IN THE COURT OF APPEALS
STATE OF GEORGIA

STACEY JOHNSON, Appellant, v. MICHAEL HOWARD, Appellee.	Case No. A26A2115
STACEY JOHNSON, Appellant, v. AMY HOWARD, Appellee.	Case No. A26A2116

BRIEF OF APPELLEES

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INTRODUCTION

If a party engages in criminal stalking, should his stalking be excused merely because the victims are public figures? Georgia law is clear: the answer is, of course, no. But that is the crux of this consolidated appeal. The trail court below correctly determined that Appellant does not have a constitutional right to stalk Appellees, who are Appellant's former legal counsel and his wife, a candidate for public office. Because the trial court correctly determined that Appellant's constitutional claims were mere window dressing for otherwise criminal conduct, it dismissed Appellant's anti-SLAPP motion and extended protective orders in favor of Appellees. Based on the Georgia law and the record evidence, this Court should do the same.

STATEMENT OF MATERIAL FACTS

Appellant Stacey Johnson is a disgruntled former client of Appellee Michael Howard's. (2115:V2 – 45, 50; 2115:V3 – 11:5—12:6; 2116:V2 – 45, 50; 2116:V3 – 11:5—12:6)[1]. In November 2024, Mr. Johnson and Mr. Howard had a blow-up at Mr. Howard's law office, which resulted in Mr. Howard terminating the representation. (2115:V2-50; 2116:V2-50). Mr. Johnson filmed and subsequently posted the interaction on his public Facebook account. (2115:V2-50; 2116:V2-50).

[1] Citations to both appellate records are included and denominated with the last four digits of each case number, *i.e.* (2115:[Volume #] – [PDF page number(s)]).

Beginning in July 2025, Mr. Johnson began posting on his Facebook account on a near weekly (sometimes daily) interval about Mr. Howard (2115:V2 – 19-51; 2116:V2 – 19-51), including posing in a t-shirt branded with his lawyers' law firm logo and the inscriptions "F*%k you AGAIN, Michael Howard" and "No days off. Give 'em hell" (2115:V2-41; 2116:V2-41).

Unfortunately, Mr. Johnson's near obsession of Mr. Howard was not limited to Facebook posts. On September 19, 2025, Mr. Johnson tracked Mr. Howard to a local Walmart. (2115:V2-12, 18; 2116:V2-12, 18). After filming Mr. Howard driving through the parking lot, Mr. Johnson posted the footage on his Facebook account. (2115:V2-12, 18; 2116:V2-12, 18). These unprovoked, harassing actions by Mr. Johnson placed Mr. Howard in fear for his safety. (2115:V2-12).

Starting in January 2026, Mr. Johnson expanded the scope of his harassment campaign. He started including Appellee Mrs. Howard in his Facebook posts. (2115:V2-30; 2116:V2-30). Several months later, in March 2026, Mrs. Howard became a candidate for Washington County Commission Chair. (2116:V2-23).

On March 26, 2026, Mr. Howard hosted a private campaign event in the conference room of his law office for his wife's campaign and invited guests. (2115:V2-11; 2116:V2-11). Notably, one wall of the conference room is a glass window that looks out onto the public sidewalk and is tinted for privacy. (2115:V2-11, 13; 2116:V2-11, 13). Mr. Johnson showed up outside Mr. Howard's

law office with his cell phone attached to a video tripod to film the event from the sidewalk. (2115:V2-11, 13; 2116:V2-11, 13). At times, Mr. Johnson placed his cell phone camera directly against the tinted conference room window to film what was going on inside. (2115:V2-11, 13; 2116:V2-11, 13). Mr. Johnson also filmed Mr. and Mrs. Howard's vehicles and license plates. (2115:V2-11, 14-17; 2116:V2-11, 14-17).

Mr. Johnson's actions placed Mr .and Mrs. Howard in fear for their safety and the safety of their guests. (2115:V2-11; 2116:V2-11). In an effort to diffuse the situation, Mrs. Howard approached Mr. Johnson on the sidewalk and invited him into the event with the caveat that he cease his filming. (2115:V2-96, ¶ 19; 2116:V2-95, ¶ 19). Mr. Johnson refused to stop filming and remained outside. (2115:V2-96, ¶¶ 19, 22; 2116:V2-95, ¶¶ 19, 22). The Howards called the Sandersville Police, who responded to the scene and spoke with all parties involved. (2115:V2-11, 95, ¶ 15; 2116:V2-11, 94, ¶ 15). Although the responding officer told Mr. Johnson that he was allowed to film from the sidewalk, he specifically instructed Mr. Johnson that he was not permitted to press his phone against the tinted glass of Mr. Howard's law office. (2115:V3 – 10:2—10:15; 2116:V3 – 10:2—10:15).

