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**Apr 08 2024**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

George M. McFaddin, Jr., Circuit Judge

Appellate Case No. 2023-001116

Mare Baracco,.....Appellant,

v.

Charleston Area Convention and Visitors Bureau,.....Respondent.

RECORD ON APPEAL

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## INDEX

Order Denying Motion to Reconsider.....	1
Order Granting Motion for Summary Judgment.....	4
Order Denying Motion to Compel Discovery.....	9
Order Granting Leave to Amend Complaint.....	14
Summons and Complaint with Exhibits.....	16
Amended Complaint.....	25
Defendant's Answer to Amended Complaint.....	30
Second Amended Complaint .....	47
Answer to Second Amended Complaint.....	52
First Motion for Summary Judgment.....	56
Consent Motion for Leave to Amend Complaint.....	59
Motion for Summary Judgment.....	61
Motion to Compel Discovery.....	63
Motion to Reconsider .....	66
Memorandum in Support of Summary Judgment .....	72
Memorandum in Support of Denying Motion to Compel.....	82
Notice of Appeal.....	84
Transcript Motions Hearing.....	86
Baracco Affidavit with Exhibits.....	106
Appellant Discovery Requests.....	145
Appellee Discovery Responses (Interrogatories).....	151
Appellee Discovery Responses (Request for Production) .....	163

Mare Baracco  
PLAINTIFF(S)

Charleston Area Convention And Visitors Bureau  
DEFENDANT(S)

**DISPOSITION TYPE (CHECK ONE)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED** (*CHECK REASON*):  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  
 Other
- ACTION STRICKEN** (*CHECK REASON*):  Rule 40(j), SCRPC;  Bankruptcy;  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*):  
 Affirmed;  Reversed;  Remanded;  
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

**IT IS ORDERED AND ADJUDGED:**  See attached order (formal order to follow)  Statement of Judgment by the Court:

Plaintiff's Motion to Reconsider filed May 18, 2023, is respectfully denied.

**ORDER INFORMATION**

This order  ends  does not end the case.  See Page 2 for additional information.

**For Clerk of Court Office Use Only**

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 06/09/2023 .

**NAMES OF TRADITIONAL FILERS SERVED BY MAIL**

**Court Reporter:**

**E-Filing Note:** The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

---



Charleston Common Pleas

**Case Caption:** Mare Baracco VS Charleston Area Convention And Visitors Bureau

**Case Number:** 2021CP1002999

**Type:** Order/Electronic Form 4

So Ordered

S/George M. McFaddin, Jr., #2759

Electronically signed on 2023-06-09 11:49:58 page 3 of 3

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

Mare Baracco,

Plaintiff,

vs.

Charleston Area Convention and Visitors  
Bureau,

Defendant.

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH CIRCUIT

CASE NO. 2021-CP-10-02999

**ORDER GRANTING DEFENDANT'S  
MOTION FOR SUMMARY JUDGMENT**

This matter came before the Court pursuant to Defendant Charleston Area Convention and Visitors Bureau's Motion for Summary Judgment pursuant to Rule 56 of the South Carolina Rules of Civil Procedure. The motion was supported by a Memorandum in Support. A WebEx hearing was held on April 4, 2023. Based on the record and the respective arguments by the parties, the Court makes the following findings of fact and conclusions of law, and grants Defendant's Motion for Summary Judgment.

**FINDINGS OF FACT**

Charleston Area CVB is a 501-C-6 not-for-profit designation marketing organization. Charleston Area CVB's primary purpose is to market the greater Charleston areas as an overnight destination. The General Assembly enacted the A-Tax statute, which involves the administration of a state sales tax imposed on sleeping accommodations provided to overnight guests. The A-Tax statutes requires local governments to select at least one organization, known as a designated marketing organization, to manage the expenditure of funds. The local governments must ensure that the funds are only used for advertising and promotion of tourism. Charleston Area CVB

represents ten different funding governments located in Charleston, Dorchester, and Berkeley Counties.

On August 10, 2020, Plaintiff submitted a request to Charleston Area CVB for “copies of all receipts and invoices for all transactions of Charleston County accommodations Tax (ATAX) expenditures by the Agency as they relate to the promotion of tourism related activities for the County of Charleston.” Plaintiff made her request pursuant to the South Carolina Freedom of Information Act (“FOIA”), South Carolina Code Section 30-4-30(c). Upon receipt of Plaintiff’s request, Charleston Area CVB responded to Plaintiff’s FOIA request. The response stated in part, “the Charleston Area Convention and Visitors Bureau does not have any records which fall within the parameters of your request. Although we are not required to, we can provide you with the documentation of the receipt of funds from Charleston County, but the CACVB’s accounting records do not itemize or allocate expenditures according to individual revenue categories.” Plaintiff did not respond to Charleston Area CVB’s response and did not state whether she would like to receive a copy of the documentation of receipt of funds that was referenced in Charleston Area CVB’s correspondence to Plaintiff.

Thereafter, Plaintiff filed a complaint and subsequently filed an amended complaint on July 7, 2021, alleging Charleston Area CVB failed to provide a timely written response to her FOIA request. After Charleston Area CVB produced copies of its August 24, 2020 response to Plaintiff’s inquiry, Plaintiff filed a second amended complaint on March 14, 2022. Plaintiff’s Second Amended Complaint now alleges that Charleston Area CVB “did not provide Plaintiff with all information responsive to her FOIA request” and also alleged that Charleston Area CVB’s “failure to provide all available responsive information to Plaintiff’s request, pursuant to S.C. Code Ann. § 30-4-30(C), is a violation of FOIA.” Plaintiff seeks a declaration by this Court that

Charleston Area CVB violated FOIA and injunction to provide the records and information responsive to Plaintiff's request. Charleston Area CVB promptly moved for summary judgment before this Court.

### **STANDARD**

“Summary judgment is proper when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law.” *Sloan v. Friends of Hunley, Inc.*, 369 S.C. 20, 630 S.E.2d 474 (2006). The purpose of summary judgment is “to expedite disposition of cases which do not require the services of a factfinder.” *S. G & Plastics Co. v. Duke*, 367 S.C. 421, 626 S.E.2d 19 (Ct. App. 2005). “[W]hen plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted.” *Ellis v. Davidson*, 358 S.C. 509, 595 S.E.2d 817 (Ct. App. 2004) (citing *Hedgepath v. American Tel. & Tel. Co.*, 348 S.C. 340, 559 S.E.2d 327 (Ct. App. 2001)).

### **DISCUSSION**

In *DomainsNewMedia.com, LLC v. Hilton Head Island-Bluffton Chamber Com.*, the South Carolina Supreme Court unequivocally held that “the General Assembly did not intend [for designated marketing organizations] to be considered a public body for purposes of FOIA as a result of its receipt and expenditure of these specific funds.” 423 S.C. 295, 814 S.E.2d 513 (2018). As the supreme court explained, the FOIA statute is a general provision while the A-Tax statute is a specific provision. As such, “the more specific statute will be considered an exception to, or a qualifier of, the general statute and given such effect.” *Capco of Summerville, Inc. v. J.H. Gayle Const. Co.*, 368 S.C. 137, 142, 628 S.E.2d 38, 41 (2006).

The supreme court further explained that the narrower and more targeted A-Tax statute and Proviso 39.2 provides the necessary accountability safeguards for the expenditure of specific

tourism funds while simultaneously protecting the private nature of the designated marketing organizations selected to perform the marketing function. *DomainsNewMedia.com, LLC v. Hilton Head Island-Bluffton Chamber Com.*, 423 S.C. 295, 814 S.E.2d 513 (2018). “[T]he A-Tax statute provides three layers of review for the tourism expenditures—a local advisory committee, a statewide oversight committee, and an expenditure review committee.” *Id.* “[T]he A-Tax statute and Proviso 39.2 set forth the General Assembly's determination of the required level of oversight, transparency, and accountability.” *Id.* These three layers of review provide ample review of the tourism expenditures. And seemingly provides the only review of the tourism expenditures. As a designated marketing organization, Defendant is not a public body for purposes of FOIA and is not subject to FOIA. As such, Plaintiff does not have the right under FOIA to request any documents from Charleston Area CVB.

### CONCLUSION

Pursuant to Rule 56, SCRCP, the Court find that there is no genuine issues of material fact, and Defendant is entitled to judgment as a matter of law on the allegations of Plaintiff's Complaint. Defendant's motion for summary judgment is GRANTED, and Charleston Area CVB is not subject to FOIA.

AND IT IS SO ORDERED!

---

Presiding Judge  
Ninth Judicial Circuit

Charleston, South Carolina

Dated: \_\_\_\_\_



Charleston Common Pleas

**Case Caption:** Mare Baracco VS Charleston Area Convention And Visitors Bureau

**Case Number:** 2021CP1002999

**Type:** Order/Summary Judgment

So Ordered

S/George M. McFaddin, Jr., #2759

Electronically signed on 2023-05-08 09:57:43 page 5 of 5

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Mare Baracco,

Plaintiff,

vs.

Charleston Area Convention and Visitors  
Bureau,

Defendant.

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH CIRCUIT

CASE NO. 2021-CP-10-02999

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

This matter came before the court pursuant to Plaintiff's Motion to Compel additional discovery response from Defendant pursuant to Rule 26 of the South Carolina Rules of Civil Procedure. A WebEx hearing was held on April 4, 2023. For the reasons set forth below, this Court denies Plaintiff's Motion to Compel additional discovery responses from Charleston Area CVB.

**BACKGROUND**

Charleston Area CVB is a 501-C-6 not-for-profit designation marketing organization. Charleston Area CVB's primary purpose is to market the greater Charleston areas as an overnight destination. The General Assembly enacted the A-Tax statute, which involves the administration of a state sales tax imposed on sleeping accommodations provided to overnight guests. The A-Tax statutes requires local governments to select at least one organization, known as a designated marketing organization, to manage the expenditure of funds. The local governments must ensure that the funds are only used for advertising and promotion of tourism. Charleston Area CVB represents ten different funding governments located in Charleston, Dorchester, and Berkeley Counties.

On August 10, 2020, Plaintiff submitted a request to Charleston Area CVB for “copies of all receipts and invoices for all transactions of Charleston County accommodations Tax (ATAX) expenditures by the Agency as they relate to the promotion of tourism related activities for the County of Charleston.” Plaintiff made her request pursuant to the South Carolina Freedom of Information Act (“FOIA”), South Carolina Code Section 30-4-30(c). Upon receipt of Plaintiff’s request, Charleston Area CVB responded to Plaintiff’s FOIA request. The response stated in part, “the Charleston Area Convention and Visitors Bureau does not have any records which fall within the parameters of your request. Although we are not required to, we can provide you with the documentation of the receipt of funds from Charleston County, but the CACVB’s accounting records do not itemize or allocate expenditures according to individual revenue categories.” Plaintiff did not respond to Charleston Area CVB’s response and did not state whether she would like to receive a copy of the documentation of receipt of funds that was referenced in Charleston Area CVB’s correspondence to Plaintiff.

Soon after, Plaintiff filed a complaint and subsequently filed an amended complaint on July 7, 2021, alleging Charleston Area CVB failed to provide a timely written response to her FOIA request. After Charleston Area CVB produced copies of its August 24, 2020 response to Plaintiff’s inquiry, Plaintiff filed a second amended complaint on March 14, 2022. Plaintiff’s Second Amended Complaint now alleges that Charleston Area CVB “did not provide Plaintiff with all information responsive to her FOIA request” and also alleged that Charleston Area CVB’s “failure to provide all available responsive information to Plaintiff’s request, pursuant to S.C. Code Ann. § 30-4-30(C), is a violation of FOIA.” Plaintiff seeks a declaration by this Court that Charleston Area CVB violated FOIA and injunction to provide the records and information responsive to Plaintiff’s request.

Thereafter, Plaintiff served her initial discovery requests, to which Charleston Area CVB responded to the best of its ability based on its status as a designated marketing organization. Charleston Area CVB promptly moved for summary judgment before this Court. Later, Plaintiff moved to compel discovery responses from Charleston Area Convention CVB.

### **STANDARD**

Rule 26 of the South Carolina Rules of Civil Procedure governs the conduct of discovery and permits discovery of material “relevant to the subject matter involved in the pending action” or “reasonably calculated to lead to the discovery of admissible evidence.” A trial judge is granted broad latitude to limit the scope of discovery, and the conduct of discovery is within the sound discretion of the trial judge. *Hamm v. S.C. Pub. Serv. Comm’n*, 312 S.C. 238, 241, 439 S.E.2d 852, 854 (1994).

It is well settled that a party seeking to compel discovery responses “must show the relevance and necessity for the information” sought. Flanagan, *South Carolina Civil Procedure*, 311 (2d ed. 1996). Therefore, while the scope of discovery is generally broad, “there are limits.” *Oncology & Hematology Assocs. of S.C., LLC v. S.C. Dept. of Health and Environ. Control*, 387 S.C. 380, 387, 692 S.E.2d 920, 924 (2010). “Thus, discovery requests must be reasonably tailored to include only relevant matters.” *Id.*

### **DISCUSSION**

In Plaintiff’s initial interrogatory requests, Plaintiff requested extensive information regarding Defendant’s accounting and accounting software. Although the scope of discovery is broad, discovery must be relevant to the subject matter involved in the pending action. *See Oncology & Hematology Assocs. of S.C. LLC v. South Carolina Dep’t of Health & Envtl. Control*, 387 S.C. 380, 692 S.E.2d 920 (2010); Rule 26(b)(1), SCRPC. The South Carolina Supreme Court

has made it clear that the merits of a claim “should not be relegated to a secondary status” during discovery practice. *Id.* Discovery requests must show a reasonable expectation of obtaining information that will aid the dispute’s resolution. *Oncology & Hematology Assocs*, 692 S.E.2d at 924-25. “Discovery requests must be reasonably tailored to include only relevant matters.” *Id.*

The central issue in this matter is whether Charleston Area CVB is required to comply with FOIA. Defendant moved for summary judgment before this Court on this central issue. This Court granted Defendant’s motion for summary judgment and found that Defendant, a designated marketing organization, was not subject to FOIA. <sup>1</sup> *See DomainsNewMedia.com, LLC v. Hilton Head Island-Bluffton Chamber Com.*, 423 S.C. 295, 814 S.E.2d 513 (2018) (holding that “the General Assembly did not intend [for designated marketing organizations] to be considered a public body for purposes of FOIA as a result of its receipt and expenditure of these specific funds.”). Consequently, Plaintiff’s Motion to Compel additional discovery responses from Defendant is now moot. *See Sloan v. Friends of the Hunley, Inc.*, 369 S.C. 20, 26, 630 S.E.2d 474, 477 (2006) (stating a moot issue exists when “a judgment rendered by the court will have no practical legal effect upon an existing controversy because an intervening event renders any grant of effectual relief impossible for the reviewing court”).

Accordingly, for the reasons set for above, this Court denies Plaintiff’s Motion to Compel additional discovery responses from Defendant Charleston Area Convention and Visitors Bureau.

AND IT IS SO ORDERED!

---

Presiding Judge  
Ninth Judicial Circuit

Charleston, South Carolina

Dated: \_\_\_\_\_

---

<sup>1</sup> Plaintiff’s Motion to Compel and Defendant’s Motion for Summary Judgment were both heard on April 4, 2023.



Charleston Common Pleas

**Case Caption:** Mare Baracco VS Charleston Area Convention And Visitors Bureau

**Case Number:** 2021CP1002999

**Type:** Order/Compel

So Ordered

S/George M. McFaddin, Jr., #2759

Electronically signed on 2023-05-08 09:58:15 page 5 of 5

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

Mare Baracco,

Plaintiff,

vs.

Charleston Area Convention and Visitors  
Bureau,

Defendant.

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH CIRCUIT

CASE NO. 2021-CP-10-02999

**ORDER**

THIS MATTER comes before the Court pursuant to the Plaintiff's Motion to Amend the Complaint pursuant to SC Rules of Civil Procedure 15(a), with the consent of the defendant, Charleston Area Convention and Visitors Bureau, by and through their respective counsel.

IT IS HEREBY ORDERED THAT the Plaintiff has leave to Amend the Complaint in this action to substitute her single cause of action.

AND IT IS SO ORDERED!

Charleston, South Carolina

Dated: \_\_\_\_\_

\_\_\_\_\_  
Presiding Judge  
Ninth Judicial Circuit



Charleston Common Pleas

**Case Caption:** Mare Baracco VS Charleston Area Convention And Visitors Bureau ,  
defendant, et al  
**Case Number:** 2021CP1002999  
**Type:** Order/Leave to Amend

Circuit Judge (Code #2050)

s/ William P. Keesley

Electronically signed on 2022-03-11 16:57:16 page 2 of 2

**STATE OF SOUTH CAROLINA**  
**COUNTY OF CHARLESTON**

**IN THE COURT OF COMMON PLEAS**  
**FOR THE NINTH JUDICIAL CIRCUIT**

**CASE NO. 2021-CP-10-\_\_\_\_\_**

**Mare Baracco,**

**Plaintiff,**

**vs.**

**Charleston Area Convention and Visitors**  
**Bureau,**

**Defendant.**

**SUMMONS**

TO THE DEFENDANT ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your answer to the said Complaint upon the subscriber, at his office, P. O. Box 50143, Columbia, South Carolina 29250, within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Complaint in the time aforesaid, a judgment by default will be rendered against you for the relief demanded in the Complaint.

Respectfully submitted,

s/Taylor Smith

Taylor M. Smith IV  
HARRISON, RADEKER & SMITH, P.A.  
Post Office Box 50143  
Columbia, South Carolina 29250  
(803) 779-2211  
(803) 779-6700 (facsimile)  
taylor@harrisonfirm.com (email)  
ATTORNEYS FOR PLAINTIFF

Columbia, South Carolina  
June 30, 2021

**STATE OF SOUTH CAROLINA**  
**COUNTY OF CHARLESTON**

**IN THE COURT OF COMMON PLEAS**  
**FOR THE NINTH CIRCUIT**

**CASE NO. 2021-CP-10-\_\_\_\_\_**

**Mare Baracco,**

**Plaintiff,**

**vs.**

**Charleston Area Convention and Visitors Bureau,**

**Defendant.**

**COMPLAINT**

The Plaintiff, complaining of the Defendant herein, alleges:

1. Plaintiff Mare Baracco is a citizen and resident of South Carolina for purposes of the South Carolina Freedom of Information Act, S.C Code Ann § 30-4-10 et. seq. (hereinafter “FOIA”).

2. Defendant Charleston Area Convention and Visitors Bureau (hereinafter “Defendant”) is a nonprofit corporate entity, located in Charleston County, in good standing with the South Carolina Secretary of State. whose purpose is to provide a free school education for area pupils.

3. Defendant has been appointed and currently serves as the Designated Marketing Organization (“DMO”) for the City of Charleston and Charleston County, pursuant to S.C. Code Ann. § 6-4-10(3).

4. Defendant is also a “public body” for purposes of FOIA.

5. This Court possesses jurisdiction under S.C. Code Ann. § 30-4-100, the South Carolina Freedom of Information Act, to adjudicate this matter and provide relief to the Plaintiff.

