

IN THE SUPERIOR COURT OF DEKALB COUNTY
STATE OF GEORGIA

JOSEPH MICHAEL HIRSCH,	)	
	)	
Plaintiff,	)	CIVIL ACTION
	)	FILE NO.: 23CV9529
v.	)	
	)	
CITY OF DUNWOODY, SHARON	)	
LOWERY, in her personal capacity,	)	
ERIC SHEALY, in his personal capacity,	)	
GINGER LEPAGE, in her personal	)	
capacity, and ERIC LINTON, in his	)	
personal capacity,	)	
	)	
Defendants.	)	
	)	

ORDER ON DEFENDANTS' MOTION FOR ATTORNEY'S FEES PURSUANT TO
O.C.G.A. §§ 9-15-14 AND 50-18-73(b)

This matter is before the Court on Defendants' Motion for Attorney's Fees. Counsel for the parties appeared for oral argument on defendants' motion on April 28, 2026. Having carefully considered defendants' Motion, the Statement of Material Facts, the Supplemental Statement of Material Facts, affidavits and testimony of counsel, the entire record, the applicable law, and argument of counsel, the Court GRANTS Defendants' Motion for Attorney's Fees in the amount of \$182,478.10.

Before outlining the Court's findings of facts and conclusions of law, the Court intends to make clear what this Order represents: This fee award is not intended to punish Mr. Hirsch for his speech or to compensate Defendants for any harm arising from it. Its sole purpose is to reimburse Defendants for the reasonable attorneys' fees incurred in defending against Plaintiff's lawsuit. Plaintiff's own statements constitute competent evidence of his intent to increase Defendants' litigation costs, and he has not disputed that intent. Accordingly, the award is strictly limited to the

reasonable legal expenses Defendants incurred in responding to Plaintiff's substantially frivolous and vexatious claims.

I. FINDINGS OF FACT

Defendants filed two Statements of Material Facts in support of their Motion: an initial Statement of Fact consisting of 240 paragraphs filed on January 2, 2026, and a Supplemental Statement of Fact consisting of an additional 35 paragraphs filed on April 23, 2026. Defendants also presented two affidavits from their counsel, Sun S. Choy, as to the amount and reasonableness of defendants' fees incurred in this matter. The Court notes that plaintiff never filed a response to defendants' Motion, Statements of Fact, or affidavits of counsel. At the April 30, 2026 evidentiary hearing, plaintiff did not present any additional evidence, exhibits, or testimony to challenge defendants' presentation of the facts. Accordingly, these facts are drawn from defendants' two Statements of Material Fact and affidavits filed in support of their Motion, along with the entire record, and arguments by counsel for both parties.

A. Plaintiff's Express Intent to Increase Defense Costs

The record contains multiple admissions, made by Mr. Hirsch himself, reflecting an intent to burden the City financially through the course of this litigation:

- Plaintiff mocked defense counsel's hourly rate at his deposition, evidencing preoccupation with defense costs (SOF ¶4 ("I think you charge [\$]250 an hour, I think it is. What a waste." (Pl.'s Dep. 189:8-9).)
- Plaintiff repeatedly boasted—both publicly and in private correspondence—that the City's legal costs had climbed into the hundreds of thousands of dollars, attributing those costs to his litigation conduct and threatening continued escalation (See SOF ¶¶46–81; e.g., ¶ 49 (plaintiff's public comment that the City's retained defense firm is "bizarrely incompetent,

I don't know why you're wasting tens of thousands of dollars from our City with a horrible law firm defending the indefensible."); ¶ 51 (plaintiff's post to X itemizing defense costs and stating "depositions next month are going to cost much more" and "Gonna be insane how much money residents are forced to pay due to city leaders who are fools. Estimating more than 100K additional bucks!"); ¶ 53 (public comments, "Y'all are in the hole for about one hundred grand"); ¶ 54 (email to the City Council, "The costs to the city are mounting and you all are condoning the waste of taxpayer money, along with damaging our city's reputation."); ¶ 63 (plaintiff's deposition testimony, "I'm going to spend a million dollars on this and the taxpayers are going to be screwed because you in this city won't understand how important this lawsuit is to do the right thing." (Pl.'s Dep. 172:2-7)); ¶ 74 (email to a council member, "The amount of money and time that all of us are wasting on this is insane.");

- Plaintiff explicitly stated his intent to continue expanding litigation and discovery to impose further taxpayer costs (SOF ¶¶46–81, 234–240).

The Court notes that these admissions are not strategic litigation decisions attributable to Plaintiff's counsel; they are Plaintiff's own statements of intent and purpose. Plaintiff has not submitted any testimony or evidence to challenge defendants' characterization of his own words on this point.

B. The Unreasonable Volume of Discovery

Plaintiff pursued discovery so voluminous and repetitive that it supports an inference of improper purpose:

- Plaintiff propounded 72 sets of written discovery, comprising 4,407 discrete discovery requests and 3,279 pages (SOF ¶¶5–10). Specifically, plaintiff, through counsel, submitted

3,241 requests for admissions (SOF ¶ 6), 799 interrogatories (SOF ¶ 7), and 187 requests for production of documents (SOF ¶ 8).

