

This cover sheet and the information contained in it do not replace or supplement the filing and service of pleadings or other papers as required by law. This form shall be filed by the plaintiff or petitioner for the use of the Clerk of Court for the purpose of reporting judicial workload data pursuant to FS 25.075 (see instructions for completion).

I. CASE STYLE

IN THE CIRCUIT COURT OF THE SEVENTH
JUDICIAL CIRCUIT IN AND FOR
VOLUSIA COUNTY, FLORIDA

JOEL EDWARD CHANDLER,

Plaintiff,

CASE NO.: 2012 13942 CIDL 01

v.

**IMMEDIATE HEARING
REQUESTED PURSUANT**

VOLUSIA COUNTY,
a political subdivision of the State of Florida,

Defendants.

FILED
DEC 19 2012
CLERK OF THE CIRCUIT
CTY. COURT VOLUSIA CTY. FL
CC 65

II. TYPE OF CASE

If the case fits more than one type of case, select the most definitive category. If the most descriptive label is a subcategory (indented under a broader category), place an x in both the main category and subcategory boxes.

- | | |
|---|--|
| <input type="checkbox"/> Condominium | <input type="checkbox"/> Non-homestead residential foreclosure \$50,001-\$24,999 |
| <input type="checkbox"/> Contracts and indebtedness | <input type="checkbox"/> Non-homestead residential foreclosure \$250,000 or more |
| <input type="checkbox"/> Eminent domain | <input type="checkbox"/> Other real property actions \$0 - \$50,000 |
| <input type="checkbox"/> Auto negligence | <input type="checkbox"/> Other real property actions \$50,001- \$249,999 |
| <input type="checkbox"/> Negligence - other | <input type="checkbox"/> Other real property actions \$250,000 or more |
| <input type="checkbox"/> Business governance | <input type="checkbox"/> Professional malpractice |
| <input type="checkbox"/> Business torts | <input type="checkbox"/> Malpractice - business |
| <input type="checkbox"/> Environmental/Toxic tort | <input type="checkbox"/> Malpractice - medical |
| <input type="checkbox"/> Third party indemnification | <input type="checkbox"/> Malpractice - other professional |
| <input type="checkbox"/> Construction defect | <input checked="" type="checkbox"/> Other |
| <input type="checkbox"/> Mass tort | <input type="checkbox"/> Antitrust/Trade regulation |
| <input type="checkbox"/> Negligent security | <input type="checkbox"/> Business transactions |
| <input type="checkbox"/> Nursing home negligence | <input type="checkbox"/> Constitutional challenge-proposed amendment |
| <input type="checkbox"/> Premises liability—commercial | <input type="checkbox"/> Constitutional challenge-statute or ordinance |
| <input type="checkbox"/> Premises liability—residential | <input type="checkbox"/> Corporate trusts |
| <input type="checkbox"/> Product liability | <input type="checkbox"/> Discrimination-employment or other |
| <input type="checkbox"/> Real property/Mortgage foreclosure | |
| <input type="checkbox"/> Commercial foreclosure \$0-\$50,000 | |
| <input type="checkbox"/> Commercial foreclosure \$50,001-\$249,999 | |
| <input type="checkbox"/> Commercial foreclosure \$250,000 or more | |
| <input type="checkbox"/> Homestead residential foreclosure \$0 - \$50,000 | |

☐ Homestead residential foreclosure
\$50,001 - \$249,999
☐ Homestead residential foreclosure
\$250,000 or more
☐ Non-homestead residential
Foreclosure \$0 - \$50,000

☐ Insurance claims
☐ Intellectual property
☐ Libel/Slander
☐ Shareholder derivative action
☐ Securities litigation
☐ Trade secrets
☐ Trust litigation

III. REMEDIES SOUGHT (check all that apply):

☐ monetary
☒ non-monetary declaratory or injunctive relief
☐ punitive

IV. NUMBER OF CAUSES OF ACTION (specify): [1]

1. Defendant's violation of Article.1, section 24 of the Florida
Constitution and Chapter 119, Florida Statutes (2012):

V. IS THIS CASE A CLASS ACTION LAWSUIT?

☐ yes
☒ no

VI. HAS NOTICE OF ANY KNOWN RELATED CASES BEEN FILED?

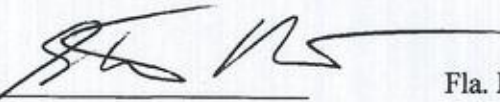
☒ no
☐ yes If "yes", list all related cases by name, case number, and court:

VII. IS A JURY TRIAL DEMANDED IN COMPLAINT?

☐ yes
☒ no

I CERTIFY that the information I have provided in this cover sheet is accurate to
the best of my knowledge and belief.