6. The purpose of FOIA is described in S.C. Code Ann. § 30-4-15:

The General Assembly finds that it is vital in a democratic society that public business be performed in an open and public manner so that citizens shall be advised of the performance of public officials and of the decisions that are reached

in public activity and in the formulation of public policy. Toward this end, provisions of this chapter must be construed so as to make it possible for citizens, or their representatives, to learn and report fully the activities of their public officials at a minimum cost or delay to the persons seeking access to public documents or meetings.

7. “FOIA is remedial in nature and should be liberally construed to carry out the purpose mandated by the legislature.” Quality Towing v. City of Myrtle Beach, 345 S.C. 156, 547 S.E.2d 862 (S.C. 2001) (citing South. Carolina Dep't of Mental Health v. Hanna, 270 S.C. 210, 241 S.E.2d 563 (1978)).

8. FOIA provides that “[a]ny person has a right to inspect or copy any public record of a public body.” S.C. Code Ann. § 30-4-30(A).

9. Upon receiving a written FOIA request, the public body must provide its written response regarding its final determination of the availability of records responsive to the request within 10 business days. S.C. Code Ann. § 30-4-30(C). “This determination must constitute the final opinion of the public body as to the public availability of the request public record; however, the determination is not required to include a final decision or express and opinion as to whether specific portions of the documents or information may be subject to redaction according to exemptions provided for in Section 30-4-40 or other state or federal laws.” Id.

10. “If written notification of the determination of the public body as to the availability of the requested public record is neither mailed, electronically transmitted, nor personally delivered to the person requesting the document within the time set forth by this section, the request must be considered approved as to nonexempt records or information.” S.C. Code Ann. § 30-4-30(C).

11. If the request is granted, the record must be furnished or made available for inspection or copying no later than thirty calendar days from the date on which the final determination was provided, unless the records are more than twenty-four months old, in which case the public body

has no later than thirty-five calendar days from the date on which the final determination was provided. S.C. Code Ann. § 30-4-30(C).

12. This matter concerns a violation of FOIA regarding Defendant's handling of a record requests and its perceived culture of general antipathy towards South Carolina residents' right to learn the activities of these public officials at minimum cost or delay.

#### FOR A SINGLE CAUSE OF ACTION

13. That each and every paragraph herein is repeated as if fully set forth.

14. On August 6, 2020, Plaintiff submitted a written request via email for information from Defendant, pursuant to FOIA, for "copies of all receipts and invoices for all transactions of Charleston County Accommodations Tax (ATAX) expenditures by the Agency as they relate to the promotion of tourism related activities for the County of Charleston" under the Agreement between Defendant and Charleston County dated October 6, 2017. A copy of the emailed request is attached hereto as "Exhibit A".

15. On August 10, 2020, Plaintiff mailed via U.S. Certified Mail (return receipt requested) the same FOIA request for information to Defendant. A copy of the identical mailed request is attached hereto "Exhibit B".

16. On August 12, 2020, Defendant received the FOIA request provided by U.S. Certified Mail.

17. Defendant did not request an extension of the deadlines provided by FOIA.

18. Defendant did not require payment of a deposit by Plaintiff to produce responsive documents to her request.

19. Defendant did not supply Plaintiff with a written determination regarding available responsive information to her FOIA request.

20. Defendant did not provide Plaintiff with information responsive to her FOIA request.

21. The Defendant's failure to provide a written determination within twenty business days of receipt regarding available information and its failure to provide records within thirty-five calendar days (from the written determination deadline), pursuant to S.C. Code Ann. § 30-4-30(C), are violations of FOIA.

22. Plaintiffs seek a declaration that Defendant violated FOIA in each of these instances and an injunction to provide the records and information responsive to the request.

WHEREFORE, the Plaintiff pray:

- (a) For an order of this Court declaring Defendant violated FOIA when it committed the above designated violations;
- (b) To issue an injunction requiring Defendant to provide the information and records responsive to the request designated above to Plaintiff;
- (c) To grant Plaintiff her costs and attorneys' fees under S.C. Code Ann. § 30-4-100; and
- (d) For such other and further relief as the Court may deem just and proper.

Respectfully submitted,

s/Taylor Smith  
Taylor M. Smith IV  
HARRISON, RADEKER & SMITH, P.A.  
Post Office Box 50143  
Columbia, South Carolina 29250  
(803) 779-2211  
(803) 779-6700 (facsimile)  
taylor@harrisonfirm.com (email)  
ATTORNEYS FOR PLAINTIFF

Columbia, South Carolina  
June 30, 2021

# EXHIBIT A



Mare Baracco  
1006 Madrid Avenue  
Port Royal SC 29935  
(843) 592-1062  
maremail59@yahoo.com

Sent via email August 6, 2020

Ms. Helen Hill  
Charleston Area Convention and Visitors Bureau  
423 King St, Charleston, SC 29403  
RE: FOIA Request

Dear Ms. Hill:

The County of Charleston entered into an agreement with the Charleston Area Convention & Visitor’s Bureau (“Agency”) dated October 6, 2017. In that agreement were two provisions regarding the reporting of ATAX expenditures by the “Agency”.

Paragraph 4 states:

*Agency shall allow the Charleston County Internal Auditor, if deemed necessary by the County, to review the financial records and transactions of the Agency.*

Paragraph 9 states:

*Agency agrees that by acceptance of public funds provided herein, the Agency acts as a “public body” as defined in the S. C. Freedom of Information Act (§30-4-10, et. seq.) S. C. Code of Laws for 1976 as amended, with respect to the expenditure of those funds, and all activities regarding the expenditure of these funds must be in compliance with this Act.*

Therefore, pursuant to South Carolina FOIA law this letter is a formal request for copies of all receipts and invoices for all transactions of Charleston County Accommodations Tax (ATAX) expenditures by the Agency as they relate to the promotion of tourism related activities for the County of Charleston under the terms of this Agreement.

Please confirm receipt of this letter by return email and let me know when I may expect to receive the documents requested.

Sincerely,

# EXHIBIT B



Mare Baracco  
1006 Madrid Avenue  
Port Royal SC 29935  
(843) 592-1062  
maremail59@yahoo.com



Sent certified mail August 10, 2020

Ms. Helen Hill  
Charleston Area Convention and Visitors Bureau  
423 King St,  
Charleston, SC 29403  
**RE: FOIA Request**

Dear Ms. Hill:

The County of Charleston entered into an agreement with the Charleston Area Convention & Visitor's Bureau ("Agency") October 6, 2017. In that agreement were two provisions regarding the reporting of ATAX expenditures by the "Agency".

Paragraph 4 states:

*Agency shall allow the Charleston County Internal Auditor, if deemed necessary by the County, to review the financial records and transactions of the Agency.*

Paragraph 9 states:

*Agency agrees that by acceptance of public funds provided herein, the Agency acts as a "public body" as defined in the S. C. Freedom of Information Act (§30-4-10, et. seq.) S. C. Code of Laws for 1976 as amended, with respect to the expenditure of those funds, and all activities regarding the expenditure of these funds must be in compliance with this Act.*

Therefore, pursuant to South Carolina FOIA law this letter is a formal request for copies of all receipts and invoices for all transactions of Charleston County Accommodations Tax (ATAX) expenditures by the Agency as they relate to the promotion of tourism related activities for the County of Charleston under the terms of this Agreement.

Please confirm receipt of this letter and apprise me when I can expect to receive the requested documents. Also, this request was emailed to the CVB to your attention August 6, 2020.

Sincerely,

**STATE OF SOUTH CAROLINA**  
**COUNTY OF CHARLESTON**

**IN THE COURT OF COMMON PLEAS  
FOR THE NINTH JUDICIAL CIRCUIT**

**CASE NO. 2021-CP-10-02999**

**Mare Baracco,**

**Plaintiff,**

**vs.**

**Charleston Area Convention and Visitors  
Bureau,**

**Defendant.**

**AMENDED SUMMONS**

TO THE DEFENDANT ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your answer to the said Complaint upon the subscriber, at his office, P. O. Box 50143, Columbia, South Carolina 29250, within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Complaint in the time aforesaid, a judgment by default will be rendered against you for the relief demanded in the Complaint.

Respectfully submitted,

s/Taylor Smith

Taylor M. Smith IV  
HARRISON, RADEKER & SMITH, P.A.  
Post Office Box 50143  
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(803) 779-2211  
(803) 779-6700 (facsimile)  
taylor@harrisonfirm.com (email)  
ATTORNEYS FOR PLAINTIFF

Columbia, South Carolina  
July 7, 2021

**STATE OF SOUTH CAROLINA**  
**COUNTY OF CHARLESTON**

**IN THE COURT OF COMMON PLEAS**  
**FOR THE NINTH CIRCUIT**

**CASE NO. 2021-CP-10-02999**

**Mare Baracco,**

**Plaintiff,**

**vs.**

**Charleston Area Convention and Visitors**  
**Bureau,**

**Defendant.**

**AMENDED COMPLAINT**

The Plaintiff, complaining of the Defendant herein, alleges:

1. Plaintiff Mare Baracco is a citizen and resident of South Carolina for purposes of the South Carolina Freedom of Information Act, S.C Code Ann § 30-4-10 et. seq. (hereinafter “FOIA”).

2. Defendant Charleston Area Convention and Visitors Bureau (hereinafter “Defendant”) is a nonprofit corporate entity, located in Charleston County, in good standing with the South Carolina Secretary of State.

3. Defendant has been appointed and currently serves as the Designated Marketing Organization (“DMO”) for the City of Charleston and Charleston County, pursuant to S.C. Code Ann. § 6-4-10(3).

4. Defendant is also a “public body” for purposes of FOIA.

5. This Court possesses jurisdiction under S.C. Code Ann. § 30-4-100, the South Carolina Freedom of Information Act, to adjudicate this matter and provide relief to the Plaintiff.

6. The purpose of FOIA is described in S.C. Code Ann. § 30-4-15:

The General Assembly finds that it is vital in a democratic society that public business be performed in an open and public manner so that citizens shall be advised of the performance of public officials and of the decisions that are reached

in public activity and in the formulation of public policy. Toward this end, provisions of this chapter must be construed so as to make it possible for citizens, or their representatives, to learn and report fully the activities of their public officials at a minimum cost or delay to the persons seeking access to public documents or meetings.

7. “FOIA is remedial in nature and should be liberally construed to carry out the purpose mandated by the legislature.” Quality Towing v. City of Myrtle Beach, 345 S.C. 156, 547 S.E.2d 862 (S.C. 2001) (citing South. Carolina Dep't of Mental Health v. Hanna, 270 S.C. 210, 241 S.E.2d 563 (1978)).

8. FOIA provides that “[a]ny person has a right to inspect or copy any public record of a public body.” S.C. Code Ann. § 30-4-30(A).

9. Upon receiving a written FOIA request, the public body must provide its written response regarding its final determination of the availability of records responsive to the request within 10 business days. S.C. Code Ann. § 30-4-30(C). “This determination must constitute the final opinion of the public body as to the public availability of the request public record; however, the determination is not required to include a final decision or express and opinion as to whether specific portions of the documents or information may be subject to redaction according to exemptions provided for in Section 30-4-40 or other state or federal laws.” Id.

10. “If written notification of the determination of the public body as to the availability of the requested public record is neither mailed, electronically transmitted, nor personally delivered to the person requesting the document within the time set forth by this section, the request must be considered approved as to nonexempt records or information.” S.C. Code Ann. § 30-4-30(C).

11. If the request is granted, the record must be furnished or made available for inspection or copying no later than thirty calendar days from the date on which the final determination was provided, unless the records are more than twenty-four months old, in which case the public body

has no later than thirty-five calendar days from the date on which the final determination was provided. S.C. Code Ann. § 30-4-30(C).

12. This matter concerns a violation of FOIA regarding Defendant's handling of a record requests and its perceived culture of general antipathy towards South Carolina residents' right to learn the activities of these public officials at minimum cost or delay.

#### FOR A SINGLE CAUSE OF ACTION

13. That each and every paragraph herein is repeated as if fully set forth.

14. On August 6, 2020, Plaintiff submitted a written request via email for information from Defendant, pursuant to FOIA, for "copies of all receipts and invoices for all transactions of Charleston County Accommodations Tax (ATAX) expenditures by the Agency as they relate to the promotion of tourism related activities for the County of Charleston" under the Agreement between Defendant and Charleston County dated October 6, 2017. A copy of the emailed request is attached hereto as "Exhibit A" (previously filed on June 30, 2021).

15. On August 10, 2020, Plaintiff mailed via U.S. Certified Mail (return receipt requested) the same FOIA request for information to Defendant. A copy of the identical mailed request is attached hereto "Exhibit B" (previously filed on June 30, 2021).

16. On August 12, 2020, Defendant received the FOIA request provided by U.S. Certified Mail.

17. Defendant did not request an extension of the deadlines provided by FOIA.

18. Defendant did not require payment of a deposit by Plaintiff to produce responsive documents to her request.

19. Defendant did not supply Plaintiff with a written determination regarding available responsive information to her FOIA request.

20. Defendant did not provide Plaintiff with information responsive to her FOIA request.

21. The Defendant's failure to provide a written determination within twenty business days of receipt regarding available information and its failure to provide records within thirty-five calendar days (from the written determination deadline), pursuant to S.C. Code Ann. § 30-4-30(C), are violations of FOIA.

22. Plaintiffs seek a declaration that Defendant violated FOIA in each of these instances and an injunction to provide the records and information responsive to the request.

WHEREFORE, the Plaintiff pray:

- (a) For an order of this Court declaring Defendant violated FOIA when it committed the above designated violations;
- (b) To issue an injunction requiring Defendant to provide the information and records responsive to the request designated above to Plaintiff;
- (c) To grant Plaintiff her costs and attorneys' fees under S.C. Code Ann. § 30-4-100; and
- (d) For such other and further relief as the Court may deem just and proper.

Respectfully submitted,

s/Taylor Smith  
Taylor M. Smith IV  
HARRISON, RADEKER & SMITH, P.A.  
Post Office Box 50143  
Columbia, South Carolina 29250  
(803) 779-2211  
(803) 779-6700 (facsimile)  
taylor@harrisonfirm.com (email)  
ATTORNEYS FOR PLAINTIFF

Columbia, South Carolina  
July 7, 2021

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Mare Baracco,

Plaintiff,

vs.

Charleston Area Convention and Visitors  
Bureau,

Defendant.

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH CIRCUIT

CASE NO. 2021-CP-10-02999

**DEFENDANT'S ANSWER TO  
AMENDED COMPLAINT**

Defendant, Charleston Area Convention and Visitors Bureau (the "Charleston Area CVB"), hereby answer the Amended Complaint of Mare Baracco (the "Plaintiff"), as follows:

**FOR A FIRST DEFENSE**

1. Charleston Area CVB lacks sufficient information to form a belief as to the allegations of Paragraph 1 and denies those allegations.
2. Charleston Area CVB admits the allegations of Paragraphs 2 and 3.
3. Charleston Area CVB denies the allegations of Paragraph 4.
4. Paragraph 5 calls for a legal conclusion, of which Charleston Area CVB has no response. To the extent a response is required, Charleston Area CVB denies the allegations of Paragraph 5.
5. Charleston Area CVB admits the allegations of Paragraph 6.
6. Paragraph 7 calls for a legal conclusion, of which Charleston Area CVB has no response. To the extent a response is required, Charleston Area CVB craves reference to the cases referenced and denies the allegations of Paragraph 7.
7. Charleston Area CVB admits the allegations of Paragraphs 8, 9, 10, and 11.

8. Charleston Area CVB denies the allegations of Paragraph 12.

9. Charleston Area CVB realleges each defense contained above and incorporates by reference.

10. Charleston Area CVB admits the allegations of Paragraphs 14, 15, 16, 17, and 18. Charleston Area CVB discovered Plaintiff's email request in its spam folder and was unaware of Plaintiff's email until receipt of Plaintiff's August 12, 2020 request by U.S. Certified Mail.

11. Charleston Area CVB denies the allegations of Paragraphs 19, 20, and 21. A copy of Charleston Area CVB's response to Plaintiff dated August 24, 2020 is attached hereto as "Exhibit A".

12. Charleston Area CVB denies the allegations of Paragraph 22.

13. Charleston Area CVB denies that Plaintiff is entitled to any relief as sought in the WHEREFORE paragraph of the Complaint.

**FOR A SECOND DEFENSE—RULE 12(B)(6), SCRPC**

14. The Complaint, in one or more particulars, fails to state a cause of action upon which relief can be granted. Therefore, the Complaint should be dismissed pursuant to Rule 12(b)(6), SCRPC.

**FOR A THIRD DEFENSE – RESERVATION AND NON-WAIVER**

15. Charleston Area CVB reserves the right to raise any additional and further defenses that may be revealed by information obtained during the course of investigation and discovery as consistent with the South Carolina Rules of Civil Procedure.

WHEREFORE, having fully answered the Amended Complaint of the Plaintiff, Charleston Area CVB prays that the Complaint be dismissed with prejudice, that Plaintiff be held responsible for all costs and fees incurred by the Charleston Area CVB in the investigation, defense, and

resolution of these claims, including reasonable attorney's fees, and for such other and further relief as the Court deems just and proper.

Respectfully submitted,

By: s/ Robert E. Tyson, Jr.  
Robert E. Tyson, Jr.  
SC Bar No.: 10820  
La'Jessica M. Stringfellow  
SC Bar No.: 102376  
Robinson Gray Stepp & Laffitte, LLC  
1310 Gadsden Street  
Post Office Box 11449 (29211)  
Columbia, South Carolina 29201  
803.929.1400 Telephone  
803.929.0300 Fax  
[rtyson@robinsongray.com](mailto:rtyson@robinsongray.com)  
[lstringfellow@robinsongray.com](mailto:lstringfellow@robinsongray.com)

*Attorneys for Defendant, Charleston Area Convention and  
Visitors Bureau*

Columbia, South Carolina  
Friday, August 20, 2021

# EXHIBIT A

David G. Jennings  
djennings@rrhlawfirm.com

# ROSEN | HAGOOD

August 24, 2020

**VIA EMAIL**

Mare Baracco  
1006 Madrid Avenue  
Port Royal, SC 29935

Re: FOIA Request

Dear Ms. Baracco:

Your letters to Helen Hill dated August 6 & 10, 2020 have been forwarded to me for response. Without getting into a discussion of whether the contract with Charleston County can change South Carolina law as interpreted by the South Carolina Supreme Court, please be advised that the Charleston Area Convention and Visitors Bureau does not have any records which fall within the parameters of your request. Although we are not required to, we can provide you with the documentation of the receipt of funds from Charleston County, but the CACVB's accounting records do not itemize or allocate expenditures according to individual revenue categories.

If you would like to know when and how much ATAX money the CACVB received from Charleston County for the fiscal year ending June 30, 2020, please let me know. Thank you very much for your interest in the CACVB.

If I may be of further service, please let me know.