- Plaintiff filed 12 amended complaints, totaling 3,481 pages and 6,010 paragraphs, often amending within days (SOF ¶¶5–10, 13). The Court notes that plaintiff personally verified most of these complaints.
- Despite this extraordinary volume of discovery and pleadings, Plaintiff relied on none of defendant's discovery responses in opposition to defendants' motions for summary judgment (SOF ¶12). The absence of any evidentiary use strongly indicates that discovery was employed as a tactical burden, not a fact-gathering effort.

Again, plaintiff has submitted no evidence or argument, either through a brief or at the evidentiary hearing on defendants' motion, to argue that this volume of written discovery and pleadings was reasonable or necessary to prosecute his claims.

C. Plaintiff Filed Multiple Baseless and Unnecessary Discovery Motions.

Plaintiff filed six motions to compel and two motions for other discovery relief. (SOF ¶¶ 14-23.) Counsel for defendants argued that these motions were not brought in good faith and unnecessarily expanded the litigation. Again, plaintiff has submitted no evidence or argument, either through a brief or at the evidentiary hearing on defendants' motion, to argue that these motions were reasonable or necessary to prosecute his claims.

D. Plaintiff and His Counsel Engaged in Abusive Litigation Tactics Throughout Litigation.

Defendants have argued that plaintiff engaged in a variety of other abusive litigation tactics throughout the course of this lawsuit designed to harass and inconvenience defendants and their counsel. Some examples include:

- Counsel for plaintiff unilaterally noticed seven depositions of defendants and non-parties during a week for which one of defendants' attorney's had filed a motion for leave of absence. (SOF ¶ 24-26.) This required defendants to file a motion for protective order. (*Id.*)
- In September of 2024, counsel for defendants asked counsel for plaintiffs for a three-week extension of the deadline to respond to some of plaintiff's voluminous written discovery requests because one of the defendants needed to respond to the discovery had been suddenly and unexpectedly hospitalized. To take advantage of the situation, plaintiff and his counsel decided to re-submit a voluminous request for production of documents to defendants as an Open Records Request, which effectively *shortened* the defendants' deadline to respond to three business days. (SOF ¶¶ 30-34.)

E. Plaintiff Repeatedly Harassed Defendants With Respect to His Claims.

Throughout this litigation, plaintiff has repeatedly and publicly harassed defendants about his claims and his lawsuit, often with insulting language, altered photographs posted to "X," and demonstrably false accusations:

- With respect to City Clerk Sharon Lowery, plaintiff has publicly accused her of being a liar and criminal with respect to the claims in this lawsuit (SOF ¶ 83, 85, 86, 89); threatened her with criminal charges (¶ 84); and publicly taunted her about her upcoming deposition in this matter (¶¶ 87-88).
- With respect to City Manager Eric Linton, plaintiff has repeatedly posted about him on "X," stating that the claims about Mr. Linton reveal that the City is a pile of "hot manure," (SOF ¶ 91) and calling him a "clown" upon being added to the lawsuit (¶¶ 92-95). Plaintiff has also mocked Mr. Linton at City Council meetings, calling him a "criminal," a "disgrace," "corrupt," "incompetent," and a "clown" when speaking specifically about his

lawsuit and claims against Mr. Linton. (§§ 97, 101.) Plaintiff also falsely stated on “X” that he would soon post “big news” that would lead to Mr. Linton’s firing, which he never posted. (§ 102.) While Mr. Linton was added to the lawsuit on January 7, 2025, plaintiff waited months to serve him at his home on Easter Sunday, April 20, 2025. (§§ 103-105.) Plaintiff falsely posted on “X” a statement that Mr. Linton lied in his deposition because “[n]ow, he admits he was not telling the truth,” even though plaintiff has made no effort at all to point to the source of this “admission.” (§ 106-107.)

- With respect to Records Clerk Eric Shealy, plaintiff took the occasion of Mr. Shealy’s deposition in this matter to post insults about Mr. Shealy on “X” as the deposition was in progress, calling him “one of the dumbest people in the City,” “ignorant,” “worthless,” and “beyond dumb.” (SOF §§ 111-114.)¹
- With respect to City IT Director Ginger LePage, plaintiff also made several posts to “X” with respect to this lawsuit to insult her (SOF §§ 117, 119), and he emailed the City Council to accuse her of perjury during her deposition (§ 118).
- Plaintiff also harassed other non-party City officials with respect to his lawsuit. In addition to many insults during the public comment periods at City Council Meetings (e.g., SOF §§ 121-123,), plaintiff also threatened the City Council Members with subpoenas related to this lawsuit. (SOF §§ 126, 128, 130, 131, 133, 135 (threatening to subpoena City Council members at a jury trial). Plaintiff also made disparaging statements to City Council

¹ Defendants argued that plaintiff and his counsel intentionally prolonged Mr. Shealy’s deposition so that plaintiff could harass Mr. Shealy by having him read into the record several lengthy documents that the defendants had already authenticated and certified. (SOF §§ 113-114.) Plaintiff has not challenged this assertion.

