Court has held that the attorney-client privilege is not established when the client seeks business or personal advice, as opposed to legal assistance. *Georgia Cash Am., Inc. v. Strong*, 286 Ga.App. 405, 412 (2007) (“The privilege would never be available to allow a corporation to funnel its

papers and documents into the hands of its lawyers for custodial purposes and thereby avoid disclosure. It seems well settled that the requisite professional relationship is not established when the client seeks business or personal advice, as opposed to legal assistance.”); Coker v. Oliver, 4 Ga.App. 728 (1908) (holding that casual personal conversations are clearly not protected by the privilege). Further, the Georgia Supreme Court has also held that the attorney-client privilege does not attach to communications that are “essentially—procedural scheduling matters about which [attorney’s] advice was neither sought nor rendered [or] . . . pertained to personal issues, requests, and favors [.]” Burns v. State, No. S23G1192, WL 4486727, at *6 (Ga. Oct. 15, 2024).

Here, Petitioner’s contentions, that her communications with Mr. Wade were made with the purpose of getting or giving legal advice, are unsubstantiated and not supported by any relevant Georgia authorities, as she again cites federal case law which does not interpret Georgia’s attorney-client privilege. (See Petrs.’ Br. at ¶¶ 4-6, citing Bare v. Cruz, 2012 U.S. Dist. LEXIS 45878, *16, (E.D. Pa. April 2, 2012), Keith v. Clatskanie People’s Util. Dist., 2014 U.S. Dist. LEXIS 83304, *9, 2014 WL 2803452 (D. Ore. June 18, 2014), Jicarilla Apache Nation, 564 U.S. at 170.2).

Moreover, Requests Nos. 1, 2, and 8 clearly seek relevant documents and communications which do not delve into any alleged “legal advice” or “pre-indictment and post-indictment communications.” (See Petrs.’ Br. at 4-5). For example, Request No. 1 concerns documents and communications related to the “personal relationship” between Petitioner and Mr. Wade. (Pet., Ex. 2). Such personal communications are clearly not within the scope of the attorney-client privilege, as they do not establish the attorney-client relationship and do not entail any form of alleged legal advice. See Georgia Cash Am., Inc., 286 Ga.App. at 412; Burns, WL 4486727, at *6; Coker, 4. Ga.App. 728.

Similarly, Request No. 2 concerns documents and communications related to the “hiring of Nathan Wade,” and are thus, not within the scope of the attorney-client privilege, as they were made before any purported attorney-client relationship began, do not entail any form of alleged legal advice, and are clearly procedural matters. (Pet., Ex. A).

Finally, Request No. 8 seeks documents and communications related to “cell phone records and cell phone data” concerning the phones used by Mr. Wade and Petitioner. (Pet., Ex. A). Petitioner has failed to show that *all* her responsive documents and communications to Request No. 8 would be privileged, as certainly call logs and records, on their face, as well as personal cell phone calls between Petitioner and Mr. Wade, would not contain the content of any purported legal advice.

Petitioner has thus failed to show that *all* of her communications and documents responsive to Requests Nos. 1, 2, and 8, are subject to the attorney-client privilege.

(2) Petitioner’s Objections Based on the Work-Product Privilege

Petitioner has also failed to demonstrate that all her documents responsive to Requests Nos. 1, 2, and 8, would constitute work-product, under the work-product privilege. Foremost, the work-product privilege is a creature of the Civil Practice Act, which does not apply to the Subpoenas at hand. See O.C.G.A. § 9-11-26(b)(3). Petitioner again offers federal case law to support her position, however, those cases do not interpret Georgia’s work-product privilege. (See Petrs.’ Br. at ¶ 7, citing NLRB v. Sears, Roebuck & Co., 421 U.S. 132, 154 (1975)). The Georgia case law Petitioner does cite should also not be considered, as those cases are factually distinguishable from the current case—they all involve the work-product privilege associated with district attorneys during the criminal discovery process and do not interpret the work-product privilege as it applies to legislative subpoenas. (See Petrs.’ Br. at ¶ 7, citing Wilson v. State, 246 Ga. 62 (1980),

Natson v. State, 242 Ga. 618 (1978), and Farmer v. State, 222 Ga.App. 506 (1996)). Petitioner has also not demonstrated that all her potential responsive documents “were prepared in anticipation of litigation or trial [.]” Id.