Sincerely,



David G. Jennings

DGJ/mm

cc: Helen Hill, Charleston Area Convention and Visitors Bureau (via email)

# EXHIBIT B

**From:** [La'Jessica Stringfellow](#)  
**To:** [taylor@harrisonfirm.com](mailto:taylor@harrisonfirm.com)  
**Cc:** [Rob Tyson; {F330755}.Clients@f8eed.imatege.work](mailto:Rob_Tyson_{F330755}.Clients@f8eed.imatege.work); [; {F358038}.Clients@f8eed.imatege.work](mailto:{F358038}.Clients@f8eed.imatege.work)  
**Subject:** Baracco v. Charleston Area Convention and Visitors lawsuit  
**Date:** Monday, August 2, 2021 9:52:05 AM  
**Attachments:** [image003.png](#)  
[image004.png](#)  
[image010.png](#)  
[Mr. Jennings letter to Ms. Baracco dated August 24, 2020\(37566647.1\).pdf](#)  
[Margaret Moorman \(legal assistant to David Jennings\) August 24, 2020 email re FOIA Request\(37566766.1\).pdf](#)

---

Good morning Taylor,

Thank you for speaking with us this morning. Attached please find the August 24, 2020 correspondence from the Charleston Area Convention and Visitors Bureau responding to Ms. Baracco's FOIA inquiry. Also attached is a copy of the email that was sent to Ms. Baracco. We look forward to speaking with you again soon.

Best regards,

La'Jessica Stringfellow  
Robinson Gray Stepp & Laffitte, LLC  
803-255-8037  
[lstringfellow@robinsongray.com](mailto:lstringfellow@robinsongray.com)

---

**From:** Rob Tyson  
**Sent:** Thursday, July 29, 2021 2:09 PM  
**To:** Taylor Smith <[Taylor@harrisonfirm.com](mailto:Taylor@harrisonfirm.com)>  
**Subject:** RE: Baracco v. Charleston Area Convention and Visitors lawsuit

Good deal. Either works. If you want, try my number again at (803) 231-7838.

Tks. Rob



**ROBERT E. TYSON JR. MEMBER**

DIRECT 803.231.7838  
[VCARD](#) [VIEW BIO](#)  
[ROBINSONGRAY.COM](http://ROBINSONGRAY.COM)

1310 Gadsden Street  
PO Box 11449 (29211)  
Columbia, SC 29201





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---

**From:** Taylor Smith <[Taylor@harrisonfirm.com](mailto:Taylor@harrisonfirm.com)>  
**Sent:** Thursday, July 29, 2021 2:06 PM  
**To:** Rob Tyson <[rtyson@robinsongray.com](mailto:rtyson@robinsongray.com)>  
**Subject:** RE: Baracco v. Charleston Area Convention and Visitors lawsuit

Rob,

Monday @ 9:30 works fine for me.  
Should I dial you or will you ring me?  
Thanks.

**Taylor M. Smith IV**



923 Calhoun Street,  
Columbia, South Carolina 29201  
Post Office Box 50143,  
Columbia, South Carolina 29250  
Telephone: (803) 779-2211  
Facsimile: (803) 779-6700  
[www.harrisonfirm.com](http://www.harrisonfirm.com)

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---

**From:** Rob Tyson <[rtyson@robinsongray.com](mailto:rtyson@robinsongray.com)>  
**Sent:** Thursday, July 29, 2021 1:56 PM  
**To:** Taylor Smith <[Taylor@harrisonfirm.com](mailto:Taylor@harrisonfirm.com)>  
**Subject:** RE: Baracco v. Charleston Area Convention and Visitors lawsuit

Sorry, I missed you. I've been sitting here since lunch reading a complaint and just missed your call. How about Monday morning at 9:30? And if that doesn't work, any time Monday works.

Tks. Rob



**ROBERT E. TYSON JR. MEMBER**

DIRECT 803.231.7838 1310 Gadsden Street  
**VCARD VIEW BIO** PO Box 11449 (29211)  
**ROBINSONGRAY.COM** Columbia, SC 29201



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---

**From:** Taylor Smith <[Taylor@harrisonfirm.com](mailto:Taylor@harrisonfirm.com)>  
**Sent:** Thursday, July 29, 2021 1:11 PM  
**To:** Rob Tyson <[rtyson@robinsongray.com](mailto:rtyson@robinsongray.com)>  
**Subject:** RE: Baracco v. Charleston Area Convention and Visitors lawsuit

Rob,

Good afternoon.

I just tried calling your direct line and got a busy signal.

I'm in an out of the office for much of the rest of the day and will only be in for a brief time tomorrow, do you want to setup a time to talk early next week?

Kindly let me know. Thanks.

**Taylor M. Smith IV**



923 Calhoun Street,  
Columbia, South Carolina 29201  
Post Office Box 50143,  
Columbia, South Carolina 29250  
Telephone: (803) 779-2211  
Facsimile: (803) 779-6700  
[www.harrisonfirm.com](http://www.harrisonfirm.com)

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---

**From:** Rob Tyson <[rtyson@robinsongray.com](mailto:rtyson@robinsongray.com)>  
**Sent:** Wednesday, July 28, 2021 1:40 PM  
**To:** Taylor Smith <[Taylor@harrisonfirm.com](mailto:Taylor@harrisonfirm.com)>  
**Subject:** Baracco v. Charleston Area Convention and Visitors lawsuit

Taylor, Good afternoon. Per my voicemail, we've been asked to assist in this FOIA case. I talked to my client yesterday and had a couple of questions. Can you please give me a call to discuss at your convenience?

Tks. Rob



**ROBERT E. TYSON JR. MEMBER**

DIRECT 803.231.7838

[VCARD](#) [VIEW BIO](#)  
[ROBINSONGRAY.COM](http://ROBINSONGRAY.COM)

1310 Gadsden Street  
PO Box 11449 (29211)  
Columbia, SC 29201



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# EXHIBIT C

**Margaret Moorman**

---

**From:** Margaret Moorman  
**Sent:** Monday, August 24, 2020 11:33 AM  
**To:** 'maremail59@yahoo.com'  
**Cc:** David Jennings  
**Subject:** CACVB - FOIA Request  
**Attachments:** 20200824112255749.pdf

Ms. Baracco:

Please see the attached letter regarding the matter referenced above. If you have any questions, please let us know.

Thank You,  
Margaret

ROSEN | HAGOOD  
MARGARET MOORMAN  
|Legal Assistant to David Jennings|  
151 Meeting Street, Suite 400  
Charleston, SC 29401  
|office| 843-577-6726  
|fax| 843-724-8036  
|direct phone| (843) 266-8146  
|direct fax| (843) 266-2245  
mmoorman@rosenhagood.com  
www.rosenhagood.com

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Please change your records accordingly.

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To comply with U.S. Treasury Department regulations, we inform you that, unless otherwise expressly indicated, any tax advice contained in this communication (including any attachments or enclosures) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties that may be imposed under the Internal Revenue Code or any other applicable tax law, or (ii) promoting, marketing or recommending to another party any entity, investment, plan, transaction, arrangement, or other tax related matter.

-----Original Message-----

From: ricohcopier@rosenhagood.com <ricohcopier@rosenhagood.com>  
Sent: Monday, August 24, 2020 11:23 AM

# EXHIBIT D

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

Mare Baracco,  
Plaintiff,

vs.

Charleston Area Convention and Visitors  
Bureau,  
Defendant.

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH CIRCUIT

CASE NO. 2021-CP-10-02999

**AFFIDAVIT**

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I am David Jennings, legal counsel for the Charleston Area Convention and Visitors Bureau (“Charleston Area CVB”).

2. In August, 2020, I was informed by the Charleston Area CVB that it was in receipt of a Freedom of Information Act request from Plaintiff, Mare Baracco.


3. After reviewing Plaintiff’s request and discussing the same with the Charleston Area CVB, I drafted a letter to Plaintiff, attached hereto as **Exhibit A**. My letter served as the Charleston Area CVB’s response to Plaintiff’s Freedom of Information Act request.

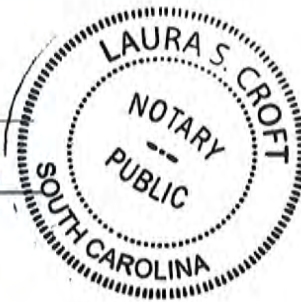
4. I requested that my paralegal, Margaret Moorman, send the Charleston Area CVB FOIA response (Exhibit A) to Plaintiff via email using Plaintiff’s previously provided email address. Ms. Moorman’s email is attached hereto as **Exhibit B**.

5. Neither I, nor Ms. Moorman, received an undeliverable email notification after my letter was emailed to Plaintiff.

  
David Jennings, Esquire

SWORN to and subscribed before me  
this 20<sup>th</sup> day of August 2021.

  
Notary Public for South Carolina  
My Commission Expires: 3/30/28



# EXHIBIT E

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH CIRCUIT

CASE NO. 2021-CP-10-02999

Mare Baracco,  
Plaintiff,

vs.

**AFFIDAVIT**

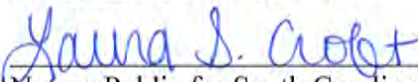
Charleston Area Convention and Visitors  
Bureau,  
Defendant.

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I am Margaret Marshall, formerly Margaret Moorman, paralegal to David Jennings at the Rosen Hagood law firm.
2. One of my job responsibilities is sending and receiving correspondence for the firm.
3. Per David Jennings' request, on August 24, 2020, I emailed the attached correspondence, hereto as **Exhibits A and B**, to Plaintiff, Mare Baracco, to her email address as stated on her FOIA request letter.
4. I did not receive a notification that the email was undeliverable to Plaintiff.

  
Margaret Marshall (formerly Margaret Moorman)

SWORN to and subscribed before me  
this 30 day of August 2021.

  
Notary Public for South Carolina  
My Commission Expires: 3/30/22



**STATE OF SOUTH CAROLINA**  
**COUNTY OF CHARLESTON**

**IN THE COURT OF COMMON PLEAS  
FOR THE NINTH JUDICIAL CIRCUIT**

**CASE NO. 2021-CP-10-02999**

**Mare Baracco,**

**Plaintiff,**

**vs.**

**Charleston Area Convention and Visitors  
Bureau,**

**Defendant.**

**AMENDED SUMMONS**

TO THE DEFENDANT ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your answer to the said Complaint upon the subscriber, at his office, P. O. Box 50143, Columbia, South Carolina 29250, within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Complaint in the time aforesaid, a judgment by default will be rendered against you for the relief demanded in the Complaint.

Respectfully submitted,

s/Taylor Smith

Taylor M. Smith IV  
HARRISON, RADEKER & SMITH, P.A.  
Post Office Box 50143  
Columbia, South Carolina 29250  
(803) 779-2211  
(803) 779-6700 (facsimile)  
taylor@harrisonfirm.com (email)  
ATTORNEY FOR PLAINTIFF

Columbia, South Carolina  
March 14, 2022

**STATE OF SOUTH CAROLINA**  
**COUNTY OF CHARLESTON**

**IN THE COURT OF COMMON PLEAS  
FOR THE NINTH CIRCUIT**

**CASE NO. 2021-CP-10-02999**

**Mare Baracco,**

**Plaintiff,**

**vs.**

**Charleston Area Convention and Visitors  
Bureau,**

**Defendant.**

**SECOND AMENDED COMPLAINT**

The Plaintiff, complaining of the Defendant herein, alleges:

1. Plaintiff Mare Baracco is a citizen and resident of South Carolina for purposes of the South Carolina Freedom of Information Act, S.C Code Ann § 30-4-10 et. seq. (hereinafter “FOIA”).

2. Defendant Charleston Area Convention and Visitors Bureau (hereinafter “Defendant”) is a nonprofit corporate entity, located in Charleston County, in good standing with the South Carolina Secretary of State.

3. Defendant has been appointed and currently serves as the Designated Marketing Organization (“DMO”) for the City of Charleston and Charleston County, pursuant to S.C. Code Ann. § 6-4-10(3).

4. Defendant is also a “public body” for purposes of FOIA.

5. This Court possesses jurisdiction under S.C. Code Ann. § 30-4-100, the South Carolina Freedom of Information Act, to adjudicate this matter and provide relief to the Plaintiff.

6. The purpose of FOIA is described in S.C. Code Ann. § 30-4-15:

The General Assembly finds that it is vital in a democratic society that public business be performed in an open and public manner so that citizens shall be advised of the performance of public officials and of the decisions that are reached

in public activity and in the formulation of public policy. Toward this end, provisions of this chapter must be construed so as to make it possible for citizens, or their representatives, to learn and report fully the activities of their public officials at a minimum cost or delay to the persons seeking access to public documents or meetings.

7. “FOIA is remedial in nature and should be liberally construed to carry out the purpose mandated by the legislature.” Quality Towing v. City of Myrtle Beach, 345 S.C. 156, 547 S.E.2d 862 (S.C. 2001) (citing South. Carolina Dep't of Mental Health v. Hanna, 270 S.C. 210, 241 S.E.2d 563 (1978)).

8. FOIA provides that “[a]ny person has a right to inspect or copy any public record of a public body.” S.C. Code Ann. § 30-4-30(A).

9. Upon receiving a written FOIA request, the public body must provide its written response regarding its final determination of the availability of records responsive to the request within 10 business days. S.C. Code Ann. § 30-4-30(C). “This determination must constitute the final opinion of the public body as to the public availability of the request public record; however, the determination is not required to include a final decision or express and opinion as to whether specific portions of the documents or information may be subject to redaction according to exemptions provided for in Section 30-4-40 or other state or federal laws.” Id.

10. “If written notification of the determination of the public body as to the availability of the requested public record is neither mailed, electronically transmitted, nor personally delivered to the person requesting the document within the time set forth by this section, the request must be considered approved as to nonexempt records or information.” S.C. Code Ann. § 30-4-30(C).

11. If the request is granted, the record must be furnished or made available for inspection or copying no later than thirty calendar days from the date on which the final determination was provided, unless the records are more than twenty-four months old, in which case the public body

has no later than thirty-five calendar days from the date on which the final determination was provided. S.C. Code Ann. § 30-4-30(C).

12. This matter concerns a violation of FOIA regarding Defendant's handling of a record requests and its perceived culture of general antipathy towards South Carolina residents' right to learn the activities of these public officials at minimum cost or delay.

#### FOR A CAUSE OF ACTION

13. That each and every paragraph herein is repeated as if fully set forth.

14. On August 2, 2021, approximately three weeks after this action was commenced by service on Defendant, counsel for Defendant supplied the undersigned with what it maintains is its final written determination of the availability of records and information pursuant to Plaintiff's August 6, 2020 FOIA request.

15. Defendant's written determination, dated August 24, 2020, provides "the Charleston Area Convention and Visitors Bureau does not have any records which fall within the parameters of your request."

16. David Jennings, author of the written determination letter indicated that "[a]lthough we are not required to, we can provide you with the documentation of the receipt of funds from Charleston County, but CACVB's accounting records do not itemize or allocate expenditures according to individual revenue categories."

17. Defendant's August 24, 2020 written determination correspondence does not claim an exemption related to any responsive record or piece of information and does not identify any record or piece of information, specifically by type or name, that it is withholding from disclosure.

18. Defendant did not provide Plaintiff with all information responsive to her FOIA request.

19. The Defendant's failure to provide all available responsive information to Plaintiff's request, pursuant to S.C. Code Ann. § 30-4-30(C), is a violation of FOIA.

20. Plaintiff seeks a declaration that Defendant violated FOIA in these instances and an injunction to provide the records and information responsive to the request.

WHEREFORE, the Plaintiff pray:

- (a) For an order of this Court declaring Defendant violated FOIA when it committed the above designated violations;
- (b) To issue an injunction requiring Defendant to provide the information and records responsive to the request designated above to Plaintiff;
- (c) To grant Plaintiff her costs and attorneys' fees under S.C. Code Ann. § 30-4-100; and
- (d) For such other and further relief as the Court may deem just and proper.

Respectfully submitted,

s/Taylor Smith  
Taylor M. Smith IV  
HARRISON, RADEKER & SMITH, P.A.  
Post Office Box 50143  
Columbia, South Carolina 29250  
(803) 779-2211  
(803) 779-6700 (facsimile)  
taylor@harrisonfirm.com (email)  
ATTORNEY FOR PLAINTIFF

Columbia, South Carolina  
March 14, 2022

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

Mare Baracco,

Plaintiff,

vs.

Charleston Area Convention and Visitors  
Bureau,

Defendant.

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH CIRCUIT

CASE NO. 2021-CP-10-02999

**DEFENDANT'S ANSWER TO SECOND  
AMENDED COMPLAINT**

Defendant, Charleston Area Convention and Visitors Bureau (the "Charleston Area CVB"), hereby answer the Second Amended Complaint of Mare Baracco (the "Plaintiff"), as follows:

**FOR A FIRST DEFENSE**

1. Charleston Area CVB lacks sufficient information to form a belief as to the allegations of Paragraph 1 and denies those allegations.
2. Charleston Area CVB admits the allegations of Paragraphs 2 and 3.
3. Charleston Area CVB denies the allegations of Paragraph 4.
4. Paragraph 5 calls for a legal conclusion, to which Charleston Area CVB has no response. To the extent a response is required, Charleston Area CVB denies the allegations of Paragraph 5.
5. Charleston Area CVB admits the allegations of Paragraph 6.
6. Paragraph 7 calls for a legal conclusion, to which Charleston Area CVB has no response. To the extent a response is required, Charleston Area CVB craves reference to the cases referenced and denies the allegations of Paragraph 7.

7. Charleston Area CVB admits the allegations of Paragraphs 8, 9, 10, and 11.
8. Charleston Area CVB denies the allegations of Paragraph 12.
9. Charleston Area CVB realleges each defense contained above and incorporates by reference.
10. Charleston Area CVB admits its counsel provided Plaintiff with a copy of its August 24, 2020 response to Plaintiff's August 6, 2020 FOIA request to the extent alleged in Paragraph 14.
11. Charleston Area CVB admits the allegations of Paragraphs 15, 16, and 17; and craves reference to the August 24, 2020 Charleston Area CVB correspondence.
12. Charleston Area CVB denies the allegations of Paragraphs 18, 19, and 20.
13. Charleston Area CVB denies that Plaintiff is entitled to any relief as sought in the WHEREFORE paragraph of the Complaint.

**FOR A SECOND DEFENSE—RULE 12(B)(6), SCRPC**

14. The Complaint, in one or more particulars, fails to state a cause of action upon which relief can be granted. Therefore, the Complaint should be dismissed pursuant to Rule 12(b)(6), SCRPC.

**FOR A THIRD DEFENSE**

15. Charleston Area CVB is a designated marketing organization and is not subject to FOIA.

**FOR A FOURTH DEFENSE—EQUITABLE DEFENSES**

16. Charleston Area CVB pleads the equitable defenses of waiver, estoppel, and laches.

**FOR A FIFTH DEFENSE—RESERVATION AND NON-WAIVER**

17. Charleston Area CVB reserves the right to raise any additional and further defenses that may be revealed by information obtained during the course of investigation and discovery as consistent with the South Carolina Rules of Civil Procedure.

WHEREFORE, having fully answered the Amended Complaint of the Plaintiff, Charleston Area CVB prays that the Complaint be dismissed with prejudice, that Plaintiff be held responsible for all costs and fees incurred by the Charleston Area CVB in the investigation, defense, and resolution of these claims, including reasonable attorney’s fees, and for such other and further relief as the Court deems just and proper.

Respectfully submitted,

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*Attorneys for Defendant, Charleston Area Convention and  
Visitors Bureau*

Columbia, South Carolina  
March 29, 2022

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

Mare Baracco,

Plaintiff,

vs.

Charleston Area Convention and Visitors  
Bureau,

Defendant.