Signature



Attorney or party

Fla. Bar #909505

STEVE PINCKET
(type or print name)

12-14-12
Date

IN THE CIRCUIT COURT OF THE SEVENTH
JUDICIAL CIRCUIT IN AND FOR
VOLUSIA COUNTY, FLORIDA

JOEL EDWARD CHANDLER

Plaintiff,

v.

VOLUSIA COUNTY,
a political subdivision of the State of Florida

Defendant.

CASE NO.: 2012 13942 CIDL 01

IMMEDIATE HEARING
REQUESTED PURSUANT
TO Fla. Stat. § 119.11 (2010)

**VERIFIED COMPLAINT TO ENFORCE FLORIDA'S
PUBLIC RECORDS ACT AND FOR DECLARATORY,
INJUNCTIVE AND MONETARY RELIEF**

The Plaintiff, JOEL EDWARD CHANDLER, ("Chandler"), with undersigned counsel,
hereby sues VOLUSIA COUNTY, a political subdivision of the State of Florida, ("County"),
and as grounds therefore alleges as follows:

1. This action concerns the Defendant's violation of the Plaintiff's civil rights pursuant to Article I, Section 24 of the Florida Constitution and Chapter 119, Florida Statutes (2012), (the "Public Records Act").
2. This action seeks declaratory, injunctive and monetary relief.
3. Specifically, Chandler seeks an order declaring the Defendant to be in breach of its constitutional¹ and statutory² duty to permit access to public records, and compelling the

¹ Note Article 1 Section 24, Fla. Const.

Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created there under; counties, municipalities, and districts; and each

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& CTY. COURT
CC 65

2

Defendant to provide access to the requested public records, enjoining the Defendant from denying access to public records, and awarding Chandler his attorney's fees and costs.

Additionally, Chandler requests this matter be expedited pursuant to Section 119.11(1), Florida Statutes³.

Jurisdiction and Venue

4. This Court has subject matter jurisdiction pursuant to Article V, Section 5(b) of the Florida Constitution, and Section 119.11, Florida Statutes.

5. This Court has personal jurisdiction over the Defendant, because Defendant is located within the State of Florida; in Volusia County. *See* § 48.193(2), Fla. Stat.⁴

6. The causes of action in the instant case accrued in Volusia County; therefore, this Court is the appropriate venue for the vindication of Chandler's civil rights. *See* § 47.011, Fla. Stat.⁵

constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

² Note § 119.07(1)(a), Fla. Stat.

Every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.

³ Note § 119.11(1), Fla. Stat.

Whenever an action is filed to enforce the provisions of this chapter, the court shall set an immediate hearing, giving the case priority over other pending cases.

⁴ Note § 48.193(2), Fla. Stat.

A defendant who is engaged in substantial and not isolated activity within this state, whether such activity is wholly interstate, intrastate, or otherwise, is subject to the jurisdiction of the courts of this state, whether or not the claim arises from that activity.

⁵ Note § 47.011, Fla. Stat.

Actions shall be brought only in the county where the defendant resides, where the cause of action accrued, or where the property in litigation is located. This section shall not apply to actions against nonresidents.

The Parties

7. Chandler is a Florida citizen who resides in Polk County.
8. Chandler is a "person" as that term is used in the Public Records Act. *See* § 119.07(1)(a), Fla. Stat.⁶
9. Defendant is an "agency" pursuant to Section 119.011(2), Florida Statutes.⁷
10. Defendant has a duty to permit the inspection, photographing, and copying of Defendant's public records by any person desiring to do so, at a reasonable time, under reasonable conditions, and for reasonable costs⁸. (Emphasis added). *See* § 119.07, Fla. Stat.; Art. I, § 24, Fla. Const.

⁶ See Footnote "2".

