

IN THE SUPERIOR COURT OF FULTON COUNTY  
STATE OF GEORGIA

|                                    |   |                   |
|------------------------------------|---|-------------------|
| APPEN MEDIA GROUP, INC.            | ) |                   |
| d/b/a <i>Sandy Springs Crier</i> , | ) | CIVIL ACTION FILE |
|                                    | ) | NO. 2023CV380049  |
| Plaintiff,                         | ) |                   |
|                                    | ) |                   |
| v.                                 | ) |                   |
|                                    | ) |                   |
| THE CITY OF SANDY SPRINGS,         | ) |                   |
| GEORGIA d/b/a The Sandy Springs    | ) |                   |
| Police Department,                 | ) |                   |
|                                    | ) |                   |
| Defendant.                         | ) |                   |

**ORDER GRANTING PLAINTIFF'S MOTION TO COMPEL**

On June 19, 2025, Plaintiff Appen Media Group, Inc., filed its motion to compel the Defendant, the City of Sandy Springs, to supplement its previous production of documents to Defendant pursuant to O.C.G.A. § 9-11-30(b)(6) and again in Plaintiff's Notice of Continued Deposition of Defendant pursuant to O.C.G.A. § 9-11-30(b)(6). Defendant filed its response to Plaintiff's motion on July 28, 2025. A hearing was then held on Plaintiff's motion on January 6, 2026, before the Hon. Melynee Leftridge. Brooks K. Hudson, Esq. appeared on behalf of Plaintiff, and Daniel W. Lee, Esq. appeared on behalf of the Defendant.

After a review of the filings and the arguments provided by the parties at the hearing, this Court hereby GRANTS Plaintiff's Motion to Compel, finding as follows:

**I. PROCEDURAL HISTORY**

After filing its Complaint, Plaintiff's counsel sent Defendant a list of proposed topics and documents for production for a Rule 30(b)(6) deposition of Defendant in August of 2023, and again in September of 2023 for a continued 30(b)(6) deposition of Capt. Vik of the Sandy Springs' Police Department.

In Request numbered nine (9), Plaintiff requested the following:

“Please produce copies of all supplemental arrest or supplemental incident reports that were withheld by you in response to Open Records’ Requests from Plaintiff from October 23, 2022 to the present. This includes, but is not limited to, any reports generated by the responding officer that were dated the same date as the arrest or initial response to the incident at issue.”

In its response to the above, Defendant’s counsel replied with a letter on October 2, 2023 addressing the documents requested. In response to Request Numbered Nine (9) above, Defendant’s counsel replied as follows:

“All the requests for supplemental incident reports, that are part of the investigative file, that are associated with open investigations, are withheld for the protection of the investigation and the general public. All reports related to previous open records requests, that are no longer open investigations, are included on the attached thumb drive.”

After the depositions, the parties filed for summary judgment, and this Court granted summary judgment to the City and denied summary judgment to Plaintiff. Plaintiff appealed and the Georgia Court of Appeals overturned the Trial Court’s ruling and remanded the case back to the Trial Court. In its opinion, the Court of Appeals opined as follows:

“whether a narrative report prepared at the same time as an incident report actually constitutes part of that incident report is a fact specific inquiry . . . We cannot say as a matter of law that a narrative report is not part of the initial incident report subject to disclosure . . . based upon the record before us which was simply not fully developed as to that issue . . . genuine issues of material fact remain based on this record...” (Opinion, p. 8-9).

Based on the Court of Appeals’ decision, Plaintiff is entitled to all incident reports (regardless of how they are labeled by the City) related to its previous open records’ requests and discovery requests, including, but not limited to, the “supplemental reports”<sup>1</sup> associated with the incident reports attached to Appen’s Complaint. These

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<sup>1</sup> Appen contends all of the reports at issue are initial incident reports. The City however labels many of these “supplemental reports” or “investigating officer’s narrative” which according to the City, prevents the disclosure of the reports under the open records law.

reports are needed to fully develop the record as to whether these reports should have been initially produced as Appen alleges in its Complaint.

On May 1, 2025, counsel for Plaintiff sent a letter to Defendant's counsel in an attempt to confer in good faith regarding Defendant's incomplete responses to Plaintiff's document requests as outlined in its 30(b)(6) notices to Defendant. Plaintiff's counsel followed up the letter with email correspondence to Defendant's counsel, whereby Defendant's counsel claimed to have no knowledge of what documents were being requested, despite Plaintiff's counsel clearly outlining the documents initially requested for Defendant to produce.

Specifically, Plaintiff requested all materials sought in its Open Records Inquiry and in discovery, spanning from November of 2022 up until the deposition of Captain Vik in September of 2023. Defendant provided all reports for all closed cases, but refused to produce the "supplemental reports" for any cases considered open. A spreadsheet of all outstanding incident reports or "supplemental" reports that were not provided by Defendant in discovery was filed with the Court prior to the hearing on Plaintiff's motion to compel, and are attached to this Order as Exhibit "A."