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH CIRCUIT

CASE NO. 2021-CP-10-02999

**NOTICE OF MOTION AND MOTION  
FOR SUMMARY JUDGMENT BY THE  
CHARLESTON AREA CONVENTION  
AND VISITORS BUREAU**

Pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, Defendant, Charleston Area Convention and Visitors Bureau (“Charleston Area CVB”), will move on the tenth (10<sup>th</sup>) day after service of this Motion, or as soon as counsel may be heard, for an Order granting summary judgment in this matter on the grounds that there is no genuine issue of material fact and the Plaintiff’s claim is now moot.

"Summary judgment is appropriate when there is no genuine issue of material fact such that the moving party must prevail as a matter of law." *Clea v. Odom*, 394 S.C. 175, 714 S.E.2d 542 (2011) (citing Rule 56(c), SCRCP). There is no genuine issue of material fact in this case and Charleston Area CVB must prevail. Plaintiff brought this action alleging the Charleston Area CVB failed to timely respond to her Freedom of Information Act (“FOIA”) request. However, Charleston CVB promptly and timely produced a response on August 24, 2020 to the Plaintiff. *See* Exhibit A. After the Complaint was filed and served on the Charleston Area CVB, the undersigned counsel immediately provided the Charleston Area CVB response to Plaintiff’s counsel. *See* Exhibit B. Further, on August 2, 2021, the undersigned counsel provided to Plaintiff’s counsel the email sent to the Plaintiff responding to her FOIA request. *See* Exhibit C. An affidavit from David

Jennings, Esq., is attached stating that he prepared the Charleston Area CVB FOIA response for delivery to the Plaintiff. *See* Exhibit D. An affidavit from Margaret Moorman is attached stating that she emailed the FOIA response to the Plaintiff to the email address listed on Plaintiff's FOIA request. *See* Exhibit E. Because Charleston Area CVB has provided proof that it timely responded to Plaintiff's FOIA inquiry, there are no remaining genuine issues of material fact.

Further, Plaintiff's request for a declaratory judgment and injunction on the basis that Charleston Area CVB allegedly failed to timely respond to her FOIA request is now moot. Upon receipt of the correspondence from the Charleston Area CVB, Plaintiff no longer had a justiciable issue. *See Sloan v. Friends of Hunley, Inc.*, 369 S.C. 20, 26, 630 S.E.2d 474, 477 (2006) (citing *Mathis v. South Carolina State Highway Dep't*, 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973)) ("A moot case exists where a judgment rendered by the court will have no practical legal effect upon an existing controversy because an intervening event renders any grant of effectual relief impossible for the reviewing court."). There is no remedy this Court can provide to Plaintiff in light of Charleston Area CVB's August 24, 2020 response to Plaintiff's FOIA request.

This Motion is based on the pleadings, the attached exhibits, and any such other arguments or memorandum of law as may be served and filed hereafter. For the forgoing reasons, the Court should grant Charleston Area CVB's Motion for Summary Judgment.

Respectfully submitted,

By: *s/ Robert E. Tyson, Jr.*  
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*Attorneys for Defendant, Charleston Area Convention and  
Visitors Bureau*

Columbia, South Carolina  
Friday, August 20, 2021

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

Mare Baracco,

Plaintiff,

vs.

Charleston Area Convention and Visitors  
Bureau,

Defendant.

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH CIRCUIT

CASE NO. 2021-CP-10-02999

**CONSENT MOTION FOR LEAVE TO  
AMEND COMPLAINT**

NOW COMES the Plaintiff, by and through her attorney of record, seeking leave to file an Amended Complaint to substitute her single cause of action as attached hereto as **Exhibit A** pursuant to Rule 15(a), SCRCP. The Defendant, Charleston Area Convention and Visitors Bureau, by and through its attorney of record, agree and stipulate that the Plaintiff be granted leave to amend her Complaint.

WHEREFORE, Plaintiff hereby moves for leave to Amend her Complaint.

WE SO MOVE:

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*Attorney for Plaintiff*

WE CONSENT:

By: s/ Robert E. Tyson, Jr.  
Robert E. Tyson, Jr.  
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By: s/ David Jennings  
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*Attorneys for Defendant, Charleston Area Convention and  
Visitors Bureau*

Columbia, South Carolina  
Tuesday, February 1, 2022

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Mare Baracco,

Plaintiff,

vs.

Charleston Area Convention and Visitors

Bureau,

Defendant.

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH CIRCUIT

CASE NO. 2021-CP-10-02999

**NOTICE OF MOTION AND MOTION  
FOR SUMMARY JUDGMENT BY  
DEFENDANT CHARLESTON AREA  
CONVENTION AND VISITORS  
BUREAU**

Pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, Defendant, Charleston Area Convention and Visitors Bureau (“Charleston Area CVB”), will move on the tenth (10<sup>th</sup>) day after service of this Motion, or as soon as counsel may be heard, for an Order granting summary judgment in this matter on the grounds that there is no genuine issue of material fact and, as a matter of law, Charleston Area CVB is not subject to the South Carolina Freedom of Information Act.

This Motion is based upon the pleadings in this action, affidavits filed or to be filed, common and statutory laws of the State of South Carolina, and a forthcoming memorandum in support of this Motion.

Respectfully submitted,

By: s/ Robert E. Tyson, Jr.

Robert E. Tyson, Jr.

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La’Jessica M. Stringfellow

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*Attorneys for Defendant, Charleston Area Convention and  
Visitors Bureau*

Columbia, South Carolina  
Monday, September 26, 2022

**STATE OF SOUTH CAROLINA**  
**COUNTY OF CHARLESTON**

**IN THE COURT OF COMMON PLEAS  
FOR THE NINTH JUDICIAL CIRCUIT**

**CASE NO. 2021-CP-10-02999**

**Mare Baracco,**

**Plaintiff,**

**vs.**

**Charleston Area Convention and Visitors  
Bureau,**

**Defendant.**

**MOTION TO COMPEL DISCOVERY  
AND/OR FOR OTHER APPROPRIATE  
RELIEF REGARDING DEFENDANT**

YOU WILL PLEASE TAKE NOTICE that the Plaintiff hereby moves pursuant to Rules 33, 34, 36, and 37, SCRCP, and all other applicable law, for an order that compels Defendant Charleston Area Convention and Visitors Bureau to serve complete responses to discovery and/or provides other appropriate relief as a result of Defendant Charleston Area Convention and Visitors Bureau's failure to respond to discovery in this case. Defendant's refusal to provide discovery has occurred under circumstances that evince its unwillingness to provide any meaningful information in discovery or towards transparency of how it spends public funds generally. An order to produce the discovery at issue is appropriate. The grounds for this motion are as follows:

1. As is shown by documents already of record in this case, Defendant responded to Plaintiff's SCFOIA request in this case that it was not possible to provide receipts or checks of public resource spending because its "accounting records do not itemize or allocate expenditures according to individual revenue categories." This action was commenced, and Plaintiff's discovery requests have sought to understand better Defendant's accounting practices and ultimately, whether Defendant has withheld records responsive to her SCFOIA request. Defendant has failed to correct a number of

- deficiencies in its discovery responses and has not agreed to supplement its responses, including providing Plaintiff with a better understanding of the specific objection sought by it.
2. It appears that Defendant has no intention of providing Plaintiff a meaningful opportunity at discovery in this matter.
  3. Discovery rights afford a litigant the opportunity to prepare for trial. Conway v. Charleston Lincoln Mercury Inc., 363 S.C. 301, 308, 609 S.E.2d 838, 842 (Ct. App. 2005). Where discovery rights are not afforded, prejudice is presumed. Id.
  4. The purpose of discovery is to mandate full and fair disclosure to prevent trial from becoming a guessing game or one of ambush. Cel Products, LLC v. Rozelle, 357 S.C. 125, 132, 591 S.E.2d 643, 646 (Ct. App. 2004).
  5. The discovery sought is proper and is material to the issues in this case.
  6. Without full, complete responses from Defendant to the discovery requests subject of this motion, trial would essentially be the guessing game or ambush that discovery is designed to prevent.
  7. Defendant's refusal to participate in meaningful discovery has prejudiced the Plaintiff unfairly in this action.
  8. Per Rule 37, SCRCF, it is appropriate for the court to grant relief in the Plaintiff's favor against Defendant concerning the substance of the merits of this case. Rule 37, SCRCF, expressly provides for such relief.
  9. This motion is also based upon all applicable statutory law, case law, common law, and the record in this action.

Pursuant to Rule 11, SCRCF, the undersigned certifies that counsel for the Plaintiff communicated with Defendants' counsel in a good faith effort to resolve the matters subject of this

motion.

Respectfully submitted,

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ATTORNEY FOR PLAINTIFF

Columbia, South Carolina  
October 27, 2022

**STATE OF SOUTH CAROLINA**  
**COUNTY OF CHARLESTON**

**IN THE COURT OF COMMON PLEAS  
FOR THE NINTH JUDICIAL CIRCUIT**

**CASE NO. 2021-CP-10-02999**

**Mare Baracco,**

**Plaintiff,**

**vs.**

**Charleston Area Convention and Visitors  
Bureau,**

**Defendant.**

**MOTION TO RECONSIDER**

YOU WILL PLEASE TAKE NOTICE that Plaintiff Mare Baracco (hereinafter “Plaintiff”) moves before this court pursuant to Rule 59, SCRPC, as well as pursuant to any and all other applicable law, in the above-captioned action for an order that reconsiders, alters, amends, or otherwise undoes the orders of May 8, 2023 that denied Plaintiff’s motion to compel discovery and granted summary judgment in favor of Defendant. Specifically, Plaintiff humbly asks this court to either (1) deny Defendant’s motion for summary judgment and grant Plaintiff’s motion to compel discovery or (2) partially grant Plaintiff’s motion to compel discovery to provide responses that reveal Defendant’s corporate structure and organization as a nonprofit entity and rescind the court’s order granting summary judgment, reconsider it and then hold it in abeyance until Plaintiff can serve and file a cross motion for summary judgment, supported by additional discovered information, to address the issue of whether Defendant is a public body for purposes of the S.C. Code § 30-4-20(a). The grounds for this motion are as follows:

- 1. Defendant’s status as a destination marketing organization for Charleston County and others does not mean as a matter of law that it is not a public body for purposes of the South Carolina Freedom of Information Act (hereinafter “FOIA”), S.C. Code § 30-4-10 et seq.**

The order granting summary judgment provides: “[i]n *DomainsNewMedia.com, LLC v. Hilton Head Island-Bluffton Chamber Com.*, the South Carolina Supreme Court unequivocally held that ‘the General Assembly did not intend [for designated marketing organizations] to be considered a public body for purposes of FOIA as a result of its receipt and expenditure of these specific funds.’ 423 S.C. 295, 814 S.E.2d 513 (2018).” The actual quote from DomainsNewMedia provides “the General Assembly did not intend for *the Chamber* to be considered a public body for purposes of FOIA as a result of its receipt and expenditure of these specific funds.” Id. (emphasis added) The 2018 opinion presented a matter of first impression for the S.C. Supreme Court in that it asked whether a nonprofit, private, membership-supported entity’s receipt of public funds in that case subjected it “to FOIA on the singular basis that it expends these funds.” Id. at 515. Of course, Defendant would appreciate a broader interpretation of DomiansNewMedia, but that is simply not what the Court said in that case. The Court examined closely the organization of the Chamber noting it “offers private membership and conducts seminars, as well as other events, for the benefit of its members” and those “[m]embers pay dues and contribute to the Chamber’s various projects.” Id. “In addition to these purely private activities, since 1983, the Chamber has served the Town of Hilton Head Island as its DMO.” Id. Further, the Chamber’s receipt of accommodation’s tax funds would then subject it to FOIA as a public body would have different ramifications for it than other all-public entities, the DomiansNewMedia Court noted.

We do agree with Domains that the A-Tax statute does not provide for the expanse of disclosure requirements that are available under FOIA. Indeed, Domains makes no pretense that FOIA would be imposed on the Chamber so that *all* of the Chamber’s procedures and activities would be controlled by all of FOIA’s provisions. This would subject the Chamber to all of the various requirements of FOIA, such as advance notice of meetings, in every area of the Chamber’s activities.

Id. at 519 (emphasis in original).

The Court correctly noted that, unlike other states, our FOIA does not separate out a particular division or part of a nonprofit organization and makes only that piece subject to FOIA, it says the whole organization is a public body for FOIA purposes. *Id.*; see also S.C. Code Ann. § 30-4-20(a) (“‘Public Body’ means ... any organization, corporation, or agency supported in whole or in part by public funds or expending public funds.”) But the Court decided that the degree of oversight or transparency for the use of public funds resides with the legislature and it “specified a detailed process for the expenditure and accountability of these tourism funds and that determination is controlling” of how it treated an entity serving public and private interests in that case. *Id.* If the DomainsNewMedia Court intended to settle whether all destination marketing organizations are or are not public bodies for FOIA purposes, it would have said so. It did not.

- 2. The record of this matter either fails to establish any facts material to determine how Defendant is organized for purposes of Domainsnewmedia.com LLC v. Hilton Head Island-Bluffton Chamber of Commerce, 423 S.C. 295, 814 S.E.2d 513 (S.C. 2018), or there is plainly a current issue of fact regarding whether this record establishes how Defendant is organized regarding the legal authority applied to it.**

Under South Carolina law, “summary judgment may be rendered only when the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” Folkens v. Hunt, 290 S.C. 194, 196, 348 S.E.2d 839, 841 (Ct. App. 1986). “When determining if any triable issues of fact exist, the evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party. Moreover, since it is a drastic remedy, summary judgment should be cautiously invoked so that a litigant will not be improperly deprived of a trial on disputed factual issues.” Englert, Inc. v. LeafGuard USA, Inc., 377 S.C. 129, 133-34, 659 S.E.2d 496, 498 (2008).

A careful review of the record in this matter, where Plaintiff was denied an opportunity to any, much less fruitful, discovery of how Defendant is organized, reveals very little facts about Defendant relevant to the implementation of the drastic remedy deployed to resolve this matter. The Order granting summary judgment for Defendant includes findings of facts that the “Charleston Area CVB is a 501-C-6 not-for-profit designation marketing organization. Charleston Area CVB’s primary purpose is to market the greater Charleston areas as an overnight destination.” Order at 1. The order continues that “local governments must ensure that the funds are only used for advertising and promotion of tourism” but what “funds” are we talking about? The undersigned must assume these funds are those received by Defendant pursuant to the Accommodations Tax Act as a destination marketing organization. The record of this matter is not clear about what public funds Defendant either receives or is charged with expending to compare it to the Hilton Heald Island-Bluffton Chamber of Commerce in [DomainsNewMedia.com](http://DomainsNewMedia.com). It is not possible, for example, to adopt the philosophical approach used by the Supreme Court to see if subjecting Defendant to FOIA as a public body would do specific harm to privately funded parts of the organization like in [DomainsNewMedia](http://DomainsNewMedia.com). The legislature’s intentions, as stated in that case, may be satisfied by subjecting Defendant to only compliance with that separate statutory procedure but there is simply an issue of material fact as to whether Defendant’s other funding would warrant that requirement like it did in the cited authority.

The only affidavit in the record of this matter that presents facts relevant to determining whether Defendant is a public body is the one submitted by Plaintiff. See [Affidavit of Mare Baracco](#) (filed Jan. 14, 2022 with exhibits). Exhibit 2 shows the 2020 record request Plaintiff submitted to Defendant wherein she recites language in the 2017 agreement between Charleston County and Defendant for it serve as destination marketing organization: “Paragraph 9 states: Agency agrees that by acceptance of public funds provided herein, the Agency acts as a ‘public

body’ as defined in the S.C. Freedom of Information Act (§30-4-10, et seq.) S.C. Code of Laws for 1976 as amended, with respect to the expenditure of those funds must be in compliance with this Act.” Id. Plaintiff explains in her affidavit that she only submitted this request to Defendant because Charleston County “directed I send my FOIA request to the CACVB.” Id. at 1; see also Baracco Affidavit Exhibits # 2. Defendant did not deny this language in its agreement with Charleston County in response to Plaintiffs request or in its Answer. It is entirely possible that Defendant is saying it is subject to FOIA to the County but not to this Court. Similarly, it is possible Defendant is organized in a manner principally different than the Hilton Head Island-Bluffton Chamber of Commerce and had that language about being a public body stripped from its latest agreement with Charleston County. The record is not clear. There is at least an issue of material fact necessary for the Court’s determination as a matter of law that Defendant is a public body for FOIA purposes.

**3. A full or partial grant of Plaintiff’s motion to compel would afford her and the Court the ability to understand better how applicable Domainsnewmedia is to this matter.**

The Court’s denial of Plaintiff’s motion to compel discovery pending at the same time as Defendant’s motion for summary judgment represents an error law depriving Plaintiff and the Court an opportunity to “clarify the application of law” towards the disposition of this case. See *Lanham v. Blue Cross & Blue Shield of S.C., Inc.*, 349 S.C. 356, 362 (S.C. 2002). "Because summary judgment is a drastic remedy, it must not be granted until the opposing party has had a “full and fair opportunity to complete discovery.” *Dawkins v. Fields*, 354 S.C. 58, 69, 580 S.E.2d 433, 439 (2003). As Plaintiff’s counsel stated at the hearing on these motions, Plaintiff received no responses to discovery this case that did not yield an objection. Essentially, no opportunity for discovery was had in this matter, much less a full and fair one.

Plaintiff counsel stated during the motion to compel hearing that Plaintiff had asked in her interrogatories numerous questions about what type of funding Defendant possessed, how it came to its agreement with Charleston County to serve as destination marketing organization or even for an explanation of the “numerical figures contained in the document ‘Charleston Area Convention and Visitor’s Bureau Exhibit A’ filed in this matter on January 14, 2022” to which Defendant objected on the grounds that such a request is overly broad, unduly burdensome and was not reasonably designed to lead to the discovery of admissible evidence. A response to how those numerical figures were comprised, that it supplied to Charleston County, would certainly aid this Court in determining what type of funds Defendant actually receives – a central inquiry in whether Defendant is a public body for FOIA purposes. “Discovery requests must show a reasonable expectation of obtaining information that will aid the dispute’s resolution. *Oncology & Hematology Assocs*, 692 S.E.2d at 924-25. ‘Discovery requests must be reasonably tailored to include only relevant matters.’ *Id.*” Order Denying Motion Compel 4.

4. The Plaintiff incorporates herein by reference all her previous arguments in this action.

Upon information and belief, consultation with opposing counsel concerning the substance of this motion would not have served any useful purpose.

Respectfully submitted,

s/Taylor Smith  
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 ATTORNEY FOR PLAINTIFF

Columbia, South Carolina  
 May 18, 2023

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

Mare Baracco,

Plaintiff,

vs.

Charleston Area Convention and Visitors  
Bureau,

Defendant.

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH CIRCUIT

CASE NO. 2021-CP-10-02999

**MEMORANDUM IN SUPPORT OF  
MOTION FOR SUMMARY JUDGMENT  
BY DEFENDANT CHARLESTON AREA  
CONVENTION AND VISITORS  
BUREAU**

Defendant Charleston Area Convention and Visitors Bureau (“Charleston Area CVB”) submits the following Memorandum in Support of its Motion for Summary Judgment pursuant to Rule 56 of the South Carolina Rules of Civil Procedure. This Court should grant summary judgment because there is no genuine issue of material fact and, for the reasons fully discussed below, Charleston Area CVB is entitled to judgment as a matter of law.