Disturbed by Mr. Johnson's conduct and wanting to prevent any further escalation, the Howards filed petitions for protective orders pursuant to O.C.G.A. §

16-5-94 the following day, on March 27, 2026. (2115:V2 – 7-51; 2116:V2 – 7-51). The Washington County Superior Court entered ex parte temporary protective orders ("TPOs") the same day, setting a hearing on the matter for April 21, 2026. (2115:V2 – 52-55; 2116:V2 – 52-54). On March 31, 2026, Mr. Johnson moved to recuse the trial judge based on: 1) an alleged ex-parte communication between Appellee Mr. Howard and the trial judge in a separate case; 2) prior voluntary recusals made by the trial judge in matters involving Appellee Mr. Howard; and 3) the trial judge's prior attendance at a private holiday event sponsored by Appellee Mr. Howard. (2115:V2 – 57-76; 2116:V2 – 56-75). The trial court denied the recusal motion in a written order on April 6, 2026. (2115:V2 – 79-80; 2116:V2 – 78-79).

On April 15, 2026, Mr. Johnson filed a motion to strike the TPOs pursuant to Georgia's anti-SLAPP statute, O.C.G.A. § 9-11-11.1. (2115:V2 – 81-97; 2116:V2 – 80-96). Because this filing was two business days prior to the trial court's scheduled hearing in the matter, and because the anti-SLAPP statute provides a mandatory stay of all pending hearings, the trial court rescheduled the hearing for May 7, 2026, to hear arguments on the extension of the TPOs and the anti-SLAPP motion. (2115:V2 – 101-02, 103-04; 2116:V2 – 100-01, 102-03). Appellees filed their response to the anti-SLAPP motion and the trial court held its hearing on May 7, 2026. (2115:V2 – 132-38; 2116:V2 – 114-20).

Appellees did not attend the hearing since their daughter was graduating from the University of Georgia the same day. (2115:V3 – 37:24—38:1; 2116:V3 – 37:24—38:1). Instead, Appellees relied upon their verified pleadings to carry their burden. (2115:V3 – 38:3—38:6; 2116:V3 – 38:3—38:6). Appellant relied upon his affidavit and the visual portion only of police bodycam footage from March 26, 2026, since the audio could not be played. (2115:V3 – 37:16—37:19; 2116:V3 – 37:16—37:19). At the conclusion of the hearing, the trial court announced its intention to deny Appellant's anti-SLAPP motion (2115:V3 – 36:9—36:11; 2116:V3 – 36:9—36:11) and to extend the TPOs for a full twelve months (2115:V3 – 38:17; 2116:V3 – 38:17). Later that day, the trial court entered its written order extending the TPOs for twelve months. (2115:V2 – 140-43; 2116:V2 – 122-25). The next day, the trial court issued its written order denying Mr. Johnson's anti-SLAPP motion. (2115:V2 – 144-48; 2116:V2 – 126-30).

ARGUMENT AND CITATION OF AUTHORITY

I. APPELLANT'S ANTI-SLAPP MOTION TO STRIKE WAS PROPERLY DENIED BECAUSE HIS CONDUCT WAS NOT PROTECTED ACTIVITY AND APPELLEES PROVIDED SUFFICIENT EVIDENCE TO SHOW THEIR LIKELIHOOD OF SUCCESS ON THEIR STALKING CLAIMS.

The main thrust of Appellant's appeal claims the trial court erred in denying his motion to strike filed pursuant to Georgia's anti-SLAPP statute. This Court's review of the trial court's denial of the anti-SLAPP motion is "de novo, viewing

the pleadings and affidavits submitted by the parties in the light most favorable to the plaintiff (as the non-moving party)." Boley v. A-1 Horton's Moving Serv., Inc., 373 Ga. App. 574, 574 (2024) (citation omitted). When viewed in a light most favorable to Appellees', the record clearly demonstrates no reversible error in the trial court's ruling.