Furthermore, to curb parties’ impeding of the truth-seeking process, Georgia Uniform Superior Court Rule 5.5(1)(b) requires the party asserting the attorney-client privilege to provide a sufficient description of the supposed privileged documents and communications. Specifically, Georgia Uniform Superior Court Rule 5.5(1)(a)-(b) states that:

Information withheld. When a party withholds information otherwise discoverable by claiming that the information is privileged or subject to protection as trial preparation material, the party shall:

- a. Expressly make the claim; and
- b. Describe the nature of the documents, communications, or tangible things not produced or disclosed and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess such claim.

Accordingly, pursuant to Uniform Superior Court Rule 5.5, Petitioner was required to provide an apt description of the supposed “privileged” documents, such as a privilege log, to enable the Special Committee and this Court to assess such claims. Petitioner has failed to do so, as she has only provided generalized descriptions of the categories these “privileged” documents would fall under. (See Petrs.’ Br. at ¶ 8) (“Petitioner’s objections are to producing work product . . . in connection with the investigation, grand jury presentment, and prosecution of President Trump and his co-conspirators.”). Therefore, Petitioner’s objections to the Subpoena *Duces Tecum*, based on the work-product privilege, are not supported by the facts or law and must be denied. See, Be Our Guest Investments, LLC v. Piedmont Park Conservancy, Inc., 2024 WL 4375549, at *5 (Ga.

Super. Ct.) (denying defendant’s motion for protective order to protect alleged attorney-client privileged communications and ordering defendant produce a privilege log, where defendant failed to aptly describe the nature of the supposed privileged communications, as required pursuant to Rule 5.5).

Finally, even if some documents alleged by the Petitioner do fall under the work-product privilege, the Georgia Supreme Court has explained that where “a dispute arise[s] over whether a particular document does contain work product material, the trial court must conduct an in-camera review.” McKinnon v. Smock, 264 Ga. 375, 378 (1994). Thus, at a minimum, this Court must conduct an in-camera review rather than simply shield relevant documents from a valid Subpoena *Duces Tecum*, without further analysis or inquiry.

(3) Petitioner’s Objections Based on the Law Enforcement Privilege

Petitioner also re-treads old ground on her assertion of the so-called Law Enforcement Privilege. These arguments continue to lack merit.

First, Petitioner is correct that the Special Committee does not, at this time, seek non-public law enforcement information of the kind that the Law Enforcement Privilege (in its proper context) would protect. Thus, the Law Enforcement Privilege does not have any bearing on the documents and testimony that this Court has ordered Petitioner to provide.

Second, none of Petitioner’s cited authorities substantiate any “Law Enforcement Privilege” in this context. (See Petr’s Br. at ¶¶ 9–13). Specifically, she points to O.C.G.A. § 50-18-72(a)(4), but that is an “[e]xception of certain records” from disclosure under the Open Records Act—not some freestanding privilege. See O.C.G.A. §§ 50-18-71(a) (“All public records shall be open for personal inspection and copying, except those which[,] .

. . by law[,] are specifically exempted from disclosure.”); 50-18-72 (a) (“Public disclosure shall not be required for records that are . . . [r]ecords of law enforcement, prosecution,” etc.). And while a federal district court—which does not bind this Court—suggested that “Georgia appears to recognize a *general* governmental privilege or protection against the disclosure of open investigatory files,” see Sheffield v. State Farm Fire and Cas. Co., CV514-038, 2014 WL 6617255, at *3 (S.D. Ga. Nov 21, 2014), the only case it cited for that proposition was Unified Gov’t v. Athens Newspapers, LLC, 284 Ga. 192, 197 (2008), which is demonstrably and merely an Open Records Act case. Sheffield purported to expand the application of the court’s reasoning beyond what the district court *admitted* was the “context of a statutory exemption under the Open Records Act” simply because the Georgia Supreme Court’s reasoning under the Open Records Act “reflect[ed] a roader stance against the disclosure of open investigatory files.” 2014 WL 6617255, at *3. That reasoning is bunk—and, to whatever extent it matters in this case, this Court cannot follow it.¹⁰

In short, to the extent that it matters at this stage of this case, Petitioner enjoys no “Law Enforcement Privilege” against the disclosure of records compelled by a legislative subpoena.