**INTRODUCTION**

It is undisputed that Charleston Area CVB is a designated marketing organization (“DMO”) for Charleston County. The South Carolina Supreme Court has unequivocally held that designated marketing organizations are not subject to the South Carolina Freedom of Information Act. Yet Plaintiff contends that Charleston Area CVB should produce documents that it has no duty to produce and that also do not exist.

**FACTS AND PROCEDURAL HISTORY**

Charleston Area CVB is a 501-C-6 not-for-profit designation marketing organization. Charleston Area CVB’s primary purpose is to market the greater Charleston areas as an overnight destination. The General Assembly enacted the A-Tax statute, which involves the

administration of a state sales tax imposed on sleeping accommodations provided to overnight guests. The A-Tax statutes requires local governments to select at least one organization, known as a designated marketing organization, to manage the expenditure of funds. The local governments must ensure that the funds are only used for advertising and promotion of tourism. Charleston Area CVB represents ten different funding governments located in Charleston, Dorchester, and Berkeley Counties.

On August 10, 2020, Plaintiff submitted a request to Charleston Area CVB for “copies of all receipts and invoices for all transactions of Charleston County accommodations Tax (ATAX) expenditures by the Agency as they relate to the promotion of tourism related activities for the County of Charleston.” Plaintiff made her request pursuant to the South Carolina Freedom of Information Act (“FOIA”), South Carolina Code Section 30-4-30(c). *See Exhibit A.* Upon receipt of Plaintiff’s request, Charleston Area CVB responded to Plaintiff’s FOIA request. The response stated in part, “the Charleston Area Convention and Visitors Bureau does not have any records which fall within the parameters of your request. Although we are not required to, we can provide you with the documentation of the receipt of funds from Charleston County, but the CACVB’s accounting records do not itemize or allocate expenditures according to individual revenue categories.” *See Exhibit B.* Plaintiff did not respond to Charleston Area CVB’s response and did not state whether she would like to receive a copy of the documentation of receipt of funds that was referenced in Charleston Area CVB’s correspondence to Plaintiff.

Soon after, Plaintiff filed a complaint and subsequently filed an amended complaint on July 7, 2021, alleging Charleston Area CVB failed to provide a timely written response to her FOIA request. After Charleston Area CVB produced copies of its August 24, 2020 response to Plaintiff’s inquiry, Plaintiff filed a second amended complaint on March 14, 2022. Plaintiff’s

Second Amended Complaint now alleges that Charleston Area CVB “did not provide Plaintiff with all information responsive to her FOIA request” and also alleged that Charleston Area CVB’s “failure to provide all available responsive information to Plaintiff’s request, pursuant to S.C. Code Ann. § 30-4-30(C), is a violation of FOIA.” Plaintiff seeks a declaration by this Court that Charleston Area CVB violated FOIA and injunction to provide the records and information responsive to Plaintiff’s request.

Soon thereafter, Plaintiff served her initial discovery requests, to which Charleston Area CVB responded to the best of its ability based on its status as a designated marketing organization. Charleston Area CVB promptly moved for summary judgment before this Court. Later, Plaintiff moved to compel discovery responses from Charleston Area Convention CVB.

#### **STANDARD OF REVIEW**

“Summary judgment is proper when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law.” *Sloan v. Friends of Hunley, Inc.*, 369 S.C. 20, 630 S.E.2d 474 (2006). The purpose of summary judgment is “to expedite disposition of cases which do not require the services of a factfinder.” *S. G & Plastics Co. v. Duke*, 367 S.C. 421, 626 S.E.2d 19 (Ct. App. 2005). “[W]hen plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted.” *Ellis v. Davidson*, 358 S.C. 509, 595 S.E.2d 817 (Ct. App. 2004) (citing *Hedgepath v. American Tel. & Tel. Co.*, 348 S.C. 340, 559 S.E.2d 327 (Ct. App. 2001)).

#### **ANALYSIS**

This Court should grant Charleston Area CVB’s Motion for Summary Judgment because the South Carolina Supreme Court unequivocally held that “the General Assembly did not intend [for designated marketing organizations] to be considered a public body for purposes of FOIA as

a result of its receipt and expenditure of these specific funds.” *DomainsNewMedia.com, LLC v. Hilton Head Island-Bluffton Chamber Com.*, 423 S.C. 295, 814 S.E.2d 513 (2018). As a designated marketing organization, Charleston Area CVB is not a public body for purposes of FOIA and is not subject to FOIA. As a matter of law, the holding in *DomainsNewMedia.com* should control the resolution of this case.

The *DomainsNewMedia.com* court explicitly explained why designated marketing organizations were not intended to be subject to FOIA. The FOIA statute is a general provision while the A-Tax statute is a specific provision. As such, “the more specific statute will be considered an exception to, or a qualifier of, the general statute and given such effect.” *Capco of Summerville, Inc. v. J.H. Gayle Const. Co.*, 368 S.C. 137, 142, 628 S.E.2d 38, 41 (2006). The court also explained that the narrower and more targeted A-Tax statute and Proviso 39.2 provides the necessary accountability safeguards for the expenditure of specific tourism funds while simultaneously protecting the private nature of the designated marketing organizations selected to perform the marketing function. *DomainsNewMedia.com, LLC v. Hilton Head Island-Bluffton Chamber Com.*, 423 S.C. 295, 814 S.E.2d 513 (2018). For an example, “the A-Tax statute provides three layers of review for the tourism expenditures—a local advisory committee, a statewide oversight committee, and an expenditure review committee.” *Id.* These three layers of review provide ample review of the tourism expenditures. In fact, it provides the only review of the tourism expenditures. “[T]he A-Tax statute and Proviso 39.2 set forth the General Assembly's determination of the required level of oversight, transparency, and accountability.” *Id.* As such, Plaintiff does not have the right under FOIA to request any documents from Charleston Area CVB.

Furthermore, this Court should grant Charleston Area CVB's Motion for Summary Judgment because Charleston Area CVB offered to make available to Plaintiff the documentation of receipt of funds from Charleston County. Charleston Area CVB made Plaintiff aware that it did not have any documents that responded to her request. If Charleston Area CVB does not have records that respond to Plaintiff's request, Charleston Area CVB cannot be penalized for not recording data in the manner that Plaintiff would prefer. *See* S.C. Code Section 30-4-30(A)(2) ("A public body is not required to create an electronic version of a public record when one does not exist to fulfill a records request."). Charleston Area CVB has not violated any law by retaining its records in this manner. Because there is no genuine issue of material fact related to Charleston Area CVB's response to Plaintiff's inquiry, this Court should grant its Motion for Summary judgment.

### **CLOSING**

For these reasons, this Court should grant Charleston Area CVB's Motion for Summary Judgment as there is no genuine issue of material fact and as a matter of law, Charleston Area CVB is not subject to FOIA.

Respectfully submitted,

By: s/ Robert E. Tyson, Jr.  
 Robert E. Tyson, Jr.  
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 La'Jessica M. Stringfellow  
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*Attorneys for Defendant, Charleston Area Convention and  
Visitors Bureau*

Columbia, South Carolina  
Monday, April 3, 2023

# EXHIBIT A

to

## **Memorandum in Support of CACVB Motion for Summary Judgment**

Case No. 21-CP-10-02999

*August 10, 2020 FOIA Request*



Mare Baracco  
1006 Madrid Avenue  
Port Royal SC 29935  
(843) 592-1062  
maremail59@yahoo.com



Sent certified mail August 10, 2020

Ms. Helen Hill  
Charleston Area Convention and Visitors Bureau  
423 King St,  
Charleston, SC 29403  
**RE: FOIA Request**

Dear Ms. Hill:

The County of Charleston entered into an agreement with the Charleston Area Convention & Visitor's Bureau ("Agency") October 6, 2017. In that agreement were two provisions regarding the reporting of ATAX expenditures by the "Agency".

Paragraph 4 states:

*Agency shall allow the Charleston County Internal Auditor, if deemed necessary by the County, to review the financial records and transactions of the Agency.*

Paragraph 9 states:

*Agency agrees that by acceptance of public funds provided herein, the Agency acts as a "public body" as defined in the S. C. Freedom of Information Act (§30-4-10, et. seq.) S. C. Code of Laws for 1976 as amended, with respect to the expenditure of those funds, and all activities regarding the expenditure of these funds must be in compliance with this Act.*

Therefore, pursuant to South Carolina FOIA law this letter is a formal request for copies of all receipts and invoices for all transactions of Charleston County Accommodations Tax (ATAX) expenditures by the Agency as they relate to the promotion of tourism related activities for the County of Charleston under the terms of this Agreement.

Please confirm receipt of this letter and apprise me when I can expect to receive the requested documents. Also, this request was emailed to the CVB to your attention August 6, 2020.

Sincerely,

# EXHIBIT B

to

## **Memorandum in Support of CACVB Motion for Summary Judgment**

Case No. 21-CP-10-02999

*CACVB Response to August 10, 2020 FOIA  
Request*

David G. Jennings  
djennings@rrhlawfirm.com

# ROSEN | HAGOOD

August 24, 2020

**VIA EMAIL**

Mare Baracco  
1006 Madrid Avenue  
Port Royal, SC 29935

Re: FOIA Request

Dear Ms. Baracco:

Your letters to Helen Hill dated August 6 & 10, 2020 have been forwarded to me for response. Without getting into a discussion of whether the contract with Charleston County can change South Carolina law as interpreted by the South Carolina Supreme Court, please be advised that the Charleston Area Convention and Visitors Bureau does not have any records which fall within the parameters of your request. Although we are not required to, we can provide you with the documentation of the receipt of funds from Charleston County, but the CACVB's accounting records do not itemize or allocate expenditures according to individual revenue categories.

If you would like to know when and how much ATAX money the CACVB received from Charleston County for the fiscal year ending June 30, 2020, please let me know. Thank you very much for your interest in the CACVB.

If I may be of further service, please let me know.

Sincerely,



David G. Jennings

DGJ/mm

cc: Helen Hill, Charleston Area Convention and Visitors Bureau (via email)

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Mare Baracco,

Plaintiff,

vs.

Charleston Area Convention and Visitors  
Bureau,

Defendant.

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH CIRCUIT

CASE NO. 2021-CP-10-02999

**CHARLESTON AREA CONVENTION  
AND VISITORS BUREAU'S  
MEMORANDUM IN OPPOSITION TO  
PLAINTIFF'S MOTION TO COMPEL  
ADDITIONAL DISCOVERY  
RESPONSES**

Defendant Charleston Area Convention and Visitors Bureau (“Charleston Area CVB”) submits the following Memorandum in Opposition to Plaintiff’s Motion to Compel additional discovery responses from Charleston Area CVB. This Court should deny Plaintiff’s motion because Charleston Area CVB is a designated marketing organization which is not subject to the South Carolina Freedom of Information Act (“FOIA”). As a result, plaintiff’s motion to compel additional discovery responses is not proper as this case can be decided as a matter of law.<sup>1</sup>

Although the scope of discovery is broad, discovery must be relevant to the subject matter involved in the pending action. *See Oncology & Hematology Assocs. of S.C. LLC v. South Carolina Dep't of Health & Env'tl. Control*, 387 S.C. 380, 692 S.E.2d 920 (2010); Rule 26(b)(1), SCRCP. Indeed, there are limits to the scope of discovery requests parties must adhere to during discovery practice. *Oncology & Hematology Assocs.*, 692 S.E.2d at 924. The South Carolina Supreme Court has made it clear that the merits of a claim “should not be relegated to a secondary status” during discovery practice. *Id.* Discovery requests must show a reasonable expectation of obtaining

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<sup>1</sup> Charleston Area CVB also relies on its arguments made in its memorandum in support of its Motion for Summary Judgment filed simultaneously with this memorandum.

information that will aid the dispute's resolution. *Oncology & Hematology Assocs*, 692 S.E.2d at 924-25. "Discovery requests must be reasonably tailored to include only relevant matters." *Id.*

In this case, the central issue is whether Charleston Area CVB is required to comply with FOIA. Whether Charleston Area CVB must comply with FOIA can be decided as a matter of law. Plaintiff's discovery requests go far beyond being reasonably tailored to aid the resolution of the central issue in this dispute. Plaintiff's extensive discovery requests go beyond a truth-seeking function and instead relegate the merits of this case to a secondary status.

It is for this reason; this Court should deny Plaintiff's Motion to Compel Additional Discovery Responses from Charleston Area CVB.

Respectfully submitted,

By: s/ Robert E. Tyson, Jr.  
Robert E. Tyson, Jr.  
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La'Jessica M. Stringfellow  
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*Attorneys for Defendant, Charleston Area Convention and  
Visitors Bureau*

Columbia, South Carolina  
Monday, April 3, 2023

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM CHARLESTONCOUNTY  
Court of Common Pleas

George M. McFaddin, Jr., Circuit Judge

Common Pleas Case No. 2021-CP-10-02999

Mare Baracco,.....Appellant,

v.

Charleston Area Convention and Visitors Bureau,.....Respondents.

NOTICE OF APPEAL

Mare Baracco (hereinafter “Appellant”) appeals from the two orders filed on May 8, 2023, and the one order of June 9, 2023 (copies of which are provided to the Court of Appeals with this notice), in this action. Appellant received written notice of the entry of these orders on the dates of the filing of each. Due to timely motion under Rule 59, SCRCPP, this appeal is timely as to each of the appealed orders.

July 7, 2023

Respectfully submitted,

/s/ Taylor Smith  
Taylor M. Smith IV  
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1 STATE OF SOUTH CAROLINA ) IN THE SOUTH CAROLINA CIRCUIT COURT 9  
2 COUNTY OF CHARLESTON ) COURT C.A NO. 2021-CP-10-0299  
3 MARE BARACCO, )  
4 Plaintiff, )  
5 Versus )  
6 CHARLESTON CONVENTION AND VISITORS BUREAU, )  
7 Defendant. )  
8

9 H E A R I N G  
10

11 DATE: April 4, 2023  
12

13 LOCATION: South Carolina Circuit Court 9  
14

15 JUDGE: GEORGE M. MCFADDIN, JR  
16

17 TRANSCRIBED BY: ERIN REILLY  
18

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INDEX

Certificate of Transcriber . . . . . 20

EXHIBITS

(None Marked)

(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH IS  
REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

## PROCEEDINGS

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THE COURT: Good morning, you all.

MR. JUSTUS: Good morning, Your Honor.

THE COURT: And without further ado here, this would be the matter of Frazier versus -- no, I'm sorry. Baracco versus Charleston Convention and Visitors Bureau. Is that right?

MR. SMITH: Yeah. Correct, Your Honor, I'm here Taylor Smith for Ms. Mare Baracco, the plaintiff.

THE COURT: All right. And motions to compel and summary judgment. Right?

MR. SMITH: That's correct, Your Honor.

THE COURT: Who wants to go first?

MR. SMITH: Your Honor, I can, because we have our motion to compel first listed on the roster. But if they want to go first, I'm fine with that. Whatever works best for Your Honor.

THE COURT: I'm good either way.

MR. TYSON: Yeah, Your Honor, I'll start. Let me apologize. I'm Rob Tyson. You can see me. I'm in LA'Jessica Stringfellow's box. We go -- we work together but as you know, cameras are prone to do. For some reason, my camera didn't come on on my computer, so I just moved down the hall. So, I'm in LA'Jessica's office, but I'm Rob Tyson. And may -- maybe it makes sense if I just start with the motion for summary judgment and then if -- and then you -- we can go from there and then move into the motion to compel, if that suits you,

1 Your Honor.

2 THE COURT: Yes, sir.

3 MR. TYSON: All right. Again, I'm Rob Tyson here today on  
4 behalf of the defendant, the Charleston area. Convention and  
5 Visitors Bureau. And we're here today just asking you to grant  
6 our motion for summary judgment and to dismiss the case. It's a  
7 pretty straightforward case, and I'll just kind of back through  
8 that pretty quickly just so that we have a little context. Our  
9 client, the CVB, the Convention and Visitors Bureau, is a non-  
10 profit entity that markets Charleston as a in the local and  
11 surrounding areas. They -- they market them as a tourist  
12 destination. Under the Accommodations tax statute, it has been  
13 treated as a designated marketing organization, a D.M.O. for  
14 the -- and for that designation, it is responsible for  
15 Charleston, the city of Charleston, Charleston County and a  
16 number of other local governments in the area. The Plaintiffs  
17 are resident of South Carolina, I believe maybe Beaufort  
18 County. She emailed a FOIA request to my client on August the  
19 6th, 2020. A couple of days later on the 10<sup>th</sup>, she then turned  
20 around and sent it the same request, but sent it by registered  
21 mail. My client received it, gave it to their attorney, David  
22 Jennings, who responded in a timely manner on August the 24th.  
23 Of the FOIA request it's Exhibit A to our memo in support of  
24 our motion for summary judgment but it's very straightforward.  
25 It's just a -- she states it's a formal request for copies of

1 all receipts. And invoices for all transactions of Charleston  
2 County's accommodation tax expenditures by the agency as they  
3 relate to the promotion of tourism related activities for the  
4 county of Charleston under this agreement. And then she -- and  
5 that was it. That was her request that she run for the county.  
6 All the transactions and the expenditures related to the -- for  
7 the activities related to the county of Charleston. The  
8 response from the -- our client said it was very simple  
9 response to, without getting into the Supreme Court precedent  
10 ruling or to the Supreme Court ruling, please be advised that  
11 the CA CVB does not have any records that fall within the  
12 parameters of your request. And in Mr. Jennings letter went on,  
13 though, and said, although we are not required to do so, we can  
14 provide you with documentation of the receipt of funds from  
15 Charleston County. And if you want this information to let us  
16 know. The plaintiffs didn't take us up on our request. We  
17 didn't hear from them until the complaint was filed. And that's  
18 it. The Plaintiff filed a complaint. She alleges two simple  
19 violations, a violation of FOIA, stating that my client didn't  
20 claim an exemption related to information being withheld and  
21 that my client didn't provide plaintiff with all of the  
22 information responsive to their request. So that's --it's two  
23 simple paragraphs and 17 and 18. We shortly after we received  
24 that was an amended complaint, we filed our answer and simply  
25 said we're not subject to FOIA. And alternatively, even if we

1 | were, we responded to the FOIA request satisfactorily. Your  
2 | Honor, just briefly. The reason that we said we're not subject  
3 | to FOIA, and you see that in our -- our memo and support, we --  
4 | we rely on the case of the Domain News Media.com case. It's the  
5 | 2018 Supreme Court case. And in that case, there's a D.M.O., a  
6 | designated marketing organization, and that's the Chamber of  
7 | Commerce for Hilton Head and Bluffton. And -- and they're the  
8 | plaintiffs are suing them also under the same tax under the  
9 | accommodations tax asking for information. The court, in its  
10 | opinion, explained this interplay between the -- the atex tax,  
11 | the accommodations tax law and the FOIA law. And then they  
12 | concluded or they described a little bit further that the  
13 | accommodations tax law is a specific law. The FOIA is a general  
14 | law. So, they got into it and said, look, this is what's going  
15 | to rule the -- the specific law. The accommodations tax law,  
16 | but it said that it's a -- it's -- let me step back. It's a  
17 | sales tax and it's own accommodations. So, when you sleep at  
18 | night, you pay that accommodations tax. And under that law,  
19 | those dollars must be expended by the D.M.O. on tourism related  
20 | activities. So, that's the scheme of the -- that section. Under  
21 | the law and that's title 6-4-10. That's the accommodations tax  
22 | law. It spells out the scheme of how you -- what you are, how  
23 | you use these accommodation taxes, how you pick your D.M.O. and  
24 | then what you do with it. In that the statute further places  
25 | reporting and disclosure responsibilities and obligations on