Members about this lawsuit with respect to their religious observances and veteran status. (SOF ¶¶ 127, 132, 134, 137, 138.)

- Plaintiff also harassed defendants’ counsel. Specifically, plaintiff made multiple posts to “X” with altered or AI-generated images of defense counsel. (E.g., SOF ¶¶ 145, 184, Supp. SOF ¶ 20.) He also would directly address or insult defense counsel in multiple open records requests he sent to the City during the course of this litigation. (¶¶ 150-162, 166.) Plaintiff also filed a bar complaint against one of defendants’ attorneys for a position defendant took during this litigation—but in doing so, plaintiff omitted relevant portions of the record to manufacture the appearance that counsel had acted improperly. (¶¶ 167-194.)²

F. Plaintiff Has Stated an Intent to Continue to Harass Defendants

Finally, the Court notes that defendants have put forth evidence and argument that plaintiff has, on multiple occasions, stated an intent to continue litigating Open Records issues against the City. (See SOF ¶¶ 234-240.) Tellingly, in response to defendants’ Motion, plaintiff has not presented any argument or suggestion to the contrary. Instead, as shown in defendants’ Supplemental Statement of Facts, plaintiff has continued to insult, harass, and threaten continued litigation against defendants even after they filed the instant motion. (See Supp. SOF ¶¶ 19-35.)

G. Plaintiff Does Not Contest Any of Defendants’ Characterizations of His Motives, Intent, or Conduct.

Despite multiple opportunities to do so, Plaintiff has wholly failed to address Defendants’ detailed allegations—supported by extensive record citations—that Plaintiff engaged in frivolous

² Defendants specifically argued that plaintiff “intentionally” omitted material facts from his bar complaint to “falsely manufacture the appearance” that counsel had acted improperly. (SOF ¶¶ 192-93.) Plaintiff has not challenged this assertion. The State Bar dismissed plaintiff’s grievance. (SOF ¶ 194.)

and vexatious litigation for the purpose of harassing Defendants and increasing their litigation costs. Plaintiff filed no response brief, submitted no evidence, and offered no explanation, justification, or mitigation at the hearing on Defendants' motion.

II. CONCLUSIONS OF LAW

A. Standard for Awarding Fees and Litigation Expenses Pursuant to O.C.G.A. §§ 9-15-14 and 50-18-73.

Where a litigant files an action which is entirely lacking in merit, an award of attorneys' fees and expenses of litigation is mandatory. Indeed, attorneys' fees and litigation expenses "shall be awarded to any party against whom another party has asserted a claim . . . with respect to which there existed such a complete absence of any justiciable issue of law or fact that it could not be reasonably believed that a court would accept the asserted claim." O.C.G.A. § 9-15-14(a). Attorney's fees and litigation expenses may also be awarded if the court "finds that an attorney or party brought or defended an action, or any part thereof, that lacked substantial justification." O.C.G.A. § 9-15-14(b). A claim "lacks substantial justification" if it is "substantially frivolous, substantially groundless, or substantially vexatious." *Id.* Attorneys' fees and expenses of litigation incurred in obtaining an award under O.C.G.A. § 9-15-14 "may also be assessed by the court and included in its order." O.C.G.A. § 9-15-14(d). "[T]he damages authorized by § 9-15-14 are intended not merely to punish or deter litigation abuses but also to recompense litigants who are forced to expend their resources in contending with abusive litigation." Moon v. Moon, 277 Ga. 375, 379, 589 S.E.2d 76, 81 (2003) (internal quotation marks and punctuation omitted).

While O.C.G.A. § 9-15-14 provides for attorney's fees generally, O.C.G.A. § 50-18-73 allows for attorney's fees specifically in actions to enforce provisions of the Open Records Act, such as this case. Under O.C.G.A. § 50-18-73(b),

In any action brought to enforce the provisions of this chapter in which the court determines that either party acted **without substantial justification** either in not complying with this chapter **or in instituting the litigation**, the court shall, unless it finds that special circumstances exist, assess in favor of the complaining party reasonable attorney's fees and other litigation costs reasonably incurred. **Whether the position of the complaining party was substantially justified shall be determined on the basis of the record as a whole** which is made in the proceeding for which fees and other expenses are sought.

O.C.G.A. § 50-18-73(b) (emphasis added).

