IN THE SUPERIOR COURT OF PAULDING COUNTY STATE OF GEORGIA

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Plaintiff,	Civil Action No.:
as the legal guardian of and on behalf of, a minor,	
Defendant.	

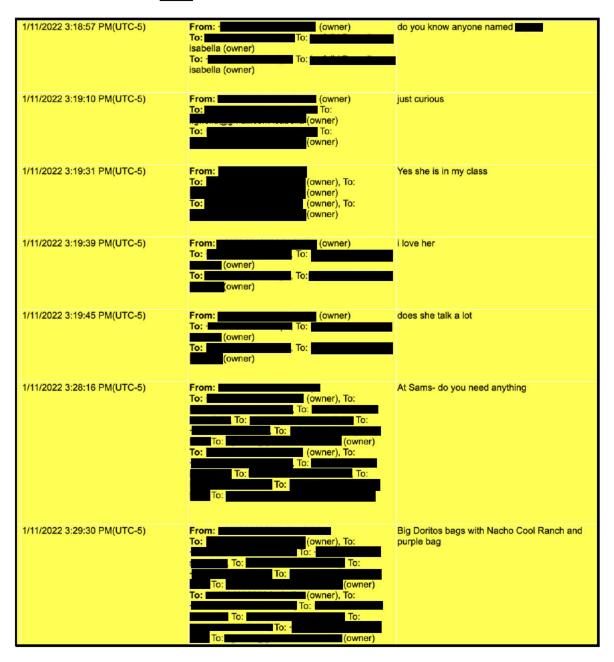
PLAINTIFFS' REPLY IN SUPPORT OF THEIR EMERGENCY MOTION TO COMPEL A FORENSIC CELL PHONE INSPECTION

Plaintiff seeks an "full file system extraction" of cell phone because it

1. Summary of Argument

2. The evidence shows that had been using her phone on the trip.

The evidence shows that was texting while driving during the trip that ended in the subject wreck. The initial cell phone download shows four text messages sent, and three text messages received, while was driving on that trip. See Adv. Logical Download.



During her deposition, admitted to sending and reading text messages in the time leading up to the wreck. Dep., 48:18-21, 49:4-17, 51:11-24. The only text messages did *not* remember reading were two text messages that she received within minutes of the wreck.

Dep., 51:25-52:14, 54:4-8. Importantly, the initial download shows when received those messages but it does not show when she *read* them.

3. The "full file system extraction" will provide more detail.

Unlike the initial download, the full file system extraction will show exactly when opened and read text messages or was otherwise using her phone instead of focusing on driving. For example, the full file system extraction will show exactly when opened text messages that she had already received; when she typed text messages that were never sent; when she used an iPhone app like Instagram; or when she browsed the internet. Those details are important because scrolling through Instagram would have been just as distracting as reading or typing a text message.

The initial download with Sullivan Strickler, unbeknownst to the parties when they agreed to it, did not provide that level of detail. Unless the Court authorizes a full file system extraction, we will never know whether was reading a text message, scrolling Instagram, or shopping on Amazon at the time of this collision.

4. The full file system extraction is not intrusive.

This is not an invasion of privacy. Plaintiffs seek only the data from the day of the collision, not a fishing expedition into private life. Moreover, Plaintiffs already have the forensic download to which Defendants already consented. In other words, Defendants have already consented to a download that revealed the *substantive* data on phone. The only additional data that the full file system extraction will reveal is *when* interacted with her phone. There is no good reason for Defendants to permit a download that revealed the *substance*

of the phone's files, but then oppose a download that will show when was using it. The

"when" is what really matters.

A full file system extraction will not impose an "undue burden" on will only

have to be without her phone for five to seven days. Plaintiffs will pay the entire cost of the full

file system extraction, and have offered to purchase a temporary phone so that is not

without a phone during the limited time it takes to perform the download. The hardship placed

upon to go without her phone for that limited period pales in comparison to the burden

placed upon the family, which is that will have the mental age of a child for the

duration of her life.

5. This is an emergency.

Plaintiffs ask the Court for permission to conduct a full file system extraction as soon as

possible because the cell phone data could be overwritten at any moment, could lose her

phone at any time, or the phone could be inadvertently destroyed by some unforeseen means.

Before contacting the Court, Plaintiffs sought Defendants' consent to conduct the full file system

extraction, but Defendants refused. As Defendant's brief makes clear, Defendant still refuses.

Plaintiffs respectfully ask the Court to decide the issue on an emergency basis before the data is

lost forever.

Respectfully submitted this 15th day of August 2022.

BUTLER KAHN

BY: /s/ Matthew R. Kahn

JAMES E. BUTLER, III Georgia Bar No. 116955

MATTHEW R. KAHN

Georgia Bar No. 833443

10 Lenox Pointe Atlanta, Georgia 30324 jeb@butlerfirm.com matt@butlerfirm.com (t) 678 940 1444

(f) 678 306 4646 ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this date, I have served the foregoing *PLAINTIFFS*'

REPLY IN SUPPORT OF THEIR EMERGENCY MOTION TO COMPEL A FORENSIC

CELL PHONE INSPECTION upon all parties to this matter via electronic mail as follows:

Nicholas L. McKenney
Payton D. Bramlett
Boyd & Jenerette, P.A.
33 Bull Street, Suite 100
Savannah, Georgia 31401
nmckenney@boydjen.com
pbramlett@boydjen.com
Attorneys for Allstate Fire & Casualty
Insurance Company

J. Wesley Padgett
John A. Hubert
Rahimi, Hughes & Padgett, LLC
33 Bull Street, Suite 590
Savannah, GA 31401
wpadgett@rhp-law.com
jhubert@rhp-law.com
Attorneys for Defendant

This 15th day of August 2022.

BUTLER KAHN

BY: /s/ Matthew R. Kahn

JAMES E. BUTLER, III

Georgia Bar No. 116955

MATTHEW R. KAHN

Georgia Bar No. 833443

10 Lenox Pointe Atlanta, Georgia 30324 jeb@butlerfirm.com matt@butlerfirm.com (t) 678 940 1444 (f) 678 306 4646

ATTORNEYS FOR PLAINTIFFS