1. Appellant was not engaged in protected activity.

Appellant's selective use of snippets from the trial court's hearing to argue the trial court employed the "wrong test" in analyzing the first prong of the anti-SLAPP analysis is a red herring. "[A]n oral pronouncement by a trial court during a hearing is not a judgment until it is reduced to writing and entered as a judgment. [Cit.]. An oral pronouncement of this type is not binding. . . . [and] any discrepancy between the written judgment and oral pronouncement is resolved in favor of the written judgment." Williams v. Williams, 295 Ga. 113, 114 (2014) (citations omitted).

The trial court's order shows it indeed employed the correct analysis of protected activity. Appellees alleged conduct in three forms: 1) Appellant's filming into a private conference room on March 26, 2026; 2) Appellant's surveilling Appellee Mr. Howard outside a Walmart on September 19, 2025; and 3) approximately 33 *legal* Facebook posts made by Appellant concerning Appellees covering a period from July 9, 2025 to March 26, 2026. (2115:V2 – 11-12;

2116:V2 – 11-12). Appellant was required to make a "threshold showing" that the March 26, 2026 filming into Appellee Mr. Howard's private conference room and the September 19, 2025 surveillance arose from protected activity. *See* Giraldi v. Bowen, 374 Ga. App. 347, 350 (2025) (citing Wilkes & McHugh, P.A. v. LTC Consulting, 306 Ga. 252, 262 (2019)). The trial court correctly held that Appellant failed to meet his burden under this first prong.

A. Appellant's filming through tinted glass into a private conference room on March 26, 2026 was criminal activity.

Although Appellant's motion attempted to alter Appellees' claims by broadening them to "allege[] Mr. Johnson recorded Mr. and Mrs. Howard from a public sidewalk outside Mr. Howard's law office during a campaign event and later posted that video on Facebook" (2115:V2-83; 2116:V2-82), that is clearly not the claim Appellees' made. Rather, Appellees challenged the specific act of Appellant "plac[ing] his phone directly next to the window in order to see into the conference room," which "is not a public space and has darkened windows to help with privacy." (2115:V2-11; 2116:V2-11). As correctly noted by the trial court, "[t]he right to freedom of speech does not extend to violations of valid criminal statutes" (2115:V2-146 (citing Giboney v. Empire Storage & Ice Co., 336 U.S. 490, 498 (1949); 2116:V2-128 (same)), and O.C.G.A. § 16-11-62 prohibits observing, photographing, or recording the activities of another person in a private place and out of public view without their consent. (2115:V2-146; 2116:V2-128).

Because he cannot argue that his criminal conduct is protected activity, Appellant attacks the trial court by arguing that it "embellish[ed]" and "supplied" the necessary elements for the criminal conduct. (Appellant's Br. 10-11). But Appellant's argument that the trial court's finding that Appellant "press[ed] his phone against the tinted glass windows" (2115:V2-146; 2116:V2-128) somehow *transformed* Appellees' claims that Appellant "placed his phone directly next to the window" (2115:V2-11; 2116:V2-11) that was "darkened . . . to help with privacy" (2115:V2-11; 2116:V2-11) is both misguided and inconsequential. Whether the trial court used slightly different verbiage to describe the conduct, the conduct was the same: Appellant criminally recorded the private activities of another without their consent. Moreover, as was discussed during the trial court's hearing, the responding police officer informed Appellant that while he could film from the sidewalk, he was not permitted to film into the private interior areas of the law office, where there is an expectation of privacy. (2115:V3 – 9:25—10:15; 2116:V3 – 9:25—10:15).

B. *Appellant's surveillance in a Walmart parking lot on September 19, 2025 was likewise criminal, unprotected activity.*

The record shows Appellant similarly crossed the line in his surveillance of Appellee Mr. Howard at the Sandersville Walmart on September 19, 2025. "Traditionally, watching or observing a person in a public place is not an intrusion upon one's privacy. However, Georgia courts have held that surveillance of an

individual on public thoroughfares, where such surveillance aims to frighten or torment a person, is an unreasonable intrusion upon a person's privacy." Summers v. Bailey, 55 F.3d 1564, 1566 (11th Cir. 1995).