“The award of attorney[] fees is discretionary under [the Open Records Act] and the decision of the superior court will be interfered with only where this discretion has been abused.” Richmond Cnty. Hosp. Auth. v. Se. Newspapers Corp., 252 Ga. 19, 21, 311 S.E.2d 806 (1984). Because an award of O.C.G.A. § 50-18-73(b) attorney fees is premised on a finding that a party acted without substantial justification, the fees award is “not much different from the fees authorized under the law generally applicable in civil actions,” including O.C.G.A. § 9-15-14. Deal v. Coleman, 294 Ga. 170, 182 n.20, 751 S.E.2d 337 (2013) (citing O.C.G.A. § 9-15-14 (a)-(b)). Both O.C.G.A. §§ 9-15-14 and 50-18-73(b) give trial courts the authority to award attorney fees at the conclusion of litigation in a case brought pursuant to the Open Records Act. See Geer v. Phoebe Putney Health Sys., Inc., 310 Ga. 279, 287, 849 S.E.2d 660, 665–66 (2020).

An award of attorneys' fees is appropriate where a litigant acts “without substantial justification and with the intent to harass or unnecessarily expand the proceedings,” as specifically exemplified by “‘a pattern of technical violations,’ improper accusations against counsel for the County [the moving party], harassing discovery conduct, and filing a motion that lacked substantial justification.” Jones v. Unified Gov't of Athens-Clarke Cnty., 312 Ga. App. 214, 220, 718 S.E.2d 74, 79 (2011). Similarly, the Court of Appeals has affirmed an award of attorney's fees where the plaintiff's decision to file suit and conduct during litigation were intended to “cause greater

inconvenience, harassment and embarrassment to [the defendants], and such conduct greatly and unnecessarily expanded the proceedings.” Cohen v. Rogers, 341 Ga. App. 146, 150, 798 S.E.2d 701, 705 (2017).

The Court finds that defendants have properly shown that plaintiff’s conduct during this litigation satisfies every element required for an award of attorney’s fees.

B. Plaintiff’s Claims Lacked Substantial Justification.

On December 2, 2025, this Court granted the City’s and the individual defendants’ motions for summary judgment in their entirety. (See Order on City MSJ (Dec. 2, 2025); Order on Ind. Defs.’ MSJ (Dec. 2, 2025).) For the reasons outlined below and in the Court’s Orders on defendants’ motions for summary judgment, the Court finds that plaintiff’s claims lacked substantial justification.

1. Claims to compel production of text messages the City did not have (Counts 1, 7).

In Count 1 of his Tenth Amended Complaint, plaintiff sought to compel the production of a single text message: the one sent on or around October 14, 2021, from Minh Pham’s phone at 13:41 (1:41 p.m.). (See 10th Am. Compl. ¶ 576.) In Count 7, he sought the production of text messages from Eric Linton dated March 22, 2022.

As the Court found in its Summary Judgment Order for the City, this text was between Officer Pham and his wife; the City had no need for it and therefore was not required to retain it; and it has been established that the City does not have access to the text any longer. (City MSJ Order, p. 3.) As for Count 7, the Court observed that this was a contrived claim to force the City to undergo a costly search of literally every phone issued by the City. As the Court held in its Order on the City’s motion for summary judgment, “[i]f plaintiff wanted the City to search each and every mobile device for text messages to or from Mr. Linton on April 13, 2022, he could have

specified the ‘specific data bases to be searched for such messages,’ i.e., all City phones,” as required by O.C.G.A. § 50-18-71(g). Plaintiff did not follow the Open Records Act with respect to Count 7, and his attempt to force the City to bridge the gap created by his own failure to comply with the Act was not substantially justified.

2. Claims to compel production of records plaintiff never wanted or asked for (Count 2).

In Count 2, plaintiff asked the Court to compel the production of unredacted spreadsheets responsive to his request for call data on Minh Pham’s phone. With this request, plaintiff sought voice and text data for Ofc. Pham’s mobile phone use on October 12 and 13, 2021. Specifically, he sought: “the phone numbers he called, answered, missed, texted or received text messages from on the requested dates.” (See July 27, 2022 Phone Bill (D026415)).³)

Before filing his lawsuit, though, plaintiff never requested that the City un-redact the rows in the “voice” spreadsheet for information beyond the date range he specified. (See generally July 27, 2022 Phone Bill (D026415).) Indeed, at his deposition, Plaintiff did not contend that the City violated the Open Records Act by redacting information on the voice data spreadsheet for dates outside the range he had indicated in his request. (Hirsch Dep. 156:25-157:14.) In plaintiff’s own words, “I only requested things during a certain date. And if the City wants to prohibit me from seeing other dates, they’re entitled to.” (Hirsch Dep. 157:10-13.) Plaintiff never complained to the City about the redaction of information on dates that were not included in his request. (Hirsch Dep. 160:24-161:11.) Plaintiff had no desire for this redacted information when he submitted his open records request. (Hirsch Dep. 163:7-9.) At the time, plaintiff was only interested in the data for the two days he listed in his request. (Hirsch Dep. 201:6-10.)

³ This record is attached to defendants’ statement of material facts in support of their motions for summary judgment.

Perhaps the best evidence that this claim lacks substantial justification is the fact that, at any point during the 18-month discovery period, plaintiff could have asked for, and received, these unredacted Excel spreadsheets in native format. Unlike the Open Records Act, the Civil Practice Act does not require the City to redact cellular telephone numbers. In other words, plaintiff could have asked for, and received, this information in discovery as soon as discovery began. He did not, though, because he has no real interest in getting the unredacted records, and asking for them in discovery would have deprived him of having this Court compel their production.