⁷ Note § 119.011(2), Fla. Stat.

"Agency" means any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

⁸ Note Government-In-The-Sunshine-Manual 2012 Edition, page 144.

The term "reasonable conditions" as used in s. 119.07(1)(a), F.S., "refers not to conditions which must be fulfilled before review is permitted but to reasonable regulations that would permit the custodian of records to protect them from alteration, damage, or destruction and also to ensure that the person reviewing the records is not subjected to physical constraints designed to preclude review." *Wait v. Florida Power & Light Company*, 372 So. 2d 420, 425 (Fla. 1979). *See also State ex rel. Davis v. McMillan*, 38 So. 666 (Fla. 1905); and *Tribune Company v. Cannella*, 458 So. 2d 1075, 1078 (Fla. 1984), *appeal dismissed sub nom., DePerte v. Tribune Company*, 105 S.Ct. 2315 (1985) (the sole purpose of custodial supervision is to protect the records from alteration, damage, or destruction).

Accordingly, the "reasonable conditions" do not include a rule or condition of inspection which operates to restrict or circumvent a person's right of access. AGO 75-50. "The courts of this state have invalidated measures which seek to impose any additional burden on those seeking to exercise their rights to obtain records" under Ch. 119, F.S. Inf. Op. to Cook, May 27, 2011. *And see State v. Webb*, 786 So. 2d 602 (Fla. 1st DCA 2001) (requirement that persons with custody of public records allow records to be examined "at any reasonable time, under reasonable conditions" is not unconstitutional as applied to public records custodian who was dilatory in responding to public records requests).

Florida's Public Records Act

11. Florida's Public Records Act implements a right guaranteed to members of the public under the Florida Constitution and it therefore promotes "a state interest of the highest order."

See NCAA v. Associated Press, 18 So. 3d 1201, 1212 (1st DCA 2009)⁹.

12. The right of access to public records applies to "any public body, officer, or employee of the state, or persons acting on their behalf...." Art. I, § 24, Fla. Const.; *see also* § 119.011(2), Fla. Stat.¹⁰

13. Under the Public Records Act, "[e]very person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records." *See* § 119.07(1)(a), Fla. Stat.¹¹

14. Under the Public Records Act, "[a]ny person shall have the right of access to public records for the purpose of making photographs of the record..." *See* § 119.07(3)(a), Fla. Stat.¹²

15. Violations of Section 119.07, Florida Statutes constitute an irreparable public injury¹³.

⁹ Note *NCAA v. Associated Press*, 18 So. 3d 1201, 1212 (1st DCA 2009)

We are not persuaded that the Public Records law has an indirect effect on interstate commerce, but even if some effect had been established, we could not say that the law violates the dormant Commerce Clause. The Public Records law implements a right guaranteed to members of the public under the Florida Constitution and it therefore promotes a state interest of the highest order. The negligible impact the law might have on interstate commerce clearly does not outweigh the goal of ensuring open government.

¹⁰ *See* Footnote "7".

¹¹ *See* Footnote "2".

¹² Note § 119.07(3)(a), Fla. Stat.

Any person shall have the right of access to public records for the purpose of making photographs of the record while such record is in the possession, custody, and control of the custodian of public records.

¹³ Note *Daniels v. Bryson*, 548 So. 2d 679, 680 (Fla. 3d DCA 1989)

16. The Defendant, as an agency and custodian of records, has an obligation to provide any non-exempt public records for inspection, copying and photography upon request. *See* § 119.07(1)(a)¹⁴, § 119.07(3)(a)¹⁵, Fla. Stat.; Art. I, § 24, Fla. Const.¹⁶

Factual Background

17. On the afternoon of November 15, 2012 Chandler visited the Volusia County Correctional Facility, ("Jail"), located at 1300 Red John Road Daytona Beach, Florida 32120 in order to inspect certain public records.

18. Specifically, Chandler sought to inspect the Jail visitor's log.

19. Upon entering the Jail visitation area, Chandler was greeted by a woman seated at the front desk, whose nametag read "G. Weller", ("Weller").

