

AUG 15, 2022 06:35 PM


Sheila Butler, Clerk
Paulding County, Georgia

IN THE SUPERIOR COURT OF PAULDING COUNTY
STATE OF GEORGIA

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Plaintiff,

v.

CONNIE FEILD, as the legal guardian of and
on behalf of, ISABELLA FEILD, a minor,

Defendant.

Civil Action No.: ██████████

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

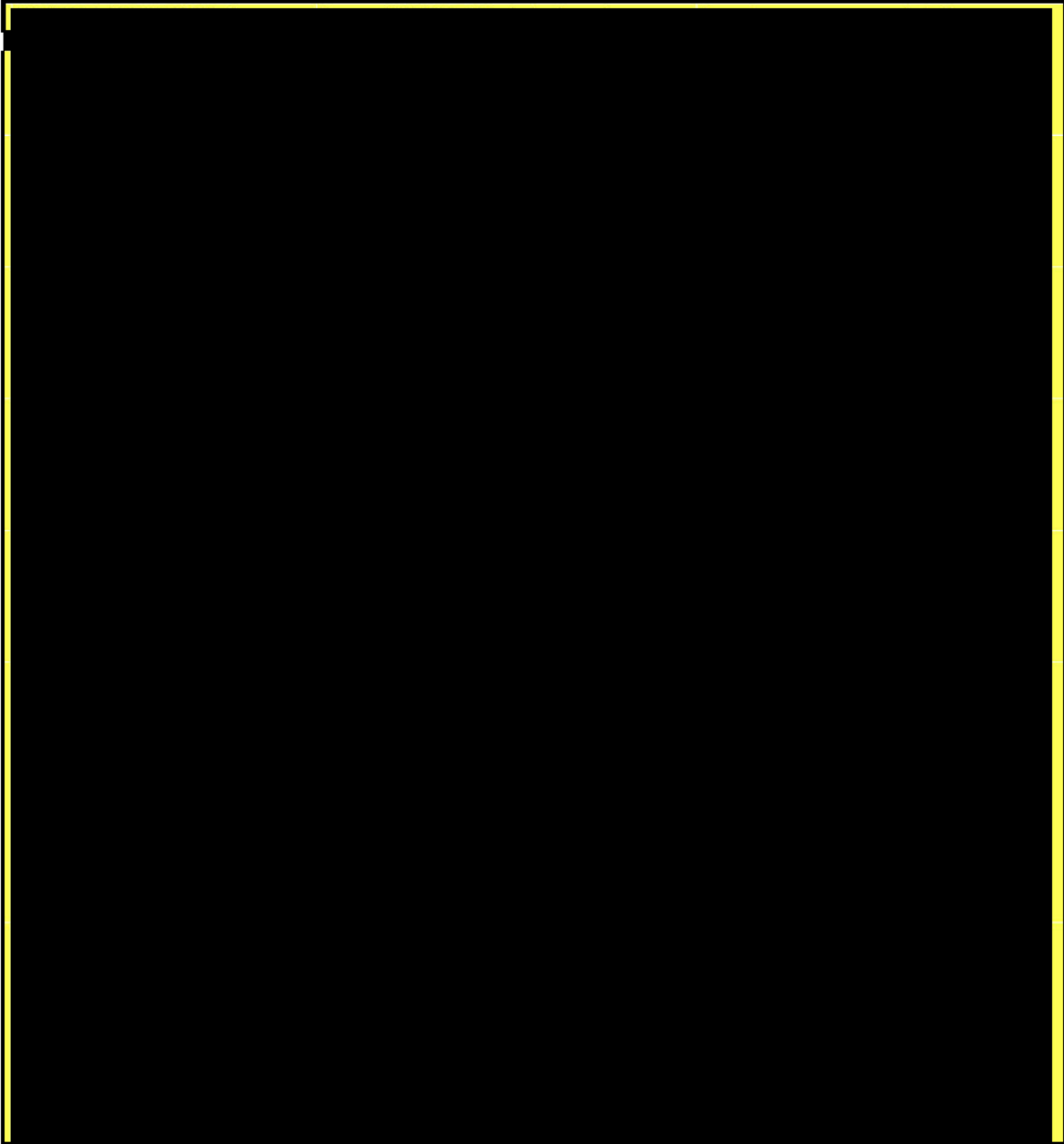
1. Summary of Argument

Plaintiff seeks an “full file system extraction” of Isabella Feild’s cell phone because it will show whether she was using her phone in the moments leading up to this collision.

Feild crashed into ██████████ in broad daylight while ██████████ was more than halfway through a crosswalk. Feild Dep., 15:1-12 (Ex. A). Contrary to Defendant’s representations, the evidence shows that Feild had been sending and reading text messages in the minutes before the wreck. *See* Adv. Logical Download (Ex. B). Feild admitted to the same in her deposition. Feild Dep., 48:18-21, 49:4-17, 51:11-24. The download Plaintiff seeks will show whether Feild was using the phone at the time of the collision or in the seconds leading up to it. That is discoverable.

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

The evidence shows that Feild 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 Field was driving on that trip. *See Adv. Logical Download.*



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

Feild Dep., 51:25-52:14, 54:4-8. Importantly, the initial download shows when Feild *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 Feild 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 Feild 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 Feild 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 Feild’s 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 Feild’s phone. The only additional data that the full file system extraction will reveal is *when* Feild 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* Feild was using it. The "when" is what really matters.

A full file system extraction will not impose an "undue burden" on Feild. Feild 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 Feild is not without a phone during the limited time it takes to perform the download. The hardship placed upon Feild to go without her phone for that limited period pales in comparison to the burden placed upon the [REDACTED] family, which is that [REDACTED] 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, Feild 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

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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:

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This 15th day of August 2022.

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