Accordingly, because plaintiff sought to compel records he never wanted and never asked for, the claim lacked substantial justification.

3. The Contrived “Contemporaneously Copy” Declaratory Judgment Dispute (Count 6).

Perhaps the most egregious example of plaintiff’s unbridled and malicious litigiousness is the disingenuous claim for declaratory judgment on whether or not he himself must comply with the Open Records Act’s requirement that he “contemporaneously” copy the City’s counsel of record for any Open Records requests to the City for records “that are sought as part of or for use in any ongoing civil or administrative litigation against an agency...” See O.C.G.A. § 50-18-71(e).

As the Court held, the text of O.C.G.A. § 50-18-71(a) “clearly states what it requires of civil litigants requesting documents for use in litigation from an opposing agency” such that no declaratory judgment was necessary. (City MSJ Order, pp. 6-7.) Also, plaintiff was under no threat of harm from the supposed dispute. (City MSJ Order pp. 8.) With respect to plaintiff’s declaratory judgment claim, plaintiff claimed that the defendants were “wasting time making an issue out of this,” even though it was he and his counsel who filed the claim. (Pl.’s Dep. 130:5-14.) Plaintiff understood that this claim caused the City and its taxpayers to incur additional attorney’s fees, but simply insisted that the City should completely capitulate on the claim and make no defense:

You could just agree it would be done and you wouldn't be spending any money on it or the taxpayers wouldn't be spending any money on it. Because it's very clear the law's on my side. And if you want to fight it, that's your decision and the City's decision. But it's a waste of taxpayer money.

(Pl.'s Dep. 130:16-21.) Plaintiff admitted at his deposition that complying with O.C.G.A. § 50-18-71(e) would not have burdened him—he simply believed “it's just something that I don't need to do.” (Hirsch Dep. 134:16-20.)

The Court finds that Plaintiff contrived the controversy in bad faith, to unnecessarily expand this litigation. Notably, this one small issue spawned a significant portion of the motions practice that increased the City's defense costs, including:

- *Plaintiff's Motion for Partial Judgment on the Pleadings* (Apr. 4, 2024);
- *Defendants' Response in Opposition to Motion for Partial Judgment on the Pleadings* (May 13, 2024);
- *Plaintiff's Reply In Support of Motion for Partial Judgment on the Pleadings* (May 16, 2024)
- *Plaintiff's First Amended Reply In Support of Motion for Partial Judgment on the Pleadings (Converted to Motion for Partial Summary Judgment)* (Oct. 7, 2024);
- *Def.'s Sur-Reply in Opposition to Plaintiff's Motion for Partial Judgment on the Pleadings* (Nov. 6, 2024);
- *The Court's Order Denying Plaintiff's Motion for Partial Judgment on the Pleadings and Order Holding Emergency Motion to Quash Subpoena as Moot* (Nov. 11, 2025);
- *Plaintiff's Motion for Partial Summary Judgment On Count 6* (Dec. 8, 2024);

- *Response in Opposition to the Court’s Consideration of Plaintiff’s Partial Motion for Summary Judgment and Motion under Rule 56(f) for the Court to Extend the deadline for Defendants’ Response* (Jan. 7, 2025);
- *Order on Defendants’ Motion Pursuant to O.C.G.A. § 9-11-56(F)* (Jan. 24, 2025); and
- *Defendants’ Response in Opposition to Plaintiff’s Motion for Summary Judgment on Count 6* (July 1, 2025).

4. Improper use of mandamus (Counts 8, 12).

In an apparent attempt to lengthen his ever-growing complaints, plaintiff added frivolous claims for mandamus. As the Court held: “Plaintiff’s Count for Mandamus asks the Court to compel the City of Dunwoody to comply with the requirements of O.C.G.A. § 50-18-99(e)(3), which imposes certain requirements for Cities to adopt records management plans. While the City is required to adopt a plan, the scope and extent of that plan is a matter of pure discretion for the City. And its Council has exercised that discretion to the satisfaction of O.C.G.A. § 50-18-99(e)(3).” (City MSJ Order, p. 10.) and, as the Court recognized, “[a] mandamus plaintiff cannot simply assert that an official should be compelled, generally, to enforce the law, and that, in essence, is what plaintiffs assert in this action.” Gaddy v. Georgia Dep’t of Revenue, 301 Ga. 552, 562, 802 S.E.2d 225, 234 (2017).