20. Chandler announced to Weller his desire to inspect the Jail visitor's log.

21. Weller demanded to know Chandler's name. Chandler demurred.

22. Chandler asked Weller if she had custody of the records. Weller answered in the affirmative.

23. After some delay, Weller summoned another officer, whose nametag read "S. Mason", ("Mason").

24. Mason asked Chandler why he was there and Chandler answered that he wished to inspect the Jail visitor's log.

The impermissible withholding of documents otherwise required to be disclosed constitutes, in and of itself, irreparable injury to the person making the public records request. Since the purpose of Chapter 119 is to afford disclosure of information without delay to any member of the public making a request, nondisclosure prevents access to the information and is an injury not ordinarily compensable in damages.

¹⁴ See Footnote "2".

¹⁵ See Footnote "12".

¹⁶ See Footnote "1".

25. Mason told Chandler that he would be required to "make an official public records request" before he would be permitted to inspect any public records.

26. Chandler responded by saying, "I just did."

27. Mason told Chandler that was insufficient.

28. Chandler asked Mason if he would allow Chandler to inspect the records, as they were immediately available. Mason told Chandler that he would not be permitted to inspect the records.

29. The records being sought by Chandler are public records pursuant to Section 119.011(12)¹⁷, Florida Statutes.

30. There is no statutory exemption that applies to the requested public records and the Defendant has cited none.

Causes of Action

31. Count I: Unlawful Withholding. The Defendant's refusal to allow Chandler to inspect the requested public records violates Article I, Section 24(a) of the Florida Constitution, Section 119.07(1)(a), Florida Statutes¹⁸ and is inconsistent with well-established case law¹⁹.

¹⁷ Note § 119.011(12), Fla. Stat.

"Public records" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

¹⁸ See Footnote "2".

¹⁹ See Bell v. Kendrick 6 So. 868 (Fla. 1889) (public records belong "to the public office and not to the officer."); See also State ex. rel. Davidson v. Couch 156 So. 297 (Fla. 1934); See also City of Gainesville v. State ex. rel. International Association of Fire Fighters Local No. 2157 298 So.2d 478 (1st DCA 1974) (records that "are made by a city employee in the normal course of conducting the city's business are materials which are open to the citizens of this state for inspection."); See also State ex. rel. Veale v. City of Boca Raton 353 So. 2d 1194 (Fla. 4th DCA 1977) (the Public Records Act "requires the public official with custody of a public record to disclose it to any member of the public, including the media, who wishes to inspect it. Non-disclosure is permitted only if there is an exemption provided" by statute.); See also News-Press Publishing Co. v. Gadd 388 So. 2d 276, 278 (Fla. 2d DCA 1980) ("Absent a statutory exemption, a court is not free to consider public policy

Mootness

32. Production of the records after a lawsuit is filed does not render moot the controversy.²⁰

Immediate Hearing

33. Chandler has a clear legal right to insist upon the performance of the Defendant's duty to permit inspection, copying and photographing of public records.

34. Chandler has no adequate remedy at law.

35. Section 119.11(1), Florida Statutes requires this matter be set for an immediate hearing.²¹

36. All conditions precedent to this action have occurred or have been excused or waived.

Attorneys' Fees

37. The Public Record Act provides that "[i]f a civil action is filed against an agency to enforce the provisions of this chapter and if the court determines that such agency unlawfully refused to permit a public record to be inspected or copied, the court shall assess and award, against the agency responsible, the reasonable costs of enforcement including reasonable attorneys' fees." See §119.12, Fla. Stat.

38. Chandler has retained counsel in this matter and, therefore asserts his statutory claim to attorney's fees and expenses²².

questions regarding the relative significance of the public's interest in disclosure and the damage to an individual or institution resulting from such disclosure.").

²⁰ See Office of the State Attorney v. Gonzalez, 953 So. 2d 759, 764 (Fla. 2nd DCA 2007); See also Grapski v. City of Alachua, 31 So. 3d 193, 198 (Fla. 1st DCA 2010).

²¹ See Matos v. Office of the State Attorney, 80 So. 3d 1149 (Fla. 4th DCA 2012) (An immediate hearing "does not mean one scheduled within a reasonable time but means what the statute says: immediate."); See also Salvador v. Fennelly, 593, So. 2d 1091, 1093 (Fla. 4th DCA 1992) (An immediate hearing must be given priority over more routine matters.

