

Marni Jo Snyder, Esq.  
Supreme Court ID 204377  
Law Offices of M.J.Snyder, LLC  
1500 Walnut Street, 7<sup>th</sup> Floor  
Philadelphia, PA 19102  
Telephone: 215-515-3360  
Fax: 215-376-6981  
[marni@snyderlawyer.com](mailto:marni@snyderlawyer.com)  
Counsel for Free Speech For People, Plaintiff

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FREE SPEECH FOR PEOPLE,	:	Court of Common Pleas
Plaintiff	:	FULTON COUNTY, PA
	:	
v.	:	CIVIL ACTION- MANDAMUS
	:	
FULTON COUNTY	:	No.
Defendant	:	
	:	
	:	Assigned to Judge _____

COMPLAINT

And now comes Free Speech For People, Plaintiff, by and through its attorneys, Law Offices of M.J. Snyder, LLC, and files this Complaint, and avers in support thereof as follows:

INTRODUCTION

1. Free Speech For People, Plaintiff, files this Complaint in Mandamus requesting the entry of judgment: (1) ordering Fulton County to comply with the Final Determination of the Office of Open Records issued on September 4, 2024, which ordered Fulton County (“County”) to provide Free Speech For People with copies of all records responsive to Free Speech For People’s open records requests of July 30, 2024 and August 5, 2024 seeking documents and communications related to the 2020 election and the reliability of voting machines in Fulton County, PA <sup>1</sup>, (ii) awarding reasonable attorney fees and costs of litigation pursuant to

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<sup>1</sup> The language of the request is as follows:

Section 1304(a)(1) of the Right-to-Know Law, 65 P.S. §§ 67.101 *et. seq.* (“RTKL”), (iii) imposing civil penalties for the denial of access to public records in bad faith pursuant to Section 1305(a) of the RTKL, and (iv) imposing civil penalties pursuant to Section 1305(b) of the RTKL for each day from the entry of judgment until the public records are provided.

### STATEMENT OF JURISDICTION AND VENUE

2. This Court had jurisdiction pursuant to 42 Pa. C.S.A. § 931.

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All communications (including letters, emails, email attachments, complete email chains, calendar invitations, calendar invitation attachments, text messages, instant messages, and social media communications) involving Fulton County Commissioners including Randy Bunch, Stuart Ulsh, and Paula Shives, Fulton County Elections Director Patti Hess, Fulton County Technology Director Eldon Martin, Senator Doug Mastriano, Senator Judy Ward, Senator Cris Dush, and Representative Jesse Topper, concerning the topics listed below.

1. All communications with anyone communicating from an email address ending in @eac.gov.
2. All communications with Rudy Giuliani, Sidney Powell, Mike Lindell, MyPillow, Patrick Byrne, Fox News, Newsmax, One America News Network (OAN), Defending the Republic, Powell P.C., or any of their officers, employees, agents, trust, attorneys, accountant, representatives, or other person/s purporting to work on their behalf.
3. All communications with anyone from an email address ending in @waketsi.com, @alliedspecialops.us, @cyberninjas.com, @federalappeals.com, @giulianisecurity.com, @giulianipartners.com, @gdcillc.com, @foxnews.com, @newsmax.com, and @oann.com.
4. All documents and communications relating to audits, reports, or investigations of the 2020 election, including by Wake TSI, Pro V&V, SLI Compliance, Allied Security Operations Group, Alex Halderman, or any state or local agencies.
5. All documents and communications concerning policies and procedures for ensuring the accuracy of voting technology and machines for the 2020 election.
6. All documents and communications, including but not limited to voicemail messages, concerning threats or harassment of local election officials.
7. All documents and communications with or relating to Cyber Ninjas, Doug Logan, Wake Technology Services, Inc, Allied Security Operations Group (ASOG), Conan Hayes, Russell Ramsland, Todd Sanders, and Joshua Merritt.
8. All documents and communications from November 3, 2020 to the present with constituents that concern or reference Dominion and/or the 2020 election, and any internal correspondence about or relating to these constituent communications.
9. All documents and communications with anyone who works for Election Systems & Software (ES&S), Hart InterCivic, or Clear Ballot.

3. Venue is appropriate to this Court pursuant to Pa. R.C.P. 10929(c)(2).
4. Plaintiff, Free Speech For People,<sup>2</sup> is a nonpartisan, non-profit section 501(c)(3) organization dedicated to defending our democracy and our Constitution across the country, including through litigation to protect the right to vote and our elections.
5. Defendant Fulton County is a local agency as defined by Section 102 of the RTKL.