Although Appellees included exhibits of social media posts in their TPO petitions, they did not argue that the posts themselves were illegal or constituted stalking. Rather, the posts showed a pattern and history for Appellant's obsession with Appellees going back to July 2025. *See* McIver v. State, 314 Ga. 109, 150-52 (2022) ("Evidence is intrinsic when it pertains to the chain of events explaining the context, motive, and set-up of the crime, and is admissible so long as it is linked in time and circumstances with the charged crime, forms an integral and natural part of an account of the crime, or is necessary to complete the story of the crime for the jury. There is no bright-line rule regarding how close in time evidence must be to the charged offenses, or requiring evidence to pertain directly to the victims of the charged offenses, for that evidence to be admitted properly as intrinsic evidence.") (citation omitted). Thus, Appellant's videoing Mr. Howard driving through a Walmart parking lot in September 2025 demonstrated Appellant's continued torment of Mr. Howard. As held by this Court, "a relatively harmless activity can become tortious with repetition, as when, for example, telephone calls [or video surveillance] are repeated with such persistence and frequency as to amount to a course of hounding the plaintiff and becoming a substantial burden to

his existence." Anderson v. Mergenhagen, 283 Ga. App. 546, 552 (2007) (citations omitted). That is precisely what Appellees have shown here.

Moreover, Appellant wholly misrepresents the holding of the California court in Lieberman v. KCOP Television, Inc. Rather than permit a news station's clandestine recording of a doctor that it alleged in a later broadcast had prescribed controlled substances without proper medical examinations, the Lieberman court denied the station's anti-SLAPP motion, holding the First Amendment did not immunize the station from liability for crimes committed in an effort to gather the news. 110 Cal. App. 4th. 156, 165-66 (2003) ("We agree that unlawful *newsgathering* activity does not enjoy constitutional protection to the same extent as news *reporting* activity. [Cit.]. The right to speak and publish does not carry with it the unrestrained right to gather information. [Cit.].") (emphasis in original) (citations omitted). Appellant's argument that this should not be the law because "no defendant gets past step one of the anti-SLAPP if the plaintiff alleges a crime" (Appellant's Br. 12) again misses the point. It is Appellant who carries the burden under the first prong and must show the alleged conduct is *not* criminal but instead protected activity. Because Appellant cannot do that for either claimed conduct, he has failed to carry his burden on the first prong.

2. Appellant failed to overcome Appellees' prima facie showing that they would reasonably prevail on the merits of their stalking claims.

The trial court's analysis did not reach the second prong, but Appellees prevail under that analysis as well. "[I]n an anti-SLAPP motion-to-strike setting, the plaintiff must show only that the complaint is both legally sufficient and supported by a sufficient prima facie showing of facts to sustain a favorable judgment if the evidence submitted by the plaintiff is credited." Boley v. A-1 Horton's Moving Serv., Inc., 373 Ga. App. 574, 577 (2024). "The plaintiff's evidence is accepted as true; the defendant's evidence is evaluated to determine if it defeats the plaintiff's showing ***as a matter of law***." Id. (emphasis added).

"A person commits the offense of stalking when he or she follows, *places under surveillance*, or contacts another person at or about a place or places *without the consent* of the other person *for the purpose of harassing and intimidating* the other person." O.C.G.A. § 15-5-90 (emphasis added). Appellees submitted verified petitions, alleging each element of the stalking offense. *See* Boley, 373 Ga. App. at 577 (holding verified allegations "serve as both pleading and evidence"). Those verified allegations provided that Appellant had, on multiple occasions, placed Appellees under video surveillance without their consent for the express purpose of harassing and intimidating them. "[In] the anti-SLAPP context, . . . Plaintiffs' burden is quite low and . . . the trial court is examining the evidence only to determine if there is a prima facie claim." Id. at 579. None of the sworn statements

contained in Appellant's affidavit or any other evidence he placed before the trial court show that Appellees' allegations must fail *as a matter of law*, and therefore, Appellees successfully carry their burden on the second prong.

Appellant's reliance on Gibson-Wright v. Smith is unavailing in his attempt to overcome Appellees' prima facie showing. Again, Appellant's description of the facts and holding are completely wrong. As an initial matter, the TPO in that case was granted in favor of the volunteer city worker, not the elected official as Appellant claims. 370 Ga. App. 860, 862 (2024). (Appellant's Br. 13). Further, although Appellant analogizes Gibson-Wright based on the lack of reasonable fear from the conduct alleged, this Court reversed the TPO in Gibson-Wright because the petitioner *testified* that the conduct complained of did not place him in reasonable fear for his safety. Id. at 864 (". . . Smith offered no testimony that this conduct put him in reasonable fear for his safety. . . . Smith testified that [Gibson-Wright] did not harass, threaten, or cause him any other problems . . . [E]ven though Smith testified generally that he feared Gibson-Wright, when pressed regarding the incidents, he testified that Gibson-Wright did not threaten, harass, or harm him.").