### **III. ANALYSIS**

#### **1. Applicable Law**

The notice to a party deponent may be accompanied by a request made in compliance with Code Section 9-11-34 for the production of documents and tangible things at the taking of the deposition. The procedure of Code Section 9-11-34 shall apply to the request. O.C. G.A. 9-11-30(b)(5).

"A party properly served [discovery] has an absolute duty to respond." Mayer v. Interstate Fire Ins. Co., 243 Ga. 436, 439 (1979). When a party fails to adequately answer a Request for Production submitted under O.C.G.A. § 9-11-34, the discovering party may

move for an Order compelling a response. O.C.G.A. § 9-11-37(a)(2). Further, responding partially to requests for documents or giving evasive answers "evidences a dispute between the parties which is brought before the trial court by a Rule 37(a) motion to compel discovery and is resolved through an order to compel answers or a protective order." Mayer v. Interstate Fire Ins. Co., 243 Ga. 436, 439 (1979).

"When an evasive or incomplete response to discovery is given, the proper remedy is a motion to compel resulting in a court order under O.C.G.A. § 9-11-37(a)." Orkin Exterminating Co. v. McIntosh, 215 Ga. App. 587, 589, 452 (1994). O.C.G.A. § 9-11-37 (a) (4) provides: "If the motion [to compel] is granted, the court shall, after opportunity for hearing, require the party or deponent whose conduct necessitated the motion . . . to pay to the moving party the reasonable expenses incurred in obtaining the order, including attorney's fees, unless the court finds that the opposition to the motion was substantially justified or that other circumstances make an award of expenses unjust."

Plaintiff's discovery requests seek nonprivileged and relevant information. Plaintiff is entitled to complete responses in order to obtain the full record in this case as opined by the Court of Appeals in its Order. Because Defendant did not produce the requested documents in response to Plaintiff's attempt to confer in good faith regarding Defendant's failure to fully respond to Plaintiff's Discovery Requests, Plaintiff is entitled to an Order compelling complete responses to its Discovery Requests.

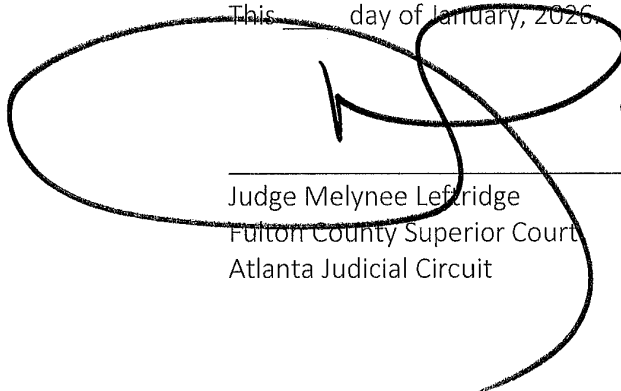
WHEREFORE, IT IS HEREBY ORDERED that Plaintiff's Motion to Compel is GRANTED, and Defendant is to produce the documents that were previously withheld in discovery in the cases listed in Exhibit "A" attached to this Order.

This Court further instructs counsel for Plaintiff to serve Defendant with a copy of this Order within ten (10) days of the entry of the same. Within 60 days of receipt of the

Order, Defendant must email the relevant documents to this Court's Senior Staff Attorney, Sarah Thomas at [sarah.thomas@fultoncountyga.gov](mailto:sarah.thomas@fultoncountyga.gov).

It is further ORDERED that Plaintiff may submit its affidavit for its reasonable fees and expenses incurred in obtaining this Order within ten (10) days of the entry of the same for the Court's consideration. Let it be **SO ORDERED**.

This \_\_\_\_\_ day of January, 2026.



1-22-2026

Judge Melynee Leftridge  
Fulton County Superior Court  
Atlanta Judicial Circuit

Order Prepared by:

/s/ Brooks K. Hudson  
Brooks K. Hudson  
GA Bar No. 141621

Of Counsel:  
Hull Barrett, PC  
Post Office Box 1564  
Augusta, GA 30903  
706-722-4481

**CERTIFICATE OF SERVICE**

This is to certify that I have on this day served a copy of the foregoing **Order Granting Plaintiff's Motion to Compel Discovery** upon counsel for the opposing party:

Daniel W. Lee, Esq.  
Freeman, Mathis & Gary, LLP  
100 Galleria Parkway, Suite 1600  
Atlanta, GA 30339-5948  
[dlee@fmglaw.com](mailto:dlee@fmglaw.com)

by electronic delivery and by depositing the same in the United States mail, properly addressed and with adequate postage affixed.

This \_\_\_\_ day of January, 2026.

Brooks K. Hudson  
BROOKS K. HUDSON