²² Chandler filed this action after having been granted status as an "indigent" pursuant to Section 57.081, Florida Statutes. Although Chandler has not incurred filing fees or costs for process of service, Section 57.081(3), Florida Statutes states: "If an applicant prevails in an action, costs shall

Relief Requested

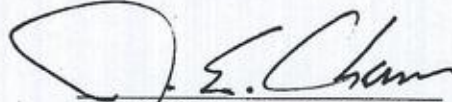
WHEREFORE, Chandler requests this Court:

- (a) Set an immediate hearing pursuant to Section 119.11, Florida Statutes;
- (b) Declare that the Defendant's failure to provide Chandler with access to the requested public records was unconstitutional and unlawful under Article I, Section 24 of the Florida Constitution and the Public Records Act;
- (c) Order the Defendant to allow the inspection, copying and photographing of the requested records (upon payment of the statutorily authorized fees);
- (d) Enjoin the Defendant from denying access to records, which are subject to the Public Records Act;
- (e) Award Chandler his reasonable attorney's fees, costs, and expenses incurred in this action, as provided in Section 119.12, Florida Statutes; and
- (f) Grant such further relief as the Court deems proper.

be taxed in his or her favor as provided by law and, when collected, shall be applied to pay filing fees or costs that have not been paid."

VERIFICATION

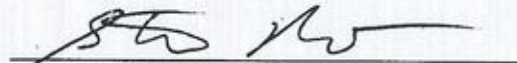
BEFORE ME, the undersigned authority, personally appeared JOEL EDWARD CHANDLER, who, being first duly identified and sworn, deposes and says that this **VERIFIED COMPLAINT** is based on records and information known to him, and are true and correct to the best of his knowledge, information, and belief. He who is personally known to me/has produced _____ as identification.

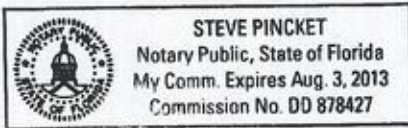

JOEL EDWARD CHANDLER
Dated: 12/12/2012

COUNTY OF POLK
STATE OF FLORIDA

WITNESS my hand and official seal, this 12 day of Dec., 2012.

Notary Public
State of Florida
My Commission Expires:


Notary Public



Respectfully submitted,
PINCKET & PINCKET, P.A.,


Steve Pincket, Esquire
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Lakeland, FL 33801
steve@pincketlaw.com
legalassistant@pincketlaw.com
(863) 616-1515
FBN: 909505

IN THE CIRCUIT/COUNTY COURT IN AND FOR VOLUSIA COUNTY, FLORIDA

Judge : Raul A. Zambrano - Div. 01
Case No : 2012 13942 CIDL

JOEL EDWARD CHANDLER
Plaintiff(s),

-vs-

VOLUSIA COUNTY
Defendant(s).

SUMMONS

THE STATE OF FLORIDA:
TO EACH SHERIFF OF THE STATE:

YOU ARE HEREBY COMMANDED to serve this summons and a copy of the complaint or petition in the above styled cause upon the defendant(s):

VOLUSIA COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA
123 W INDIANA AVE
DELAND, FL 32720

Each defendant is hereby required to serve written defenses to said complaint or petition on plaintiff or plaintiff's attorney, whose name and address is

STEVE PINCKET
1240 E LIME ST
LAKELAND, FL 33801

within 40 days after service of this summons upon that defendant exclusive of the day of service, and to file the original of the defenses with the Clerk of this Court before service on plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will be entered against that defendant for the relief demanded in the complaint or petition.

DATED : December 21, 2012

DIANE M. MATOUSEK
CLERK OF CIRCUIT/COUNTY COURT

Fwd to VCSO w/indigent app for sop, cc
plt's atty by mail

CL-0224-1103

By : Annette Harris , Deputy Clerk

(See reverse side for additional information.)



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IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
IN AND FOR VOLUSIA COUNTY, FLORIDA

JOEL EDWARD CHANDLER,

Plaintiff,

v.

CASE NO.: 2012-13942 CIDL

VOLUSIA COUNTY,

a political subdivision of the State of Florida,

Defendant.