5. Contrived complaints about the City’s website (Counts 9, 10).

Counts 9 and 10 concerned complaints plaintiff had about the City’s website. In Count 9 of plaintiff’s complaint, plaintiff claimed that the City’s public designation of its records custodian is deficient. Specifically, plaintiff complains that the designation does not state that the City will accept records requests by facsimile. Plaintiff sought an injunction or mandamus relief to this effect. However, the Open Records Act simply does not require the changes to the City’s public

designation that plaintiff sought to compel, as the Court held in its Order on the City’s MSJ: “The Court finds that neither injunctive relief under O.C.G.A. 50-18-73(a) nor mandamus pursuant to O.C.G.A. 9-6-20 is appropriate where no facts support the contention that the City is not allowing open records requests through the other methods approved by the agency through statute.” (City MSJ Order, p. 14.)

In Count 10 of plaintiff’s complaint, plaintiff asked the Court to order the City to publish a web advertisement with various statements regarding its process for receiving open records request. But as the Court held, nothing in the Open Records Act requires the City to publish such an advertisement. Plaintiff could not even say what would have satisfied him:

Q Okay. What’s your understanding of something being prominently displayed?

A That’s a legal definition and one that I’m going to reserve for my attorney to explain that better than myself.

(Hirsch Dep. 105:9-13.) In fact, plaintiff did not have any concerns with the “prominence” of Open Records information on the City’s website, and he could not identify a single person who does. (Hirsch Dep. 107:19-21, 113:16-22.) In other words, plaintiff wasted time and resources litigating a problem he did not even believe existed.

6. Plaintiff’s claims against the individual defendants.

Plaintiff’s complaint contained wide-ranging allegations against each of the individual defendants without collectively itemizing them into discrete counts or claims.

Even so, it should have been immediately clear to plaintiff that his individual-capacity claims against all defendants lacked substantial justification, because he admitted that he had no evidence that any of them acted with actual malice, and they all therefore would be entitled to official immunity: Ms. Lowery testified that Mr. Hirsch does not get on her nerves and that she

has never heard anyone at the City make disparaging comments about him. (Lowery Dep. 162:16-23.) Ms. LePage has never heard any of her co-defendants, or anyone else at the City, make critical or derogatory remarks about plaintiff. (LePage Dep. 58:14-59:2). Neither has Chief Grogan. (Grogan Dep. 54:8-20.) Neither has the purported “whistleblower,” Dustin Guwin. (July 16, 2024 Guwin Dep. 37:15-23.) Finally, Mr. Hirsch himself is not aware of any real evidence of animus from any of these defendants. (Hirsch Dep. 84:14-20, 87:5-88:3.)

With respect to plaintiff’s claims against the individual defendants for Mr. Pham’s text messages, the Court already found that “after Chief Grogan informed Ms. Lowery and Ms. LePage that no responsive text messages were on the phone, and they did everything they could to pursue alternative means of obtaining the texts. They made a good-faith effort to comply with the requirements of the Open Records Act. They did not violate the Act as a matter of law and, even if they had, their conduct was discretionary such that they are entitled to official immunity as a matter of law.” (Individual MSJ Order, p. 8.)

With respect to the Excel Spreadsheet plaintiff complained he did not receive from the individual defendants, the Court already found that: “Plaintiff seeks to hold defendants liable for failing to produce certain data about Minh Pham’s phone use. However, he never requested this data via the open records act.” (Individual MSJ Order, p. 12.)

Indeed, even at plaintiff’s own deposition, Plaintiff did not contend that the City violated the Open Records Act by redacting information on the voice data spreadsheet for dates outside the range he had indicated in his request. (Hirsch Dep. 156:25-157:14.) In plaintiff’s own words, “I only requested things during a certain date. And if the City wants to prohibit me from seeing other dates, they’re entitled to.” (Hirsch Dep. 157:10-13.) Plaintiff never complained to the City about the redaction of information on dates that were not included in his request. (Hirsch Dep. 160:24-

161:11.) Plaintiff had no desire for this redacted information when he submitted his open records request. (Hirsch Dep. 163:7-9.) At the time, plaintiff was only interested in the data for the two days he listed in his request. (Hirsch Dep. 201:6-10.)

Thus, if plaintiff never asked for, and never wanted, the Excel Spreadsheet information, why did he sue the defendants for not giving it to him? The only conclusion the Court can reach is that plaintiff pursued this claim to harass defendants.

With respect to the “pole banner” requests, the Court has already found that this claim was simply contrived:

The record shows that plaintiff knew exactly what he was looking for, but he failed to provide this information required under O.C.G.A. § 50-18-71(g). Indeed, at the July 8, 2024 Council Meeting, plaintiff told the Counsel that after the City’s first supplementation of the 20 additional emails, “I know that there are at least twelve more documents that the City has not provided me. Twelve more. I know this for a fact.” Because plaintiff knew what emails he was looking for when he submitted his open records request, he should have complied with the Act’s requirement that he state “the name, title, or office of the specific person or persons whose electronic messages are sought.”

(Individual MSJ Order, p. 20.)

As shown in the Court’s Orders on defendants’ motion for summary judgment, none of plaintiff’s claims had merit.

C. Plaintiff Intended to Expand the Litigation and Harass Defendants.

Aside from the lack of substantial justification, plaintiff’s own words make it clear that his intent with this litigation was to harass the defendants and expand the litigation.