Here, however, Appellees clearly testified that "[Appellant's] presence [on March 26, 2026] caused emotional distress by placing Michael Howard and Amy Howard and their guests in reasonable fear of their safety by his harassing behavior

that serves no legitimate purpose" (2115:V2-11; 2116:V2-11) and "[Appellant's surveillance] video [of September 19, 2025] was posted for the purpose of harassing and intimidating Michael Howard which caused emotional distress by placing Michael Howard in reasonable fear of his safety by his harassing behavior that serves no legitimate purpose" (2115:V2-12; 2116:V2-12). Of course, "[i]n reviewing the sufficiency of the evidence supporting a stalking protective order, [this Court] do[es] not weigh the evidence or assess witness credibility, and [it] construe[s] the evidence in favor of the findings of the trier of fact." Gibson-Wright, 370 Ga. App. at 863 (citation omitted). When construed in favor of upholding the trial court's grant of the TPO, it is clear that Appellees alleged sufficient evidence to support their stalking claims.

Finally, even if this Court was to find that Appellant's March 26, 2026 filming into the tinted window of Mr. Howard's law office was done at a *public* event, and that therefore Appellant made a "threshold showing" of a protected activity for the purpose of the prong-one analysis, Appellant's anti-SLAPP motion still fails under the prong-two analysis. This is because Appellees clearly showed a "reasonable probability" that they would prevail on their stalking claims. Since no one disputes that Appellant placed Appellees under surveillance without their consent, the relevant analysis turns on Appellant's motive for surveilling Appellees and whether it was done "for the purpose of harassing and intimidating [them]."

See O.C.G.A. § 15-5-90. As the trial court pointed out, Appellant made clear in his extensive public Facebook posts that he began surveilling Appellees due to a dispute over Mr. Howard's previous representation of Appellant. (2115:V2-147; *see also* 2115:V2-41, 45, 49-50; 2116:V2-129; *see also* 2116:V2-41, 45, 49-50). They further showed that he had already begun surveilling them in public places (the Walmart parking lot on September 19, 2025). Because Appellees' complaints were legally sufficient and supported by a sufficient prima facie showing of facts to sustain a favorable judgment if their evidence is credited, they must prevail under the second-prong analysis, and Appellant's motion must be denied. *See* Boley, *supra*, 373 Ga. App. at 577.

II. APPELLANT'S ATTACKS AGAINST THE TPO EXTENSIONS ARE WITHOUT MERIT AS SHOWN BY BOTH THE GOVERNING LAW AND EVIDENTIARY RECORD.

1. The trial court's TPO hearing and extension order were not untimely because Appellant's anti-SLAPP motion necessitated a stay of the original TPO hearing.

Appellant attacks the trial court's extension of the protective orders on two grounds: that they were untimely and had no evidentiary support. (Appellant's Br. 15). His first argument belies a key issue in this matter: the conflict between the statutes governing protective orders and anti-SLAPP motions to strike. Although Appellant characterizes the trial judge as indignant in his brazen desire to illegally extend the protective orders (Appellant's Br. 15-16), the record and hearing

transcript show the trial court faithfully applied *both* statutes as it was required to do.

Georgia's statute on family violence protective orders is clear: an evidentiary hearing must be held within 30 days or "the petition *shall* stand dismissed unless the parties otherwise agree." O.C.G.A. § 19-13-3(c)[2] (emphasis added). But Georgia's anti-SLAPP statute is equally clear: "All discovery and *any pending hearings* or motions in the action *shall be stayed* upon the filing of a motion to dismiss or a motion to strike made pursuant to subsection (b) of this Code section until a final decision on the motion." O.C.G.A. § 9-11-11.1(d) (emphasis added).

When interpreting Georgia statutes, the courts must "'presume that the General Assembly meant what it said and said what it meant.'" McIver v. State, 314 Ga. 109, 119 (2022) (quoting Deal v. Coleman, 294 Ga. 170, 172 (2013)).

> [T]he "golden rule" of statutory construction requires that [courts] follow the literal language of the statute unless doing so produces contradiction, absurdity or such an inconvenience as to insure that the legislature meant something else. If the statutory language is plain and does not lead to absurd results, [courts] must construe the statute according to its terms without further inquiry.

[2] Although Appellees' protective orders were issued in accordance with O.C.G.A. § 16-5-94(c) for stalking, the hearing requirements of Georgia's family violence protective order statute applied pursuant to O.C.G.A. § 16-5-94(e).