#### FACTUAL BACKGROUND

6. On April 25, 2022, Florence Chen, Esq. on behalf of Dominion Voting Systems, Inc., sent a request to Fulton County seeking documents and communications related to several addresses and organizations. The County denied the Request, and the Requester appealed to the Office of Open Records (“OOR”) at Docket No. AP 2022-1542. The OOR issued its determination and granted the appeal on August 2, 2022.
7. The County appealed to this Court at Docket No. 204 of 2022-C. On January 27, 2023, the matter was marked “Settled, Discontinued, and Ended with Prejudice.”
8. By letters dated July 31, 2024, Free Speech For People submitted two open records requests to the County via email to the Chief Clerk, Right-to-Know-Officer. One was nearly identical to Chen and Dominion’s request, seeking the exact same set of records, but the time frame was changed to “September 1, 2020, to the present.” The second request was for the January 27, 2023, Settlement details. The receipt was acknowledged via email on the same day. A true and correct copy of the requests are attached hereto, collectively, as EXHIBIT A.
9. By letter dated August 5, 2024, Free Speech For People submitted a slightly amended request. The July 31 Request asked for the same set of records requested by Chen/Dominion

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<sup>2</sup> Susan Greenhalgh, Senior Advisor on Election Security at Free Speech For People, submitted the RTKR on behalf of Free Speech For People and is authorized to do so. Marni Jo Snyder, Esq. represents Susan Greenhalgh and Free Speech For People for the purposes of this appeal.

in Docket No. AP 2022-1542 from September 1, 2020, to the present. The August 5 Request requested the same set of records from September 1, 2020, to April 25, 2022, identical to the time frame of the Chen/Dominion request. A true and correct copy of the August 5 Request is attached hereto as EXHIBIT B.

10. An email dated August 12, 2024, clarified that Free Speech For People was not withdrawing the first request but acknowledging that records may overlap and that duplications were not required. A true and correct copy of the August 12, 2024, email is attached hereto as EXHIBIT C.

11. Fulton County did not respond with a request for an extension, the production of records on that date, or any other request.

12. As August 12, 2024, was the deadline for production, Free Speech For People appealed the County's Denial of all three requests to the OOR.

13. On August 16, 2024, Fulton County provided to the OOR portal a copy of the January 27, 2023 Settlement Agreement, satisfying one of the outstanding RTK requests. On September 4, 2024, Free Speech For People withdrew the related appeal.

14. On September 4, 2024, the OOR consolidated the remaining two outstanding RTK appeals and issued its Final Determination, requiring the County to produce all records responsive to the Requests within 30 days (i.e. by October 4, 2024). A true and correct copy of the Final Determination is attached hereto as EXHIBIT D.

15. Fulton County did not file an appeal with this Court within 30 days of the issuance of the final determination. Thus, the OOR Final Determination became a final order.

16. After the County sent no response by the October 4, 2024, deadline, Free Speech For People, in an email dated October 15, 2024, asked the County whether it intended to respond to the final order. A true and correct copy of that email is attached hereto as EXHIBIT E.
17. Counsel also called the County Attorney, Jim Stein, Esq. on October 22, 2024, requesting a response from the County. A follow-up email was sent on the same date. A true and correct copy is attached hereto as EXHIBIT F.

COUNT I

MANDAMUS

18. Paragraphs 1-7 are incorporated by reference.
19. The Final Determination, which is now a final order, requires Fulton County to provide Free Speech For People with all records responsive to its Requests.
20. Fulton County has failed and refused to comply with the Final Determination and to disclose all records that are responsive to the Requests, which it was ordered to do by the OOR's Final Determination.
21. Upon information and belief, Fulton County possessed documents responsive to the requests. The documents were likely organized in anticipation of litigation under Chen v. Fulton County, Docket No. 204 of 2022-C. Fulton County never argued that the documents did not exist.
22. Free Speech For People has no adequate remedy at law to enforce the Final Determination.
23. Free Speech For People has been deprived of public records, which it is entitled to receive under the RTKL and the Final Determination.