The case of Vakharla v. Vakharla is instructive. In that divorce proceeding, the trial court entered an order awarding attorney fees to the wife “based upon findings of fact, supported by the record, that Husband engaged in numerous acts of improper conduct throughout the litigation that

were interposed for delay and harassment and represented a blatant abuse of the discovery process. Husband stated on the record that he would “spend whatever it takes to win, [...]” Vakharwala v. Vakharwala, 301 Ga. 251, 253, 799 S.E.2d 797, 799 (2017). The Supreme Court, in affirming this award of attorney’s fees, noted that, “[b]y way of example of Husband’s actions that unnecessarily expanded the litigation and costs, a flood of emails (more than 700 over the course of the litigation) to Wife, her counsel, and court-appointed experts raising false issues or accusations, thereby requiring a significant increase in time billed by experts and Wife’s legal team.” Id. at 254 n.1, 799 S.E.2d at 800.

The Court finds that plaintiff’s conduct here is much worse. As noted in defendants’ Statement of Facts, plaintiff has been nothing but obsessed with tracking defendants’ mounting attorney’s fees and gloating publicly about those costs:

Let’s hope that the City doesn’t chose to waste more money continuing their unlawful quest to hide text messages from one of our bad cops, who essentially held employees of Mr. Tire hostage on Dunwoody Village Parkway.

(Dunwoody City Council Meeting, Oct. 30, 2023, 17:10-17:40.)

Our City attorney is well over his head, and the law firm that you’ve hired, Freeman Mathis & Gary, I pointed out numerous times, they’re woefully incompetent. I mean, I hate to give you a suggestion to have a better attorney go up against me but, they’re a disgrace. They’re actually bizarrely incompetent, I don’t know why you’re **wasting tens of thousands of dollars from our City with a horrible law firm defending the indefensible.**

(Dunwoody City Council Meeting, July 8, 2024, 31:20-32:59 (emphasis added).)

But, imagine if you told every person in this City that they owed two dollars for your stupidity and mistakes, and transparency fighting, that’s what it would be. Y’all are in the hole for about one hundred grand.

(Dunwoody City Council Meeting, August 26, 2024, 1:36:55—1:37:22.)

Since you are also taxpayers, you might want to know how much the city is spending: by the end of this week, **the city stands to be on the hook for about one quarter of a million dollars!**

(Jan. 20, 2025 Email, “Who is a journalist?,” (Def.’s SOF, Ex. A, p. 11) (emphasis in original).)

That is just a small selection of plaintiff’s statement of his intent to generate attorney’s fees—there are several more recounted in defendants’ Statement of Facts, which plaintiff has not contested.

D. Plaintiff Abused the Discovery Process.

As recounted above, plaintiff also engaged in various discovery abuses, including:

- 26 separate sets of requests for admission, totaling 3,421 requests;
- 25 separate sets of interrogatories, totaling 799 numbered requests and subparts;
- 21 separate sets of requests for production of documents, totaling 187 requests (these do not include the multiple Open Records Requests plaintiff sent directly to the City for documents related to this matter);
- Plaintiff’s baseless, unwarranted discovery motions;
- Plaintiff’s decision to unilaterally notice depositions during opposing counsel’s leave of absence;
- Plaintiff’s refusal to continue a deposition of a non-party (Dustin Guwin) to another date when counsel for defendant could be present (and thus requiring Mr. Guwin to be deposed twice);
- Plaintiff’s counsel’s false representations to the Court in response to a motion to quash defendants filed (see Reply on Motion to Quash (July 26, 2024), pp. 2-3.)

- Plaintiff's refusal to grant an extension to defendants to respond to discovery when Sharon Lowery, the City Clerk and key contact for records production in this case, was in the hospital;
- Plaintiff's malicious decision to request the records for which defendants had sought an extension via the Open Records Act, thus *shortening* the time for defendants to respond to that request while Ms. Lowery was in the hospital.

Clearly, plaintiff intended to weaponize the discovery process in this litigation. Plaintiff transformed an otherwise routine and simple Open Records claim into a massive discovery expedition.

E. Defendants are Entitled to \$182,478.10 in Attorneys' Fees.

As noted above, this Court heard arguments and evidence on defendants' motion for attorney's fees on April 30, 2026. Before the hearing, defendants presented two affidavits of Sun S. Choy, one of defendants' attorneys. Mr. Choy's affidavits gave the following accounting:

From the beginning of plaintiff's lawsuit through October 31, 2025, defendants had incurred \$168,611.42 in attorneys' fees. (Choy Aff. (Jan. 2, 2026), ¶ 16.) This total comprised of \$157,930.90 in legal fees related to the defense of this matter, and \$10,680.52 in costs. (*Id.* ¶¶ 10, 14.)

From November 1, 2025 through March 31, 2026, defendants incurred an additional \$16,982.50 in legal fees and \$2.00 in costs that had been invoiced to the City (Supp. Choy Aff. (Apr. 23, 2026), ¶¶ 4, 9.)