Cook Sales v. Concrete Enters., 356 Ga. App. 899, 901 (2020) (citations omitted). Of course, "[a]ll statutes are to be construed in connection and in harmony with existing law and their meaning and effect is to be determined in connection with related law." Thornton v. Anderson, 207 Ga. 714, 718 (1951) (citation omitted). And "[c]ertainly our legislature is presumed to enact statutes with full knowledge of existing law, including court decisions." Roberts v. Cooper, 286 Ga. 657, 660 (2010) (citations omitted).

With these principles in mind, the trial court faithfully read the statutes to be plain and unambiguous, thus forbidding judicial construction. *See* Vsi Enters. v. Edwards, 238 Ga. App. 369, 373 (1999). Therefore, although the trial court initially scheduled a hearing on the protective orders to occur within 30 days as required by O.C.G.A. § 19-13-3(c), that hearing was stayed with Appellant's filing of his anti-SLAPP motion to strike on April 15, 2026, as required by O.C.G.A. § 9-11-11.1(d). The trial court's ruling not only upheld the plain and unambiguous meaning of both statutes, it prevented an otherwise absurd outcome.

Appellant protests that no part of the anti-SLAPP statute authorized the trial court's extension of the protective orders "beyond the deadline imposed by O.C.G.A. § 19-13-3(c)." (Appellant's Br. 15). But that completely ignores the specific requirement of the anti-SLAPP statute, mandating a stay of "any pending hearings." O.C.G.A. § 9-11-11.1(d). Indeed, the trial court's harmonizing of the

two statutes was not "a novel argument," as Appellant claims. (Appellant's Br. 16). Rather, it was a faithful execution of the law as the legislature prescribed.

To ignore the mandatory stay of the anti-SLAPP statute would produce an absurd outcome where a litigant challenging a protective order could wait until the eve before the mandatory TPO hearing to file his anti-SLAPP motion to strike, and both the opposing parties and court would be forced to resolve the motion to strike on the spot rather than afforded due process to properly consider the constitutional arguments of the anti-SLAPP motion. The trial court recognized that Appellant's cunningly narrow interpretation would lead to this absurd outcome and commented as such, which Appellant misrepresents as the trial court flaunting the hearing requirement of the TPO statute. (Appellant's Br. 16). Instead, the trial court stated, in full context:

> Your argument that your filing of the anti-SLAPP motion, which made the hearing beyond the 30 days, invalidates the TPO, means that all you'd have to do to defeat a TPO would be to file an anti-SLAPP motion at the last minute. And, if that's the law, it shouldn't be. Okay. I don't believe that to be the law. And so, that's why we had the hearing today -- scheduled it for today.

(2115:V3 – 33:4—33:10; 2116:V3 – 33:4—33:10).

2. The trial court's TPO extensions were based on sufficient evidence.

Appellant also argues the protective orders were illegally extended because they lacked *any* evidentiary support. (Appellant's Br. 16). The record, however, clearly demonstrates otherwise. Appellant bases his argument on the fact that

neither Appellee attended the evidentiary hearing due to their daughter's college graduation the same day.[3] Instead, the trial court relied on Appellees' verified petitions. (2115:V3 – 28:20—28:21 ("Petitioners have submitted verified pleadings, so their allegations serve as both pleading and evidence."); 2116:V3 – 28:20—28:21 (same)). As the trial court noted, under Georgia law, verified pleadings generally serve a dual purpose as both pleading and evidence. Shaffer v. Atlanta, 223 Ga. 630, 631 (1967) (sworn petition for injunctive relief "was before the court, and this constituted evidence"); Salter v. Ashburn, 218 Ga. 62, 66 (1962) ("The trial judge had before him the sworn petition and answer. Such served the office of both pleadings and evidence on the application for injunction.").

Moreover, Appellant's objection that the verified pleadings, *in toto*, constituted hearsay is clearly incorrect. Because the pleadings were verified, they constituted sworn evidentiary testimony. Properly verified pleadings that are made on personal knowledge can be utilized to resolve factual disputes. Moore v. Goldome Credit Corp., 187 Ga. App. 594, 596 (1988). Thus, because Appellees' petitions were properly verified and made on personal knowledge, they were not hearsay and were properly considered by the trial court.