24. Section 1304(a) of the RTKL, 65 P.S. § 67.1304(a), provides that a court may award reasonable attorneys' fees and costs of litigation if the agency willfully or with wanton disregard deprived the requester of access to public records.
25. Fulton County's failure and refusal to comply with the Final Determination and to disclose responsive records after repeated requests constitute the willful and wanton deprivation of access to public records. Additionally, Fulton County has demonstrated a pattern and practice of ignoring RTKL requests, as demonstrated in *Chen, supra.*, *American Oversight v. Fulton County*, 12 of 2022-C, and *Walczak v. Fulton County*, 5 of 2022-C, which are enforcement actions for denying public records.
26. Section 1304(a) of the RTKL, 65 P.S. § 67.1304(a), provides a court may impose a civil penalty of not more than \$1,500 if an agency denied access to public records in bad faith.
27. Fulton County's failure and refusal to comply with the Final Determination and to disclose the responsive records, including, but not limited to, its failure to respond to the Requester and participate meaningfully in the OOR appeal, constitutes bad faith.
28. Section 1305(b) of the RTKL, 65 P.S. § 67.1304(b), provides that an agency that does not promptly comply with a court order under RTKL is subject to a civil penalty of not more than \$500 per day until the public records are provided.

WHEREFORE, Plaintiff Free Speech For People requests the Court enter Judgment in its favor and enter an order (i) directing Fulton County to conduct a good faith search for and disclose all copies of documents responsive to Free Speech For People's Requests, (ii) awarding costs and attorney fees incurred by Free Speech For People in the prosecution of this suit, (iii) imposing a civil penalty of \$1,500 for each record that Fulton County failed to disclose, and (iv) imposing civil penalties of \$500 for each day from the entry of the order until the public records are disclosed to Free Speech For People.

LAW OFFICES OF M.J. SNYDER, LLC

BY: \_\_\_\_\_  
Marni Jo Snyder, Esq.  
Supreme Court ID 204377  
1500 Walnut Street, 7<sup>th</sup> Floor  
Philadelphia, PA 19102  
Telephone: 215-515-3360  
Fax: 215-376-6981  
[marni@snyderlawyer.com](mailto:marni@snyderlawyer.com)  
Counsel for Free Speech For People, Plaintiff

Date: October 25, 2024

VERIFICATION

I, Marni Jo Snyder, Counsel for Free Speech For People, am authorized to make this verification on behalf of Free Speech For People and do make the following statement pursuant to penalties of 18 P.A.C.S. § 4904, relating to unsworn falsifications to authority and do so state that as counsel for Free Speech For People, the facts outlined in the forgoing “Complaint” are true and correct to the best of my knowledge and belief.

Marni Jo Snyder, Esq.  
Counsel

Date: October 25, 2024



CERTIFICATE OF SERVICE

I hereby certify that, on October 28, 2024, a true and correct copy of the Civil Action- Complaint- Mandamus with exhibits attached thereto enforcing the Final Determination of the Office of Open Records filed on behalf of the Plaintiffs was delivered to Fulton County Sheriff and Franklin County Sheriff/ Accepted by Attorney for service upon the following individuals and entitites:

Fulton County  
Open Records Office  
116 West Market Street  
Suite 203  
McConnellsburg, PA 17233  
Courtesy Copy emailed to [sshives@co.fulton.pa.us](mailto:sshives@co.fulton.pa.us)

Stephanie Lambert, Esq.  
c/o James Stein, Esq., Counsel for Fulton County  
10440 Buchanan Trial East  
Waynesboro, PA 17268  
Courtesy copies emailed to [libertylawyertjc@protonmail.com](mailto:libertylawyertjc@protonmail.com) and [Jim@dsslawyers.com](mailto:Jim@dsslawyers.com)

Respectfully submitted,

Marni Jo Snyder, Esq.  
Supreme Court ID 204377  
Law Offices of M.J.Snyder, LLC  
1500 Walnut Street, 7<sup>th</sup> Floor  
Philadelphia, PA 19102  
Telephone: 215-515-3360  
Fax: 215-376-6981  
[marni@snyderlawyer.com](mailto:marni@snyderlawyer.com)

Counsel for Plaintiffs, Free Speech for People

IN THE COURT OF COMMON PLEAS FOR FULTON COUNTY, PENNSYLVANIA

FREE SPEECH FOR PEOPLE,	:	No. _____
Plaintiff	:	
	:	
v.	:	CIVIL ACTION- MANDAMUS
	:	
FULTON COUNTY	:	JURY TRIAL DEMANDED
Defendant	:	
	:	

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering into a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you, and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES OF ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

FRANKLIN COUNTY BAR ASSOCIATION  
FIND A LAWYER SERVICE  
100 Lincoln Way East, Suite E  
Chambersburg, PA 17201  
717-660-2118