1 the designated marketing organization. There in the statute, it  
2 lays out three specific layers of review. So if a citizen was  
3 interested in how these atex tax dollars were being used, the  
4 statute provides for that. There's a local advisory committee,  
5 there's a statewide oversight committee. And then thirdly,  
6 there's an expenditure review committee. So, with that against  
7 that backdrop and looking through the interplay between the  
8 FOIA and the atex tax law, the Supreme Court ruled that the  
9 D.M.O. was not subject to FOIA. They said the General Assembly  
10 did not intend the D.M.O., the chamber to be considered a  
11 public body for FOIA purposes based upon its receipt of  
12 expenditures of atex tax funds. And then the court further went  
13 on to say in that opinion that the General Assembly has a  
14 specific and detailed process for the expenditure of atex tax  
15 dollars by the D.M.O., and the General Assembly's intent is  
16 controlling. So, the Supreme Court was very clear, they said  
17 under this accommodations tax scheme, if you've been  
18 designated, if you've been selected as a designated marketing  
19 organization, then you're not subject to FOIA. And that's clear  
20 under the statute, and that's clear under the state Supreme  
21 Court precedent. So, for those reasons, the Convention and  
22 Visitors Bureau says that where D.M.O. just like that so we're  
23 not subject to FOIA. And Your Honor, just to be clear, there's  
24 no dispute whether we're a D.M.O., the plaintiff alleges that  
25 in their complaint, I think it's paragraph three, they concede

1 | that we're a designated marketing organization. So, with that,  
2 | it's pretty hard to see how the court can get around or how the  
3 | plaintiff can get around the statute and the Supreme Court  
4 | case. But Your Honor, just briefly, that if you want to go down  
5 | that road alternatively, if you do believe that by some -- that  
6 | we are under FOIA and that we should have responded or should  
7 | have, that we are under FOIA, then we say we responded. We  
8 | provided the document that was -- you know the response that --  
9 | that you know, answered per request under FOIA, and that's 30-  
10 | 4-20. It describes what a public record is, and it says that  
11 | it's a all documents that are prepared, owned, used in the  
12 | possession of. You got to have the document, you got to be in  
13 | possession of the document, you got to have that. So if a - -  
14 | if a -- if the public asks for that document, then you produce  
15 | that document to them. This case, pursuant to their request we  
16 | don't have those documents, so we cannot produce them since we  
17 | don't have them. The Section 30-4-30 goes a step further and  
18 | says that a public body is not required to produce a public  
19 | record when one doesn't exist and that makes sense. If the  
20 | citizen or the public is asking for a document and you got it,  
21 | you got to turn it over under FOIA. But there's no obligation  
22 | or duty to the governmental organization to go out and produce  
23 | the document as requested. So with that, we think that the --  
24 | you know, again, we -- we don't think that we're a public body  
25 | pursuant to the accommodations tax scheme. And then under the

1 Supreme Court law, Your Honor, even if we were and Mr. Jennings  
2 responded accordingly when he - when he filed the response and  
3 said, look, we don't think that we are, but we don't have a  
4 responsive document anyway, and then told them that. So we  
5 think that we win, I wish our motion should be granted on -- on  
6 first round and if not, like I said, alternatively we think  
7 that we responded. But I'm glad to answer any questions. And  
8 Your Honor, let me just say briefly, that we'll talk more about  
9 the motion to compel, but you can see why we don't think the  
10 motion to compel is appropriate, the discovery responses and  
11 requests. It's a simple, straightforward matter of law. Are we  
12 subject to FOIA? And if we're not, that's - that's a legal  
13 question, yes or no, but it's not going to be the document  
14 request. And the discovery is not going to be conducive to  
15 answering that question.

16 THE COURT: So and reply.

17 MR. SMITH: Thank you, Your Honor. As I said, Taylor Smith  
18 here for Mare Baracco. Your Honor, I'm going to start by  
19 referring to some documents that are of record in this case  
20 back from January of 2022. So if -- if you're looking for  
21 what's in the record right now, just understand that I am  
22 citing to you from what's in the record. I'm not trying to  
23 strain from what's outside that. So a bit of background Your  
24 Honor. This case began as he indicated, a Freedom of  
25 Information Act request. Now, the controversy about this

1 particular expenditure of public funds, though, begins with a  
2 FOIA request not to the defendant, but to the county, the  
3 Charleston County, who they admit they serve as a destination  
4 marketing organization. We don't dispute that at all. They are  
5 definitely the destination marketing organization for  
6 Charleston County. And so, Your Honor, what my client, Ms.  
7 Baracco, did was that on July 23rd, 2020 and this is in her  
8 affidavit of January 14th, 2022, Your Honor, that she said she  
9 submitted a FOIA request to Charleston County Communications  
10 coordinator seeking information concerning how and what they  
11 had regarding the expenditure of accommodations tax funds. You  
12 can see the response from Charleston County, and that -- that  
13 is that on July 24th, 2020, they wrote back to Ms. Baracco.  
14 Just to clarify, are you asking for receipts and expenditures  
15 for what the CBV spent the money on? What we provided you is  
16 what the county provided to the CBB. If you want receipts on  
17 how the money was spent, you need to contact the CBV. So, Your  
18 Honor, that is the entity with which they serve, indicating  
19 that if you want to get receipts and expenditures, receipts and  
20 invoices that is as to how the accommodations tax money is  
21 spent, then you need to send a FOIA request to the CBV. And so  
22 Ms. Baracco sends a FOIA request to the defendant in this case.  
23 And she says in her FOIA request that the reason she is sending  
24 this request to them is first, that the county told her to do  
25 so and that the county also had entered into agreements with

1 | this particular chamber in 2017 and in other years, Your Honor.  
2 | That the agency agreed in paragraph nine of those agreements.  
3 | And this is also on the January 14th, 2022 filing of Ms.  
4 | Baracco that the CBV agrees that by acceptance of public funds  
5 | provided herein, the agency acts as a public body as defined in  
6 | the South Carolina Freedom of Information Act. With respect to  
7 | the expenditure of those funds and all activities regarding the  
8 | expenditure of these funds must be in compliance with this act.  
9 | So, Your Honor, then the FOIA request by Ms. Baracco is  
10 | responded to in this case and the written determination, which  
11 | is what a requirement has to be Your Honor, for what records  
12 | are responsive under 30-4-30 of the Freedom Information Act  
13 | provides, the Charleston Area Convention and Visitors Bureau  
14 | does not have any records which fall within the parameters of  
15 | your request. Again, the information she sought was receipts  
16 | and invoices about the management of these funds, and the  
17 | response is that they do not have any records which fall within  
18 | the parameters of your request. So she's directed by who they  
19 | serve the county to send a request to them. And their response  
20 | is we don't have anything responsive. Now, that might raise a  
21 | question, Your Honor, as to who then has such invoices. Who  
22 | then has such receipts? Okay. Well, what we now have in this  
23 | case is that with that written determination, Your Honor, we  
24 | have decided to pursue determining how is it then they cannot  
25 | determine whether or not they have any responsive records,

1 meaning receipts and invoices. We are not going to anything  
2 further than Your Honor trying to determine that at this point  
3 in discovery of this case, because apparently what they are  
4 indicating is two things. One, they don't have to supply it  
5 because of the arguments they're making, that they are a  
6 destination marketing organization, which I'll address in a  
7 moment, but secondarily, that they do not have any records  
8 responsive. Well, obviously, Your Honor, the first argument is  
9 one of a legal determination which Your Honor can make. We can  
10 make we can talk about today but the second, which is the basis  
11 of our motion to compel, is that when asked, can you supply to  
12 us the name, position or individual who input or otherwise  
13 manage accounting for you the defendant, including any third  
14 parties who assisted with accounting. They have objected to  
15 that interrogatory on the grounds that it's overly broad,  
16 unduly burdensome, not limited in scope, intended to harass,  
17 burden or embarrass the defendant and not reasonably designed  
18 to lead to discovery of admissible evidence. Understand what  
19 we're trying to learn, Your Honor, that is, is it that they  
20 have a technological incapacity to find responsive records or  
21 that they in fact, are as they are trying to indicate an entity  
22 which does solely manage these funds, these atex tax funds, as  
23 he says, as a destination marketing organization. The reason  
24 that, that is important, Your Honor, is that right now to  
25 decide that you would agree there is no issue of material fact

1 concerning whether or not this is a public body for FOIA  
2 purposes. You would have to know how is this entity organized?  
3 What you have in the case that he cited Your Honor, in Domains  
4 New Media, a case that I argued at the trial court and in the  
5 Supreme Court. is you have in that case, the court reciting  
6 exactly how it was receiving a record about how the Hilton Head  
7 Island, Bluffton Chamber of Commerce was organized.  
8 Specifically, the court said in that case, the Chamber is a  
9 nonprofit organization. Chambers stated purpose is to promote  
10 the common interests of its members and stimulate economic  
11 activity within the area. They also had, Your Honor, a public  
12 side which was supported by public funds, which we stipulated  
13 to in that case, meaning before the court on cross motions for  
14 summary judgment to revolve that case as to whether or not they  
15 were a public body before the court were records about exactly  
16 how much public money has gone through them and how that money  
17 is managed. In that case, it was a private chamber on one side  
18 and it was a public body in the context of receiving those  
19 funds on the other public and private money flowing throughout.  
20 And so for here Your Honor, to agree with their motion for  
21 summary judgment, you would have to have in this record the  
22 kinds of evidence that would establish Your Honor to understand  
23 that the application of Domains New Media is proper in this  
24 case. In that case, the court was trying to determine, what  
25 harm would occur by subjecting an entity that was both private

1 and public to the Freedom of Information Act. And they resolved  
2 it in saying that the accommodations tax framework was a more  
3 specific statutory scheme which would aid in the situation in  
4 which a hybrid form like that could be subjected to  
5 transparency, but not necessarily subjected to FOIA. In this  
6 case, Your Honor, in this record, there is no information that  
7 you have about exactly how they are organized. I don't mean  
8 down to the specifics, Your Honor. I'm not trying to say that  
9 you would need to understand specific expenditures and say a  
10 specific contract with a civic contractor. That's not what the  
11 law requires. And Carolina v Western Research in 1991, the  
12 Supreme Court said that it is the in mass providing a public  
13 funds to an entity that then manages the expenditure of those  
14 funds. That makes it a public body for FOIA purposes. That is  
15 the test for what makes a public body for FOIA purposes. What  
16 we have in Ms. Baracco's affidavit, Your Honor, is that they do  
17 receive because that's all the county could provide back to  
18 them before she sent the request to this defendant that they do  
19 maintain a lot of money in mass as the D.M.O. So, we know that  
20 to be the case. They probably are a public body. But what I'm  
21 suggesting today, Your Honor, is that it would both be  
22 inappropriate to agree that they have no issue of material fact  
23 as they are a public body, because there's nothing in the  
24 record aside from that to say the exact opposite, but also that  
25 when we ask them to just give us information about how they do

1 their own accounting, just to determine if they even can  
2 respond with FOIA requests, even in the event we later decide  
3 if they are a public body or if they intentionally design  
4 accounting practices so darkly that they can't respond to FOIA  
5 requests even if they ever were a public body. Which again,  
6 Your Honor, as filed in this case, undisputed right now, is  
7 that the county of Charleston was in agreements with this  
8 defendant up until a few years ago that they would act as a  
9 public body for FOIA purposes. And so regardless of what  
10 application might be here in Domains News Media, I can tell you  
11 in that record you will not find an agreement between it and,  
12 say, Beaufort County or one of the other entities that it  
13 served in that case, that it would act as a public body. Here  
14 you do. The motion for summary judgment, Your Honor, should be  
15 denied and our motion to compel discovery should be answered so  
16 we can at least get some answers regarding how can we learn  
17 better or perhaps even later stipulate to Your Honor, as in the  
18 case of Domains New Media, a record put forth before Your Honor  
19 to understand exactly how in a general way they are organized  
20 towards the expenditure of public funds, whether or not they in  
21 mass manage them or whether or not the applicability of Domains  
22 New Media is appropriate in this case. And so we ask that  
23 motion to be compel, be granted.

24 THE COURT: All right. Now, a reply to the motion to  
25 compel, sir, please.

1 MR. TYSON: Yeah. So Judge, just briefly, the -- the  
2 implying -- you know, I appreciate Mr. Smith talking about  
3 other requests and other things to Charleston County and all  
4 but -- but the complaint is pretty straightforward that the  
5 Plaintiff is taking exception with the response that David  
6 Jennings provided on behalf of -- of the Charleston Area  
7 Convention Bureau and saying that the accounting records said  
8 that we don't identify any record or piece of information that  
9 it's withholding from disclosure. Your Honor, the point is we  
10 don't have to if we don't have that document. Second thing is  
11 that we didn't provide him with all the information, with the  
12 Plaintiff, with all the information. Your Honor, that's very  
13 straightforward. Either Domain New applies or it doesn't apply.  
14 Let -- let me just -- just quickly on the motion to compel.  
15 Your Honor, just so that, you know that while we objected to a  
16 number of these things and while we don't think it really  
17 matters is one of the questions they asked for, give me every  
18 explanation -- give me an explanation of why your accounting  
19 records don't itemize or allocate the expenditures according to  
20 individual revenue categories. So, they're not even accepting  
21 our answer. They want to tell us why we chose that and I don't  
22 think FOIA requires us to have to tell them why we chose that.  
23 They've got another request where they say, tell us -- describe  
24 your accounting software and your most recent update of that.  
25 Well, I don't know how that has any relevance to anything as a

1 question of law of whether we violated FOIA or not. They asked  
2 for every piece of correspondence between us and Charleston  
3 County on the atex. Well, that's not going to have any bearing.  
4 Even, let's say, Your Honor ordered us and compelled us to  
5 answer all of those things that's still not going to have any  
6 bearing over whether our designated marketing organization is  
7 subject to FOIA or not. So, Your Honor, just with -- with all  
8 due respect to -- on the other side we -- we just believe it's  
9 a straightforward question of law. They've had -- they've got a  
10 simple for your request. You can see it. There's one request.  
11 It asks for that information. And let me just -- you know, just  
12 say, Your Honor, they asked for how the expenditures are broken  
13 out by the county. And we just said, we don't have that. We  
14 don't have that information. That's just not how that my client  
15 keeps those records. Clearly, they have all the invoices.  
16 Clearly they have other information, but it's not broken out in  
17 the way that was requested. And as we just went through the  
18 statute, we don't have a statutory responsibility to give that  
19 to them, just like they want it. So, with that, we -- we  
20 respectfully request you grant our motion for summary judgment.

21 THE COURT: Gentlemen, you know I'm about to take this  
22 under consideration? Get your ruling out as soon as I can. This  
23 docket is long this week, so bear with me. And I appreciate  
24 your patience, but you will hear from me as soon as I can.  
25 Thank you all.

1 MR. TYSON: Thank you.

2 MR. SMITH: Thank you, Your Honor.

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CERTIFICATE OF TRANSCRIBER

I, ERIN REILLY, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 9, Charleston County, South Carolina, on the 4th day of April, 2023 .

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

August 14<sup>th</sup>, 2023  
ERIN REILLY  
TRANSCRIBER

**STATE OF SOUTH CAROLINA**  
**COUNTY OF CHARLESTON**

**IN THE COURT OF COMMON PLEAS**  
**FOR THE NINTH JUDICIAL CIRCUIT**

**CASE NO. 2021-CP-10-02999**

**Mare Baracco,**

**Plaintiff,**

**vs.**

**Charleston Area Convention and Visitors**  
**Bureau,**

**Defendant.**

**AFFIDAVIT OF MARE BARACCO**

Personally appeared before me Mare Baracco, who, first being duly sworn, deposes and says as follows:

1. I am Mare Baracco, the Plaintiff in the above-captioned lawsuit. I have personal knowledge of the facts stated in this affidavit and am competent to testify to them
2. On July 23, 2020, I sent a FOIA request to Kelsey Barlow, Charleston County Communications Coordinator, from my email address "maremail59@yahoo.com" regarding the 2017 agreement with the Charleston Area Convention and Visitors Bureau (CACVB) for Accommodations Tax monies. I followed up with Ms. Barlow July 24, 2020, and we exchanged emails. (Exhibit 1). Barlow directed I send my FOIA request to the CACVB.
3. On August 6, 2020, I emailed this same FOIA request to Helen Hill at the CACVB's published email address "datamanagement@explorecharleston.com" from my email address "maremail59@yahoo.com". (Exhibit 2). My single page FOIA request contained verifiable contact information, to include my USPS mailing address, a working cellular number, and my Yahoo email contact address "maremail59@yahoo.com".

4. Out of an abundance of caution, and to ensure receipt, I also sent this same FOIA request to Helen Hill by certified mail, return receipt requested, with the same verifiable contact information as stated above. (Exhibit 3)
5. I did not receive a reply to either my emailed request nor my certified letter.
6. I subsequently filed this FOIA lawsuit June 30, 2021. Shortly after, my attorney forwarded me an email the Defendant alleges they sent August 24, 2020 to “my” email address “‘maremail59@yahoo.com’”.
7. I informed my attorney:
  - 1) I had not received an email from the Defendant on August 24, 2020, or any other date;
  - 2) “ ‘maremail59@yahoo.com’ ” was not my email address; further, it was not represented that way on my correspondence to Charleston County or the CACVB, and that my email address for these FOIA request(s) was/is “maremail59@yahoo.com” (Exhibits 1-3).
8. I took the following steps to confirm I had not received an emailed reply from the Defendant:
  - a. I paid for a subscription on August 25, 2021, to Yahoo Plus Support with Last Pass to confirm I was searching with all Yahoo’s email parameters. (Exhibit 4)
  - b. I then conducted a series of email searches. First, I inputted Defendant’s (Mr. Jennings and Ms. Moorman’s) email addresses in the search box. No result. (Exhibit 5)
  - c. I then inputted Jennings’s and Moorman’s first and last names in the search box. The name “Margaret” appears vicariously, but no result for a “Margaret Moorman”. A

result for a “David Jennings” appears, but not the “David Jennings” from Rosen Hagood and/or Jennings’ email address referenced above. (Exhibit 6)

d. I input the word “Rosen”; vicarious references to the word “Rosen” appeared, but no result for Rosen Hagood. (Exhibit 7)

9. To determine deliverability of an email address with “ ‘ ’ ” at each end, I took these additional steps:

1) On August 25, 2021, I called Microsoft Outlook Email Support (via GoDaddy) (our fishing company has a separate Outlook account through GoDaddy). I emailed the support staff Defendant’s Exhibit “C”, from the Outlook account, and requested they reply to me at maremail59@yahoo.com for their assessment as to whether such an email address as the Defendant used, “ ‘maremail59@yahoo.com’ “ was deliverable. (Exhibit 8)

2) On August 26, 2021, I emailed Robert O’Brien, a retired IRS Criminal Special Agent and IRS trained forensic computer expert employed with Quick Group LLC, located in Mount Pleasant, for his assessment of deliverability of the email address “ ‘maremail59@yahoo.com’ ”. (Exhibit 9)

10. Defendant’s Exhibit “E” (Affidavit of Margaret Moorman Marshall) expressly states: “...I emailed the attached correspondence, hereto as Exhibits A and B to Plaintiff, Mare Baracco, to her email address as stated on her FOIA request letter.” I dispute this assertion, as Moorman did not send an email “...to her email address as stated on her FOIA request letter.” (Exhibit 10)

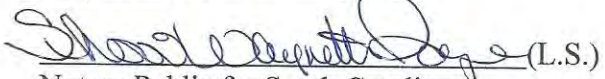
FURTHER AFFIANT SAYETH NOT.