[3] As Appellees' trial counsel aptly noted, "[Y]our kid graduates from the University of Georgia once, unless they go to graduate school." (2115:V3 – 37:25—38:1; 2116:V3 – 37:25—38:1).

Finally, Appellant's mischaracterized citation to White v. Raines is distinguishable. This Court did not hold in White that dismissal was mandated due to a lack of opportunity for cross examination. Rather, this Court reversed the extension of the protective order because the trial court failed to, in any way, "address the *merits* of [petitioner's] petition or require her to prove her allegations by a preponderance of the evidence . . . ." 331 Ga. App. 853, 856 (2015) (emphasis added). The trial court had only briefly questioned the petitioner, but she was not under oath and respondent was denied an opportunity for cross-examination, and instead of hearing arguments on the core allegations in the petition, the trial court arbitrarily decided to maintain the status quo for an additional 60 days before making a final ruling on the petition. Id.

Unlike in White, the trial court here *did* consider the merits of Appellees' petitions. It relied upon both the verified pleadings of Appellees and the limited evidence presented by Appellant in making its determination. Thus, the trial court's extension of the TPOs had sufficient evidentiary support, and Appellant's argument otherwise is completely betrayed by the record.

III. APPELLANT'S MOTION TO RECUSE DID NOT ALLEGE FACTS SUFFICIENT TO WARRANT RECUSAL.

Appellant challenges the trial judge's denial of his motion to recuse. Uniform Superior Court Rule 25.3[4] provides the procedural framework by which a motion to recuse may be filed and is to be resolved. The trial judge must engage in a three-prong threshold inquiry concerning the motion: whether it was timely filed, whether the required affidavit is legally sufficient, and, assuming any of the facts of the affidavit to be true, whether recusal would be warranted. USCR 25.3. It is under this third prong which Appellant claims the trial court erred.

[4] USCR 25.3 was amended on February 26, 2026, effective April 9, 2026. Because the trial judge's ruling on Appellant's motion to recuse was issued on April 6, 2026, an earlier version of the rule was in effect, which provided as follows:

> When a judge is presented with a motion to recuse, or disqualify, accompanied by an affidavit, the judge shall temporarily cease to act upon the merits of the matter and shall immediately determine the timeliness of the motion and the legal sufficiency of the affidavit, and make a determination, assuming any of the facts alleged in the affidavit to be true, whether recusal would be warranted. If it is found that the motion is timely, the affidavit sufficient and that recusal would be authorized if some or all of the facts set forth in the affidavit are true, another judge shall be assigned to hear the motion to recuse. The allegations of the motion shall stand denied automatically. The trial judge shall not otherwise oppose the motion. In reviewing a motion to recuse, the judge shall be guided by Canon 3(E) of the Georgia Code of Judicial Conduct.

Rule 2.11[5] of the revised Georgia Code of Judicial Conduct requires a judge to recuse in any proceeding in which the judge's "impartiality might reasonably be questioned." This requirement "sets out an objective standard [cit.] — the facts of the affidavit, taken as true, must be considered from the perspective of a reasonable person rather than from the perception of interested parties or their lawyer-advocates [cit.], or from the subjective perspective of the judge whose continued presence in the case is at issue." Mayor & Aldermen of Savannah v. Batson-Cook Co., 291 Ga. 114, 121 (2012) (citations omitted).

Appellant's call for recusal was grounded on three substantive allegations: 1) an alleged ex-parte communication between Appellee Mr. Howard and the trial judge in a separate case; 2) prior voluntary recusals made by the trial judge in matters involving Appellee Mr. Howard; and 3) the trial judge's prior attendance at a private holiday event sponsored by Appellee Mr. Howard. (2115:V2 – 57-76; 2116:V2 – 56-75). Put simply, none of these three allegations, even when assumed true, provided a reason for the trial judge's recusal.

First, the ex-parte communication Appellant alleged to have occurred between the trial judge and Mr. Howard in a completely unrelated matter more than a year prior involved the issuance of an order granting immunity to a witness

[5] Rule 2.11 of the revised Code of Judicial Conduct took effect on January 1, 2016 and replaced Canon 3E of the former Georgia Code of Judicial Conduct. Mondy v. Magnolia Advanced Materials, Inc., 303 Ga. 764, 767 (2018).

pursuant to O.C.G.A. § 24-5-507. Notably, that statute does not provide that notice or a hearing must take place prior to the trial court issuing its order. Rather, the statue itself seems to envision a process that may occur ex parte. Indeed, once "the district attorney [] request[s] in writing" an order from the court, "[a]ny order entered . . . shall be entered of record in the minutes of the court so as to afford a permanent record thereof . . . ." O.C.G.A. § 24-5-507(a). Moreover, "[t]he fact that the judge has sat on prior cases of the party or ruled on prior matters in the case before the judge is legally insufficient as a grounds for recusal." Baptiste v. State, 229 Ga. App. 691, 697 (1997) (citations omitted). Thus, Appellant's first allegation did not state a scenario legally sufficient to raise a reasonable question of impartiality.