DEFENDANT, VOLUSIA COUNTY'S, ANSWER AND AFFIRMATIVE DEFENSES

Defendant, Volusia County (hereinafter "Defendant"), by and through undersigned counsel hereby files its answer and affirmative defenses and states:

1. Denied.
2. Admitted as the remedies sought as stated in the Complaint; denied as to entitlement of any alleged remedies.
3. Denied.
4. Admitted for jurisdictional purposes only.
5. Without knowledge and therefore denied.
6. Admitted for jurisdictional purposes only, remainder of allegation is denied.
7. Without knowledge and therefore denied.
8. Without knowledge and therefore denied.
9. Admitted.
10. Admitted to the extent of the cited legal authority only.
11. Admitted to the extent of the quoted legal authority only.

12. Admitted.
13. Admitted.
14. Admitted to the extent of quoted statutory provision.
15. Admitted to the extent of the cited legal authority, denied as to the remainder.
16. Admitted to the extent of the applicable statutory references cited therein, denied as to the remainder.
17. Without knowledge and therefore denied.
18. Without knowledge and therefore denied.
19. Admitted to the extent that there was interaction with a Corrections Officer; denied as to the remainder of the allegation.
20. Denied.
21. Admitted to the extent that the Corrections Officer asked for person's name, denied as to the remainder of the allegation.
22. Denied.
23. Admitted as to the fact that "S. Mason" responded, denied as to the remainder of the allegation.
24. Denied.
25. Denied.
26. Denied.
27. Denied.
28. Denied.
29. Admitted as to the content of the statutory reference cited therein, denied as to the

remainder.

- 30. Denied.
- 31. Denied.
- 32. Admitted as to the legal authority cited therein; denied as to the remainder.
- 33. Denied.
- 34. Denied.
- 35. Admitted based upon the statutory citation only.
- 36. Without knowledge and therefore denied.
- 37. Admitted.
- 38. Without knowledge and therefore denied.

AFFIRMATIVE DEFENSES

39. The public records requested were made available within a reasonable time and under reasonable conditions as required under section 119.07(1)(a) of the Florida Statutes (2012).

40. The public records requested contain information subject to exemptions pursuant to Florida law, including section 945.10 of the Florida Statutes (2012).

41. Defendant County of Volusia, upon the filing of the instant lawsuit, has now been made aware of the identity of the requesting party, and made the requested public records available for inspection.

42. The custodian of the public records, any and all of his or her designees, and the employees of the Volusia County Department of Public Protection, Corrections Division, responded to the public records request at issue in good faith and completed this request in compliance with the provisions of chapter 119.

43. The custodian of the public records, any and all of his or her designees, and the employees of the Volusia County Department of Public Protection, Corrections Division, engaged in reasonable conduct to protect the requested public records from alteration, damage or destruction.

44. The public records requested with the necessary redactions pursuant to statutory exemption have been furnished electronically and by United States Mail to counsel for Plaintiff with a waiver of the statutorily permissible copying fee.

45. Defendant County of Volusia did not unlawfully refuse to permit a public record to be inspected or copied which would entitle an award of reasonable costs, including reasonable attorneys' fees as set forth in section 119.12 of the Florida Statutes (2012), as any delay in production in order for review for statutory exemptions was lawful, reasonable, and done in good faith.

46. Plaintiff has an adequate remedy at law and therefore is not entitled to injunctive relief.

47. Plaintiff is not in doubt as to his legal rights under the Florida Public Records laws that would entitle him to declaratory relief under section 86.021 of the Florida Statutes (2012).

48. Defendant County of Volusia reserves the right to supplement this answer to assert additional affirmative defenses, counterclaims, cross-claims, or third party claims should said become known.

Respectfully submitted,

s/Mary G. Jolley

MARY G. JOLLEY

Assistant County Attorney

Fla. Bar No.: 080454

COUNTY OF VOLUSIA

123 W. Indiana Ave., Ste.301

Deland, FL 32720

(386) 736-5950

(386) 736-5990 (Fax)

Primary: Mjolley@volusia.org

Secondary: Aryan@volusia.org

COUNSEL FOR DEFENDANT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Answer and Affirmative Defenses have been furnished by Electronic Mail to Steve Pincket, Esquire, steve@pincketlaw.com and legalassistant@pincketlaw.com, this 19th day of February, 2013.

s/ Mary G. Jolley

MARY G. JOLLEY

Assistant County Attorney