[signature and attestation next page]

  
Mare Baracco

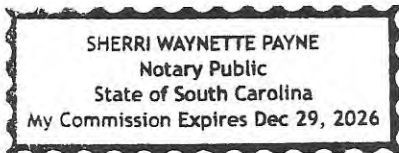
SWORN to before me this

13 day of January, 2022.

 (L.S.)

Notary Public for South Carolina

My Commission Expires Dec. 29, 2026



1



Mare Baracco  
1006 Madrid Avenue  
Port Royal SC 29935  
(843) 592-1062  
maremail59@yahoo.com

July 24, 2020

Kelsey Barlow  
Communications Coordinator  
Charleston County Government  
RE: FOIA Request of July 23, 2020

Dear Ms. Barlow:

Re your email of July 24, 2020 in reply to my FOIA request of July 23, 2020 (copy attached) the lone document sent in response you identified as (Exhibit A) "*The CVB certified that the funds were spent as attached on their final report*" (copy attached). That document is insufficient and further, is not what I am seeking pursuant to my July 23<sup>rd</sup> request and the October 6, 2017 "Agreement" that was referenced.

To reiterate, the County of Charleston entered into an agreement with the Charleston Area Convention & Visitor's Bureau ("Agency") dated October 6, 2017. In that agreement were two provisions regarding the reporting of ATAX expenditures by the "Agency".

Paragraph 4 states:

*Agency shall allow the Charleston County Internal Auditor, if deemed necessary by the County, to review the financial records and transactions of the Agency.*

Paragraph 9 states:

*Agency agrees that by acceptance of public funds provided herein, the Agency acts as a "public body" as defined in the S. C. Freedom of Information Act (§30410, et. seq.) S. C. Code of Laws for 1976 as amended, with respect to the expenditure of those funds, and all activities regarding the expenditure of these funds must be in compliance with this Act.*

Therefore, please accept this letter as clarification of my request for copies of all receipts and invoices for all transactions of Charleston County Accommodations Tax (ATAX) expenditures by the Agency as they relate to the promotion of tourism related activities for the County of Charleston under the terms of this Agreement.

Sincerely,

A handwritten signature in cursive script, appearing to read 'M. Baracco', written over a horizontal line.

RE: FOIA Request

From: Kelsey Barlow (kbarlow@charlestoncounty.org)  
To: maremail59@yahoo.com  
Date: Friday, July 24, 2020, 1:14 PM EDT

Mare,

Just to clarify, are you asking for receipts and expenditures from what the CBV spent the money on? What we provided to you, is what the County provided to the CBV. If you want receipts on how that money was spent you will need to contact the CBV.

Kelsey Barlow  
Communications Coordinator  
Charleston County Government  
Kbarlow@charlestoncounty.org  
Office: 843.202.6090  
Cell: 843.991.1391

From: Mare Deckard <maremail59@yahoo.com>  
Sent: Friday, July 24, 2020 12:49 PM  
To: Kelsey Barlow <KBarlow@charlestoncounty.org>  
Subject: Re: FOIA Request

CAUTION: This email originated outside of Charleston County. Do not click links or open attachments from unknown senders or suspicious emails. If you are not sure, please contact IT helpdesk.

Dear Ms. Barlow,

Please see my FOIA request from yesterday. Pursuant to that October 6, 2017 Agreement, and the FOIA provision contained therein, I am requesting copies of all the expenditures, including but not limited to, the receipts and corresponding invoices for each transaction.

I look forward to your reply.

Thank you, Mare Baracco

On Friday, July 24, 2020, 12:21:03 PM EDT, Kelsey Barlow <kbarlow@charlestoncounty.org> wrote:

Mare,

The County disbursed \$1,659,375 on 10/9/17 and \$553,125 on 4/5/18 to the Convention and Visitor's Bureau.

The CVB certified that the funds were spent as attached on their final report.

First Name: Mare  
Last Name: Baracco  
Email: maremail59@yahoo.com  
Phone: 8435921062

Question/Comment: Please provide all receipts and invoices regarding all expenditures resulting from the October 6, 2017 Agreement between Charleston County and the CACVB (the Agency) for the promotion of tourism related activities as agreed upon by the parties in this agreement.

Kelsey Barlow  
Communications Coordinator  
Charleston County Government  
[kbarlow@charlestoncounty.org](mailto:kbarlow@charlestoncounty.org)

Office: 843.202.6090

Cell: 843.991.1391

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Charleston Area Convention & Visitor's Bureau  
Exhibit A

<u>Distribution of Funding from A-Tax</u>	<u>FY18 Award</u>	<u>Interim Report</u>	<u>Final Report</u>
Destination Marketing	\$1,528,226.27	\$644,493.00	\$1,650,268.44
Media Relations	\$184,839.92	67,621.00	199,600.99
Group Sales	\$501,769.25	248,844.00	541,839.89
Visitor Services (Visitor Centers)	\$251,097.79	123,708.00	271,150.13
Operational Support (Service to visitors & callers)	\$55,125.78	21,584.00	59,528.05
TOTAL	\$2,521,059.00	\$1,106,250.00	\$2,722,387.51



They added the  
 ABI 507 001 Award of (Local) \$2,212,500 and  
 ABI 501 001 state Award of \$308,559 to  
 get the total of \$2,521,059<sup>00</sup>

2

## FOIA Request

From: Mare Deckard (maremail59@yahoo.com)  
To: datamanagement@explorecharleston.com  
Date: Thursday, August 6, 2020, 5:29 PM EDT

Please confirm receipt. Thank you, Mare Baracco



FOIA Request - Charleston Area CVB.pdf  
298.8kB

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Mare Baracco  
1006 Madrid Avenue  
Port Royal SC 29935  
(843) 592-1062  
maremail59@yahoo.com

Sent via email August 6, 2020

Ms. Helen Hill  
Charleston Area Convention and Visitors Bureau  
423 King St, Charleston, SC 29403  
RE: FOIA Request

Dear Ms. Hill:

The County of Charleston entered into an agreement with the Charleston Area Convention & Visitor's Bureau ("Agency") dated October 6, 2017. In that agreement were two provisions regarding the reporting of ATAX expenditures by the "Agency".

Paragraph 4 states:

*Agency shall allow the Charleston County Internal Auditor, if deemed necessary by the County, to review the financial records and transactions of the Agency.*

Paragraph 9 states:

*Agency agrees that by acceptance of public funds provided herein, the Agency acts as a "public body" as defined in the S. C. Freedom of Information Act (§30-4-10, et. seq.) S. C. Code of Laws for 1976 as amended, with respect to the expenditure of those funds, and all activities regarding the expenditure of these funds must be in compliance with this Act.*

Therefore, pursuant to South Carolina FOIA law this letter is a formal request for copies of all receipts and invoices for all transactions of Charleston County Accommodations Tax (ATAX) expenditures by the Agency as they relate to the promotion of tourism related activities for the County of Charleston under the terms of this Agreement.

Please confirm receipt of this letter by return email and let me know when I may expect to receive the documents requested.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Mare Baracco', written over a circular stamp or seal.

3



Mare Baracco  
1006 Madrid Avenue  
Port Royal SC 29935  
(843) 592-1062  
maremail59@yahoo.com



Sent certified mail August 10, 2020

Ms. Helen Hill  
Charleston Area Convention and Visitors Bureau  
423 King St,  
Charleston, SC 29403  
**RE: FOIA Request**

Dear Ms. Hill:

The County of Charleston entered into an agreement with the Charleston Area Convention & Visitor's Bureau ("Agency") October 6, 2017. In that agreement were two provisions regarding the reporting of ATAX expenditures by the "Agency".

Paragraph 4 states:

*Agency shall allow the Charleston County Internal Auditor, if deemed necessary by the County, to review the financial records and transactions of the Agency.*

Paragraph 9 states:

*Agency agrees that by acceptance of public funds provided herein, the Agency acts as a "public body" as defined in the S. C. Freedom of Information Act (§30-4-10, et. seq.) S. C. Code of Laws for 1976 as amended, with respect to the expenditure of those funds, and all activities regarding the expenditure of these funds must be in compliance with this Act.*

Therefore, pursuant to South Carolina FOIA law this letter is a formal request for copies of all receipts and invoices for all transactions of Charleston County Accommodations Tax (ATAX) expenditures by the Agency as they relate to the promotion of tourism related activities for the County of Charleston under the terms of this Agreement.

Please confirm receipt of this letter and apprise me when I can expect to receive the requested documents. Also, this request was emailed to the CVB to your attention August 6, 2020.

Sincerely,

ALERT: DUE TO LIMITED TRANSPORTATION AVAILABILITY AS A RESULT OF NATIONWIDE COVID-19 IMPACTS, PACKAGE DE...



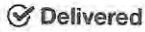
FAQs >

Track Another Package +/-

Tracking Number: 70201290000002537833

Remove X

Your item was delivered to the front desk, reception area, or mail room at 10:36 am on August 12, 2020 in CHARLESTON, SC 29403.



August 12, 2020 at 10:36 am  
Delivered, Front Desk/Reception/Mail Room  
CHARLESTON, SC 29403

Get Updates v

Text & Email Updates v

Tracking History v

Feedback

August 12, 2020, 10:36 am  
Delivered, Front Desk/Reception/Mail Room  
CHARLESTON, SC 29403  
Your item was delivered to the front desk, reception area, or mail room at 10:36 am on August 12, 2020 in CHARLESTON, SC 29403.

August 12, 2020, 7:37 am  
Out for Delivery  
CHARLESTON, SC 29403

August 12, 2020, 7:26 am  
Arrived at Unit  
CHARLESTON, SC 29403

August 11, 2020, 7:19 pm  
Departed USPS Regional Facility  
CHARLESTON SC PROCESSING CENTER

August 11, 2020  
In Transit to Next Facility

August 10, 2020, 8:37 pm  
Arrived at USPS Regional Facility  
CHARLESTON SC PROCESSING CENTER

August 10, 2020, 4:50 pm  
Departed Post Office  
PORT ROYAL, SC 29935

August 10, 2020, 8:39 am  
USPS in possession of item

4

## Getting Started With Yahoo Plus Support with LastPass

From: Yahoo (info@premiumservices.comms.yahoo.net)

To: maremail59@yahoo.com

Date: Wednesday, August 25, 2021, 10:40 AM EDT

### Welcome to Yahoo Plus Support with LastPass!

Dear maremail59@yahoo.com,

Thanks for signing up for Yahoo Plus Support. Our team of specialists is now on call to help you with Yahoo account or email issues you may experience.

So whether you need help with Yahoo Mail, a password reset, or Yahoo Sports, we're here for you—24 hours a day, 7 days a week. Just give us a call at **800-361-5610**.

Yahoo Plus Support also comes with LastPass Premium, a password manager tool with enhanced security features that helps you manage and remember your passwords.

Important! Once you get to the LastPass page you will need to set up a LastPass Account. Make sure you remember your master LastPass password too. It's the only password you'll ever have to remember again.

To activate your free LastPass account, click on the link below:

[Click here for LastPass](#)

Having trouble? Visit the Yahoo Plus Support [help page](#).

We look forward to hearing from you.

Thank you,

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The Yahoo Team

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**Billing will occur on an automatic renewal basis and will continue until you revoke this consent or cancel your subscription. For billing or cancellation requests, you may go to [mysubscriptions.yahoo.com](https://mysubscriptions.yahoo.com) and click on My Subscriptions or call 1-800-716-7411.**

**Order Summary *(Please keep or print this email for your records)***

Product name: Yahoo Plus Support with LastPass

Purchased on: 08-25-2021

Order confirmation: yhoo-b58c9931d471494f8929c7df28508561

Billing to: VISA ending in 9453

Subscription Fee: \$4.99 per month

Visit [mysubscriptions.yahoo.com](https://mysubscriptions.yahoo.com) to see details of your bill including any charges, applicable taxes and fees.

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5

HOME MAIL NEWS FINANCE SPORTS ENTERTAINMENT LIFE SHOPPING YAHOO PLUS Upgrade Now

mmoorman@rosenhagood.com

Mare Home

Compose

Messages Photos Documents

Related search: Margaret Mo...

25



- Inbox 999+
- Unread
- Starred
- Drafts 70
- Sent
- Archive
- Spam
- Trash
- Less

Sort

In store

Shop Chico's® Dresses  
Chico's

In store

Nothing to see here!

Shop Chico's® Dresses  
Chico's

Views Hide

- Photos
- Documents
- Subscriptions
- Groceries
- Deals
- Receipts
- Travel

Folders Hide

- + New Folder
- Admiral Raw ...

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HOME MAIL NEWS FINANCE SPORTS ENTERTAINMENT LIFE SHOPPING YAHOO PLUS MORE...

djennings@rrhlawfirm.com

Mare

Home

Compose

Messages Photos Documents

No results found. Showing search res...



- Inbox 999+
- Unread
- Starred
- Drafts 70
- Sent
- Archive
- Spam
- Trash
- ^ Less



Sort

Views Hide

- Photos
- Documents
- Subscriptions
- Groceries
- Deals
- Receipts
- Travel

Folders Hide

- + New Folder
- Admiral Raw ...
- FOIA R ...

Nothing to see here!

Shop Chico's® Dresses  
Chico's



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6

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- HOME
- MAIL
- NEWS
- FINANCE
- SPORTS
- ENTERTAINMENT
- LIFE
- SHOPPING
- YAHOO PLUS
- MORE...

margaret moorman

Mare Home

- Compose
- Inbox 999+
  - Unread
  - Starred
  - Drafts 70
  - Sent
  - Archive
  - Spam
  - Trash
  - Less
  - Views Hide
  - Photos
  - Documents
  - Subscriptions
  - Groceries
  - Deals
  - Receipts
  - Travel
  - Folders Hide
  - + New Folder
  - Admiral Raw ...
  - FOIA Requests
  - Kelsey Barlow
  - Port Royal
  - RC
  - ZipLogox 1

Messages Photos Documents

June

**AmeriSave Mortgage**  
Desiree, Douglas

June

Mitch Pugh, The Post and Courier

2020

Yahoo

Patty Crowder

Patty, Bernadette, Wendy

Patty, Roy ..anna

LinkedIn

Yahoo

Yahoo

2019

Yahoo

Yahoo

ThriftBooks

ThriftBooks

ThriftBooks

ThriftBooks

ThriftBooks

Yahoo

Yahoo

Amazon.com

Amazon.com

2018

Uber

Fast Forward

Fast Forward

Fast Forward

Books-A-Million

- Ad **Lower mortgage rates mean higher savings.** Wondering how much house you can afford? You're just a few clicks away from saving thousands.
- RE: [EXTERNAL] FOIA Request 2 ...BLVD 200636 CARLISLE, MARGARET B RENTAL 5 GOOSE CREEK,...
- FOIA Reque... Aug 19
- Why we are suing Colleton County, SLED over Murdaugh records ...of Paul Murdaugh and Margaret Murdaugh. I sent a letter...
- Inbox Jun 17
- Professor Researching Coronavirus Killed in Suspected Murder Suicide: Police** ...the Night Princess Margaret's 'Flirting' with Richar...
- Inbox 5/8/2020
- NOTE FROM TRICIA** Hi All, Thank you in advance to anyone that is...
- Inbox 4/16/2020
- wed problem 3 me too. I am sorry that I couldn't make my meeting work. I am still trying to figure out what the problem is. Thanks ...
- Inbox 4/15/2020
- WEDNESDAY COFFEE** 6 We didn't get to join in for the meeting this morning, but I just want to say to all of you who have so gener...
- Inbox 4/8/2020
- Mare, you have a new suggested connection to review** ..... Connect Connect Margaret O. Placement Consultant...
- Inbox 4/2/2020
- A dire virus phase? 2nd U.S. death amid 'boom' of cases.** ...Lucy Hale Suzanne Somers Margaret Brennan Jamie-Lynn Sigler...
- Inbox 3/2/2020
- 'Things like this don't happen to people like me'** ...Krasinski Monica Ruiz Margaret Qualley Reverse Mortgage...
- Inbox 1/1/2020
- 'Friends' actor, who won an Emmy and a Tony, dies** ...Hendricks Linda Hunt Margaret Brennan Mariah Carey...
- Inbox 12/9/2019
- Woman learns she has cancer from photo** ...Gerber After Reported Margaret Qualley Split The pair...
- Inbox 10/24/2019
- Hi again! We've got new picks for you, and \$3.99 titles!** ...world. The Testaments by Margaret Atwood Book #2 in The...
- Inbox 10/3/2019
- For VIPs like you! New releases, recommendations, and Deals, as low as \$3.99!** ...apply. The Testaments by Margaret Atwood B...
- Inbox 9/19/2019
- Fiction lovers, we have a giant selection of titles, as low as \$3.99!** ...The Testaments by Margaret Atwood Book #2 in The...
- Inbox 9/18/2019
- Don't miss out! We have new \$3.99 titles and 10% off Deals!** ...The Testaments by Margaret Atwood Book #2 in The...
- Inbox 9/16/2019
- Don't keep it secret! We've got 10% off Deals and \$3.99 titles!** ...The Testaments by Margaret Atwood Book #2 in The...
- Inbox 9/13/2019
- Obamas rebuke Trump after he slams Baltimore** ...Patricia Arquette Margaret Qualley Pizza Delivery...
- Inbox 7/29/2019
- Anna Wintour dodges Melania Trump question** ...Now Alycia Debnam-Carey Margaret Brennan Laurie Luhn Sarah...
- Inbox 7/22/2019
- mare barocco: Your Prime Reading recommendations to read free** ..."The Handmaid's Tale" by Margaret Atwood We hope you foun...
- Inbox 5/16/2019
- "The Chalk Man: A Novel" by C. J. Tudor and more Books** ...The Testaments: A Novel Margaret Atwood List Price: \$27.95...
- Inbox 1/4/2019
- Storytelling and art for a good cause** ...Once upon a ride When Margaret picked up 2 UberPool...
- Inbox 11/29/2018
- Explosive devices sent to Clintons and Obama, more political debates, Sox go for second WS win, and American's favorite no...**
- Inbox 10/24/2018
- Trump speaks at UN, women withdraw support for Kavanaugh, a poignant e-mail, and new Scrabble wor...** ...they come forwar...
- Inbox 9/25/2018
- Fast Forward: Trump calls Omarosa a 'dog,' casino updates, a bridge collapse in Genoa, and the Queen of Soul is in hospice ca...**
- Inbox 8/14/2018
- Book Club Picks You Can't Miss! + Special Offer** ...fascinating biography of Margaret Wise Brown. Margaret's...
- Inbox 7/18/2018

Related search: Margaret Mo...