Second, Appellant alleged that the trial judge's prior recusals in matters involving Appellees compelled his continued recusal in this matter. However, each of those referenced recusals was voluntary. (2115:V2 – 71-72, ¶¶ 16-20; 2116:V2 – 70-71, ¶¶ 16-20). Under Georgia law, voluntary recusals have no bearing on the truthfulness of any allegations set out in a recusal motion. Mondy v. Magnolia Advanced Materials, Inc., 303 Ga. 764, 768 (2018) (quoting USCR 25.7). Thus, the trial judge's prior recusals were not a legally sufficient basis to raise a reasonable question of impartiality either.

Third, Appellant's allegation that the trial judge attended a private Christmas party paid for and hosted by Appellees did not warrant recusal. Judges in Georgia are allowed to attend private social events. Indeed, the Code of Judicial Conduct recognizes the value of a judge's participation in extra-judicial activities. Ga. R. of Judicial Conduct 3.1, commentary ("Complete separation of judges from extra-judicial activities is neither possible nor wise; they should not become isolated from the society in which they live."). Further, judges are allowed to receive monetary support, such as in the form of in-kind donations for meals or event attendance, from others with a presumption of no per se basis for disqualification. Ga. R. of Judicial Conduct 2.11, comment 9 ("There is a rebuttable presumption that there is no per se basis for disqualification where the aggregate contributions are equal to or less than the maximum allowable contribution permitted by law."), comment 11(i) ("If contributions made to a judicial candidate or to that candidate's campaign committee are permitted by the law and do not exceed the maximum allowable contribution, then there is no mandatory requirement that the judge recuse."). Because Appellant did not allege that the judge's in-kind contribution exceeded the two-thousand-dollar maximum contribution limit (*see* O.C.G.A. § 21-5-41(b)) and the facts as alleged did not raise the presumption that the cost for the judge's attendance at the party would have amounted to anything close to that

limit[6], the judge's attendance at the social event did not raise a reasonable question to his impartiality under Georgia law.

Because none of Appellant's allegations, taken at face value, were legally sufficient to raise a reasonable question of impartiality, the court was compelled to deny the motion. Henderson v. McVay, 269 Ga. 7, 9 (1998) ("It is as much the duty of a judge not to grant the motion to recuse when the motion is legally insufficient as it is to recuse when the motion is meritorious.") (citation omitted).

Appellant also claims that in detailing the reasons each of Appellant's allegations was legally insufficient, the trial judge impermissibly opposed the motion as prohibited by USCR 25.3. (Appellant's Br. 20-22). That is clearly false from the plain text of the trial judge's order. (2115:V2 – 79-80; 2116:V2 – 78-79). Unlike the trial judge in Post, the trial judge here did not engage in testimony from the bench to defend against the allegations made against him. 298 Ga. 241, 253-57 (2015). Indeed, the trial judge here presented no evidence or argument against the motion but instead stated the facts as alleged and the legal reasons why they were deemed insufficient to warrant recusal. Because the trial judge performed his duty as required by USCR 25.3, Appellants third enumeration of error is without merit and should likewise be denied.

[6] USCR 25.1 required Appellant to include in the affidavit if such information was known to him.

CONCLUSION

For each of the foregoing reasons, Appellants pray this Court: 1) affirm the trial court's denial of Appellant's anti-SLAPP motion to strike; 2) affirm the trial court's extension of the protective orders; and 3) affirm the trial court's denial of Appellant's motion to recuse.

Respectfully submitted this 6th day of July, 2026.

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CERTIFICATE OF COMPLIANCE

This submission does not exceed the word count limit imposed by Rule 24.

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CERTIFICATE OF SERVICE

I certify that there is a prior agreement with the parties to allow documents in a .pdf format sent via email to suffice for service. I further certify that on this day, I have served a true and exact copy of **BRIEF OF APPELLEES** to the below listed counsel of record in the above-referenced case by email.

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