From April 1, 2025 through April 23, 2026, defendants incurred an additional \$4,221.00 in legal fees that had yet to be invoiced to the County at the time of Mr. Choy's supplemental affidavit. (Supp. Choy Aff. (Apr. 23, 2026), ¶¶ 5.)

Finally, at the April 30, 2026 hearing on the motion for attorney's fees, Mr. Jackson testified under oath that he had generated an additional \$3,843.00 in attorneys' fees in preparation for the hearing since the filing of Mr. Choy's supplemental affidavit on April 23, 2026.

Accordingly, defendants have shown through affidavits, billing invoices, and sworn testimony that the City has incurred a total of \$193,659.92 in attorneys' fees and costs in defending against plaintiff's claims.

Defendants' counsel's affidavits, sworn testimony of counsel, and billing records show that legal fees were incurred for the following services: (1) responding to Plaintiff's Complaint; (2) responding to plaintiff's 72 discrete sets of written discovery requests, (3) responding to plaintiff's multiple dispositive motions, motions to compel, and other discovery-related motions, (3) preparing various procedural motions necessitated by plaintiff's conduct throughout litigation, (4) preparing multiple dispositive motions for defendants, (5) preparing for, and attending, depositions of all parties and non-party witnesses, (6) appearance at multiple court appearances and arguments, (7) "good faith" conferrals with plaintiff's counsel, (8) communicating with defendants and counsel for other non-parties, (9) preparing the Motion for Attorney Fees, and (10) preparing and appearing for the April 30, 2026 hearing on the instant motion.

"An award of fees under O.C.G.A. § 9-15-14 'must be supported by sufficient proof of the actual costs and the reasonableness of those costs and the trial court must limit the fees award to those fees incurred because of the sanctionable conduct.'" Calvert v. Calvert, 373 Ga. App. 689, 698, 908 S.E.2d 332, 341 (2024). Towards that end, the defendants have acknowledged that at least one of plaintiff's claims may have warranted further investigation. Specifically, it is true that the record shows that Dustin Guwin, a former contractor for the City of Dunwoody, told plaintiff that Sharon Lowery and Ginger LePage had "lied" to him about the existence of certain text

messages from Officer Minh Pham responsive to one of plaintiff's Open Records Requests. Accordingly, defendants have not asked the Court for fees related to the further pleading and investigation attributable to that inquiry. Specifically, defendants have shown through Mr. Jackson's arguments and testimony at the April 30, 2026 hearing, and Mr. Choy's affidavits, that they request the Court to discount defendants' award of attorney's fees by \$9,181.82. According to the defendants, this amount accounts for attorney time and costs associated with investigating the whereabouts of Minh Pham's text messages, producing them to plaintiff, and certain depositions related to those records (such as the depositions of Minh Pham, Billy Grogan, and Dustin Guwin).

In total, defendants have presented testimony and evidence of their reasonable costs and fees incurred due to plaintiff's improper litigation conduct in the amount of **\$182,478.10**.

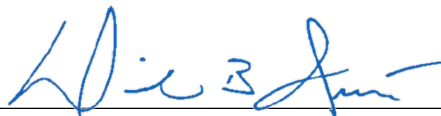
The Court notes that counsel for defendants have submitted their billing statements as attachments to Mr. Choy's affidavits, which he has stated are "true and accurate" based on his personal knowledge. The invoices contain detailed time entries for the specific litigation services provided. Mr. Choy's affidavits provide sufficient detail about his and Mr. Jackson's skills and experience to justify their hourly rates, which increased over the course of this litigation as shown in the affidavits. At the April 30, 2026 hearing, Mr. Choy and Mr. Jackson both swore under oath that their billing entries were true and accurate and necessary for the defense of this lawsuit. Counsel for Mr. Hirsch was present and had a full opportunity to cross-examine Mr. Choy and Mr. Jackson as to the reasonableness and amount of their rates, fees, and costs. Based on counsels' testimony at the hearing, Mr. Choy's affidavits, and argument of counsel for both parties at the April 30, 2026 hearing, the Court finds that defendants' requested amount of attorneys' fees and costs (\$182,478.10) were reasonably incurred due to plaintiff's improper conduct in this litigation.

III. CONCLUSION

The record shows that plaintiff's litigation strategy was designed to harass, intimidate, and impose unnecessary costs on the City and its employees. Georgia law provides remedies for this very scenario. O.C.G.A. § 9-15-14 authorizes fee awards where claims lack substantial justification or are pursued for harassment, and the Open Records Act likewise permits recovery where suits are brought without merit. Here, Plaintiff's conduct meets both standards. An award of attorney's fees will compensate Defendants for the extraordinary costs incurred and deter future litigants from engaging in similar misconduct.

Accordingly, and for good cause shown, the Court **GRANTS** defendants' Motion for Attorney's Fees against plaintiff Joseph Hirsch in the amount of **\$182,478.10**.

This 22 day of May, 2026.



The Honorable David B. Irwin
Senior Judge, DeKalb County Superior Court

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