(4) Petitioner’s Objections Based on the Mootness Doctrine

Petitioner again attempts to persuade this Court that the Special Committee’s duly authorized and valid Subpoenas are invalid pursuant to the Mootness Doctrine. (See Petr. Br. at ¶ 14). Specifically, she states that *Mason’s Manual of Legislative Procedure* Ch. 59, § 649(1)(e) (2020), conflicts with Senate Resolution 5 (2025) (“S.R. 5”) because

¹⁰ Petitioner’s reliance on Dinler v. City of New York, 607 F.3d 923, 940–41 (2d Cir. 2010) is even further afield, because that case (out of the 2nd Circuit, not even the 11th) discusses a “law enforcement privilege” under federal law. Georgia courts recognize no such freestanding privilege.

that provision provides that “a special committee ceases to exist . . . at the end of the term of a legislative body.” (See Petrs.’ Br., Ex. B). Petitioner then concludes that, pursuant to Senate rules 2-1.5 and 10-1-.4, Section 649(1)(e) of *Mason’s Manual* would control over the provisions of S.R. 5.

However, this conclusion misinterprets Respondents’ Brief in Opposition to Petitioner’s Motion to Dismiss, S.R. 5, and *Mason’s Manual*.¹¹ (See Resps.’ Br. Opp. MTD at 3-4). Specifically, Respondents argued that there is no provision in *Mason’s Manual* which conflicts with the “**reauthorization resolution**” in S.R. 5, which re-constituted the Special Committee as the rightful successor to the Original Committee with the same rights and powers to enforce the Application and Subpoenas. (See Resps.’ Br. Opp. MTD at 4) (“[T]his language of S.R. must be given credence because there is no Georgia Senate Rule or rule of *Mason’s Manual* of Legislative Procedure which conflicts with it, or which otherwise restricts **a new committee from becoming a rightful successor of a prior committee** into a new legislative session.”) (emphasis added). Petitioner is correct that *Mason’s Manual* provides that a special committee ceases to exist at the end of the legislative term, but that provision is not disputed. However, there is *no provision* of *Masons’ Manual* that prohibits or otherwise conflicts with the *reauthorization resolution* of S.R. 5, authorizing the Special Committee to become the *successor* to the Original Committee. (See Resps.’ Br. Opp. MTD at 4). This is a distinction which Petitioner fails to acknowledge or address in her arguments. (See generally Petrs.’ Br. at ¶ 14). In fact, this Court acknowledged this distinction in its Order Denying Petitioner’s Motion to Dismiss. (See Order Denying Petrs.’ MTD at 1-2) (“[T]his Court agrees with

¹¹ For citation purposes, Respondents’ Brief in Opposition to Petitioner’s Motion to Dismiss will be cited as “Resps.’ Br. Opp. MTD.”

Respondents that the authority cited does not stand for the proposition that the original subpoenas must be declared void because the General Assembly and Special Committee have been **reconstituted** post-election . . .”).

Moreover, this Court also agreed with Respondents that, “regardless of whether the subpoenas are void, the dispute at issue is clearly one that is capable of repetition yet evading review. (See Order Denying Petrs.’ MTD at 2); Id. (“If, every time a subpoena is issued by a Special Committee, a recipient can simply litigate its validity and enforcement until the General Assembly reconstitutes and then they have to start over, this would be an absurd result indeed.”). Therefore, Petitioner’s mootness argument again holds no weight and should not be given any credence by this Court.

CONCLUSION

To reiterate, the parties have conferred on the Subpoena *Duces Tecum* Requests, and the Special Committee does not seek any further production of documents from Petitioner. Respondents merely respond to Petitioner’s Brief and latest privilege objections to preserve its arguments and these issues for future litigation and on appeal, to highlight that Petitioner has waived its objections to the Witness Subpoena, and to counter Petitioner’s incessant and continued Mootness Doctrine arguments. For the reasons cited in Respondents’ Initial Reply to Petitioner’s Objections, Respondents’ Brief in Opposition to Petitioner’s Motion to Dismiss, and those cited above in this Reply Brief, this Court should grant Respondents’ Application to Enforce, and order that Petitioner comply with the Witness Subpoena at a date and time designated by the Special Committee.

Respectfully submitted, this 21st day of March, 2025.

/s/ Josh Belinfante

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing **RESPONDENTS' REPLY TO PETITIONER'S BRIEF IN RESPONSE TO ORDER REGARDING PETITIONER'S OBJECTIONS TO WITNESS SUBPOENA** on all parties who have entered an appearance in this case by electronically filing it with the Clerk of the Court using the Odyssey eFileGA system, which will automatically send an email notification of such filing to the following counsel for such parties:

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This 21st day of March, 2025.

/s/ Josh Belinfante
Josh Belinfante