Sort



**COUPON COI AVAILABLE!**

**GET CODES**

The Coupon-Finding Browser Extension

david jennings

Mare Home

Compose

Messages Photos Documents Related searches: David Jennings David Jennings

25



- Inbox 999+
- Unread
- Starred
- Drafts 70
- Sent
- Archive
- Spam
- Trash
- ^ Less
- Views Hide
- Photos
- Documents
- Subscriptions
- Groceries
- Deals
- Receipts
- Travel
- Folders Hide
- + New Folder
- Admiral Raw ...
- FOIA Requests
- Kelsey Barlow
- Port Royal
- RC

- Sort
- Last week**
- AmeriSave M...** Ad **Lower mortgage rates mean higher savings.** Won...
  - Desiree, Douglas RE: [EXTERNAL] FOIA Request 2 .... FOIA Reque... Aug 19
- 2020**
- Ginnie Kozak RE: I come in peace --- ...On Behalf ... Inbox 5/11/2020
  - David Jennings** **Fighter pilot story** --- This came f... Inbox 4/20/2020
- 2019**
- David Jennings** **Deep Sea Fun** Many will enjoy exp... Inbox 12/12/2019
  - David, kara.bal...** **Eagle** 2 ...On Behalf Of David ... Inbox 4/9/2019
- 2018**
- David Jennings** **Evolution of Yellowstone** For you... Inbox 6/7/2018
  - Dana Beach** **Important announcement. (This i...** Inbox 1/16/2018
- 2017**
- Bob, Barbara ...** **Fw: What a 4 foot sea level ...** 18 Inbox 10/7/2017
  - Arneja Riley List of Qualified Contractors - GA D... Inbox 1/18/2017
- 2016**
- Vic, David, Vic** **Re: Harris Teeter** 4 ...posted on ... Inbox 2/10/2016
  - Vic, Sandra .. D...** **Re: Walmart** 5 ...posted on beh... Inbox 2/10/2016
  - Robert, Wendy** **Re: Walmart lighting and mit...** 2 Inbox 2/10/2016
- 2015**
- Amazon.com** **Grace Burrowes's New Book** ...A ... Inbox 5/24/2015



JustFashionNow UP TO 45% OFF



ELECTRONICALLY FILED - 2022 Jan 14 10:46 AM - CHARLESTON - COMMON PLEAS - CASE#2021CP1002999

7

ELECTRONICALLY FILED - 2022 Jan 14 10:46 AM - CHARLESTON - COMMON PLEAS - CASE#2021CP1002999

- HOME
- MAIL
- NEWS
- FINANCE
- SPORTS
- ENTERTAINMENT
- LIFE
- SHOPPING
- YAHOO PLUS
- MORE...

rosen hagood

Mare Home

Compose

Messages Photos Documents

- Inbox 999+
- Unread
- Starred
- Drafts 70
- Sent
- Archive
- Spam
- Trash
- Less
- Views Hide
- Photos
- Documents
- Subscriptions
- Groceries
- Deals
- Receipts
- Travel
- Folders Hide
- + New Folder
- Admiral Raw ...
- FOIA Requests
- Kelsey Barlow
- Port Royal
- RC
- ZipLogox 1

2020



AmeriSave Mortgage

Yahoo

2019

- Raw Story Top Stories
- CDFA
- EMILY's List via Daily Kos
- Sen. Chris Van Hollen

2018

- Senator Kamala Harris
- Team DSCC
- Jacky Rosen
- mindy@dsc.org
- deadline-alert@dsc.org
- Michael
- Kamala Harris
- breaking-news@dsc.org
- Tori Slatton, People For the Ameri...
- polling-alert@dsc.org
- John Aravosis, AMERICAblog
- DSCC Triple Match Alert [Triple]
- VIOLET GREY
- Sen. Cory Booker (via DSCC)
- must-see@dsc.org
- Polling Update (via DSCC)
- DSCC Polling Alert
- Kamala Harris
- John Aravosis, AMERICAblog
- President-Obama-Update@dsc.org
- Shaunna

- Ad Lower mortgage rates mean higher savings. Wondering how much house you can afford? You're ju... Conn. man charged with killing wife dies by suicide ...Dulos Bernadette Peters ... Inbox 1/31/2020
- 'Help me': CNN's John King begs guests to say something after bonkers Giuliani ... Inbox 12/5/2019
- Development Finance Review Weekly - July 18, 2019 ...Spahr, Katten Muchin ... Inbox 7/18/2019
- The GOP is vulnerable ...Sinema (AZ) and Jacky Rosen (NV). With your help, we... Inbox 3/2/2019
- a reason for hope ...include Doug Jones, Jacky Rosen, and Kyrsten Sinema, who... Inbox 1/5/2019
- As we look ahead to 2019 ...Kyrsten Sinema, Jacky Rosen, Tammy Baldwin, Sherrod... Inbox 12/28/2018
- re: Susan Collins (R) ...Jeff Flake (R) with Jacky Rosen (D) and Kyrsten Sinema... Inbox 11/30/2018
- We did it ...everything you did, Jacky Rosen U.S. Senator-Elect, Nevada... Inbox 11/8/2018
- Thank you, Mare ...Trump's #1 target. Jacky Rosen flipped Nevada's Senate... Inbox 11/7/2018
- we're falling behind ...O'Rourke (D-TX), Jacky Rosen (D-NV), and Kyrsten Sinema... Inbox 11/5/2018
- Forget the polls: We can win the Senate 2 ...Nevada Jacky Rosen http://www.ros... Inbox 11/5/2018
- Don't take my word for it ...campaigning with Jacky Rosen, because her race is the... Inbox 11/2/2018
- Kyrsten Sinema (AZ), Beto O'Rourke (TX), and Jacky Rosen (NV) can flip these se... Inbox 11/2/2018
- Help bring the blue wave to candidates all over the country without leaving you... Inbox 11/2/2018
- Jacky (D), Beto (D), and Claire (D) or Heller (R), Cruz (R), and Hawley (... ...like t... Inbox 11/1/2018
- One week to go ...to McCaskill here. JACKY ROSEN IS SLIGHTLY BEHIND AS WELL... Inbox 10/30/2018
- [TRIPLE-MATCH] We can't afford to miss this Voter Turnout Fund g... ...do it. In ... Inbox 10/29/2018
- The High-Tech Way To Define Cheekbones ...wasn't until we met Jamie Rosen that ... Inbox 10/29/2018
- A moral moment ...Nelson in Florida, Jacky Rosen in Nevada, Sherrod Brown... Inbox 10/28/2018
- NEW polls (this email is important) -> ...latest polls have Jacky Rosen (D-NV), Claire... Inbox 10/26/2018
- Kyrsten Sinema (D), Beto O'Rourke (D), Jacky Rosen (D) ...O'Rourke (D), and Jacky ... Inbox 10/26/2018
- Rosen (D) vs. Heller (R) | Beto (D) vs. Cruz (R) | Sinema (D) vs. McSally (... Mare, ... Inbox 10/25/2018
- unless we do what's hard ...like you. In Nevada, Jacky Rosen is locked in an... Inbox 10/25/2018
- Today's terror attacks ...McCaskill here. NV: Jacky Rosen. Please support Rosen... Inbox 10/24/2018
- President Obama's got a message for you, Mare ...Network candidate, Jacky Rosen... Inbox 10/24/2018
- The Senate is slipping away 2 ...race against Jacky Rosen.4 UltraViolet is educatin... Inbox 10/24/2018

Sort



Expert Market



Supercharge Home W With Crystal Clear Telephone Systems

8

## GoDaddy Support

From: kformoso@godaddy.com (kformoso@godaddy.com)

To: maremail59@yahoo.com

Cc: manilautoccc@secureservernet.onmicrosoft.com

Date: Wednesday, August 25, 2021, 12:45 PM EDT

Hi Mare,

The email that was sent to your yahoo account that has quotation marks on the email address will not go through because it is an invalid address and could not be sent to your Outlook email as well. Please make sure that they will send it to the correct email address.

Thankyou!

---

**Riccianne Royce Capulong**

GoDaddy Guides | Inbound Sales and Support

**GoDaddy** guides

[riccianneroyce0688@godaddy.com](mailto:riccianneroyce0688@godaddy.com)

[www.godaddy.com/contact-us](http://www.godaddy.com/contact-us)

[www.godaddy.com/help](http://www.godaddy.com/help)

Pronouns: She/her

**Fwd:**

Tim Deckard <tim@beaufortcastawaycharter.com>

Wed 8/25/2021 12:30 PM

To: riccianroyce0688@godaddy.com <riccianroyce0688@godaddy.com>

📎 1 attachments (302 KB)

Screenshot 2021-08-18 at 6.41.40 PM.png

9

## Question regarding email delivery

From: Mare Deckard (maremail59@yahoo.com)

To: robrien@quickgroupllc.com

Date: Thursday, August 26, 2021, 1:42 PM EDT

Dear Mr. O'Brien,

I was referred to your company, as I understand you are a retired IRS criminal special agent, as well as an IRS trained computer forensic expert.

My question pertains to a dispute with a law firm that claims a document they emailed to: 'maremail59@yahoo.com' is an email that can and should have been received by me. However, 'maremail59@yahoo.com' was not the email address I provided them. I am asserting I have not received any such email from them because there is no such thing as a yahoo.com' location, with the quote symbol rendering the email as non-deliverable . I have attached a copy of it for your review. As a technical computer forensic expert, is this assertion accurate?

Thank you,

Mare Baracco



Margaret Moorman document - August 24 2020.pdf  
346.1 kB

RE: Question regarding email delivery

From: Robbie O'Brien (robrien@quickgroupllc.com)

To: maremail59@yahoo.com

Date: Thursday, August 26, 2021, 7:33 PM EDT

Hi Mare Baracco

Yes, I am a trained computer forensic expert trained by the IRS, US Secret Service and former US Customs Service.

The email address that you referenced in the .pdf file attached to this email is styled 'maremail59@yahoo.com', this email address is invalid due to the ' ' on each end. If addressed this way it would not be sent, it would be returned as undeliverable or show as invalid address with any email programs. The assertion as stated is correct.

If you or anyone else has questions please let me know.

Robert O'Brien

Sent from [Mail](#) for Windows

**From:** [Mare Deckard](#)

**Sent:** Thursday, August 26, 2021 1:44 PM

**To:** [Robbie O'Brien](#)

**Subject:** Question regarding email delivery

Dear Mr. O'Brien,

I was referred to your company, as I understand you are a retired IRS criminal special agent, as well as an IRS trained computer forensic expert.

My question pertains to a dispute with a law firm that claims a document they emailed to: 'maremail59@yahoo.com' is an email that can and should have been received by me. However, 'maremail59@yahoo.com' was not the email address I provided them. I am asserting I have not received any such email from them because there is no such thing as a yahoo.com' location, with the quote symbol rendering the email as non-deliverable . I have attached a copy of it for your review. As a technical computer forensic expert, is this

assertion accurate?

Thank you,

Mare Baracco

**Margaret Moorman**

**From:** Margaret Moorman  
**Sent:** Monday, August 24, 2020 11:33 AM  
**To:** 'maremail59@yahoo.com'  
**Cc:** David Jennings  
**Subject:** CACVB - FOIA Request  
**Attachments:** 20200824112255749.pdf

Ms. Baracco:

Please see the attached letter regarding the matter referenced above. If you have any questions, please let us know.

Thank You,  
Margaret

ROSEN | HAGOOD  
MARGARET MOORMAN  
|Legal Assistant to David Jennings|  
151 Meeting Street, Suite 400  
Charleston, SC 29401  
|office| 843-577-6726  
|fax| 843-724-8036  
|direct phone| (843) 266-8146  
|direct fax| (843) 266-2245  
mmoorman@rosenhagood.com  
www.rosenhagood.com

Our website and email have changed.  
Please change your records accordingly.

**CONFIDENTIALITY NOTICE**

This electronic mail transmission and any accompanying documents contain information belonging to the sender which may be confidential and legally privileged. This information is intended only for the use of the individual or entity to whom it is addressed. If you are not the intended recipient, any disclosure, copying, distribution, or action taken in reliance on the contents of the information contained in this transmission is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone at (843) 577-6726 and delete the message. Thank you.

**CIRCULAR 230 DISCLOSURE**

To comply with U.S. Treasury Department regulations, we inform you that, unless otherwise expressly indicated, any tax advice contained in this communication (including any attachments or enclosures) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties that may be imposed under the Internal Revenue Code or any other applicable tax law, or (ii) promoting, marketing or recommending to another party any entity, investment, plan, transaction, arrangement, or other tax related matter.

-----Original Message-----

From: ricohcopier@rosenhagood.com <ricohcopier@rosenhagood.com>  
Sent: Monday, August 24, 2020 11:23 AM

10

# EXHIBIT E

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Mare Baracco,

Plaintiff,

vs.

Charleston Area Convention and Visitors Bureau,

Defendant.

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH CIRCUIT

CASE NO. 2021-CP-10-02999

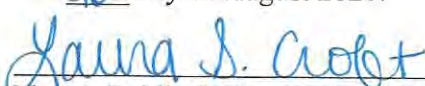
AFFIDAVIT

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I am Margaret Marshall, formerly Margaret Moorman, paralegal to David Jennings at the Rosen Hagood law firm.
2. One of my job responsibilities is sending and receiving correspondence for the firm.
3. Per David Jennings' request, on August 24, 2020, I emailed the attached correspondence, hereto as **Exhibits A and B**, to Plaintiff, Mare Baracco, to her email address as stated on her FOIA request letter.
4. I did not receive a notification that the email was undeliverable to Plaintiff.

  
 Margaret Marshall (formerly Margaret Moorman)

SWORN to and subscribed before me  
this 30 day of August 2021.

  
 Notary Public for South Carolina  
 My Commission Expires: 3/30/28



**STATE OF SOUTH CAROLINA**  
**COUNTY OF CHARLESTON**

**IN THE COURT OF COMMON PLEAS  
FOR THE NINTH JUDICIAL CIRCUIT**

**CASE NO. 2021-CP-10-02999**

**Mare Baracco,**

**Plaintiff,**

**vs.**

**Charleston Area Convention and Visitors  
Bureau,**

**Defendant.**

**PLAINTIFF'S FIRST SET OF  
DISCOVERY REQUESTS TO  
DEFENDANT**

**Interrogatories.** The Plaintiff, pursuant to Rule 33 of the South Carolina Rules of Civil Procedure, hereby propounds to the Defendant and serve for answer the following interrogatories:

1. Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case, indicate whether written or recorded statements have been taken from the witnesses, and indicate who has possession of such statements.
2. Set forth a list of all photographs, plats, sketches, and all other documents (including, but not limited to, any video footage) in the possession, custody, or control of the Defendant or counsel that relate to any claim or defense in this litigation.
3. List the names and addresses of all expert witnesses whom the Defendant proposes to use as witnesses at the trial of this case and set forth a description of the expert's opinion(s) with regard to the case and the subjects about which the Defendant believes such expert may testify at trial.
4. For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth a summary sufficient to inform the Plaintiffs of the important facts known

to or observed by such witness and provide a copy of any written or recorded statements taken from such witness.

5. Set forth the names and addresses of all insurance companies, bonding companies, and similar entities that have insurance coverage, any bond(s), indemnification obligations, and/or other coverage relating to the claim and set forth the number or numbers and/or other identifying information of the policies, bonds, etc., involved and the amount or amounts of coverage provided in each policy, bond, etc.
6. Set forth an itemized statement of all damages, exclusive of pain and suffering, claimed to have been sustained by the party.
7. For each of the Defendant' defenses in this action, state the facts that support the defense.
8. For each allegation of the complaint in this action that the Defendant deny, set forth the facts that support the denial.
9. Provide a detailed explanation of all efforts undertaken by Defendant or its attorney, David Jennings, to search for or retrieve responsive records to Plaintiff's August 6, 2020, request (hereafter "request") for "all receipts and invoices for all transactions of Charleston County Accommodations Tax (ATAX) expenditures ...".
10. Provide a detailed explanation of why Defendant's accounting records "do not itemize or allocate expenditures according to individual revenue categories," as stated by David Jennings in his response to Plaintiff's request.
11. Set forth the name, edition, and most recent update of any and all accounting software, if any, that is used to account for Charleston County Accommodations Tax (hereinafter "ATAX") expenditures.
12. Set forth the name, edition, and most recent update of any and all accounting software, if any, that is used by Defendant.

13. Set forth the name, position of individual or individuals (and contact information) who input or otherwise manage accounting for Defendant, including any third parties who have assisted with accounting.
14. Set forth the name and position of the individual or individuals (and contact information) who manage ATAX accounting, to include, but not be limited to, Defendant's service as destination marketing organization for Charleston County.
15. Set forth the name and contact information for any person whom Defendant consulted with concerning how to respond to Plaintiff's requests for information dated August 6 or August 10, 2020.
16. Set forth the name and contact information for any person who Defendant consulted with or hired to design an approach to accounting for ATAX funds specifically or accounting generally.
17. Provide a detailed explanation as to why Defendant did not supply all receipts and invoices of Defendant, as opposed to just those associated ATAX and/or Charleston County, in response to Plaintiff's requests for information dated August 6 or August 10, 2020.
18. Any proposal or other record evidencing an offer ever sent to Charleston County to serve as its destination marketing organization.
19. Provide a detailed explanation as to why Defendant formerly had the following language in its written agreements with the County of Charleston but does no longer: "Agency agrees that by acceptance of public funds provided herein, the Agency acts as a 'public body' as defined in the S.C. Freedom of Information Act (§30410, et. seq.) S.C. Code of Laws for 1976 as amended, with respect to the expenditure of those funds ..."

20. Provide a detailed explanation of how Defendant calculated the numerical figures contained in the document “Charleston Area Convention & Visitor’s Bureau Exhibit A”, filed in this matter on January 14, 2022, as the third page of Exhibit 1 to the affidavit of Plaintiff.

**Requests to produce.** The Plaintiff, pursuant to Rule 34 of the South Carolina Rules of Civil Procedure (SCRCP) hereby propound to the Defendant and serve for answer and production at the law offices of Harrison, Radeker & Smith, P.A., 923 Calhoun Street in Columbia, South Carolina 29201, the following Request to Produce. In addition, these interrogatories shall be deemed to be continuing so as to require the Defendant to reasonably supplement or amend their answers thereto in accordance with Rule 26(e) of the South Carolina Rules of Civil Procedure.

1. All documents the Defendant possesses that are capable of being used as exhibits at the trial of this case or any hearing in this action.
2. Any and all documents, whether written, recorded, or otherwise, that relate to the claims and defenses in this action.
3. A copy of any and all written or recorded statements made by any witness in this case.
4. For each witness to the facts of the case, a copy of any and all written or recorded statements made by such witness.
5. Any and all photographs, slides, video tape, motion pictures, film, data, data compilations, any and all cell phone data (to include texts, photos, or recordings), plats, sketches, or diagrams associated with this litigation.
6. Copies of all written communications and notes of spoken communications between the Defendant and/or any person on behalf the Defendant and any person(s) concerning any

matter subject of this action (with the exception of attorney-client privileged communications for which the privilege remains intact).

7. Copies of all insurance policies subject of the Plaintiff's interrogatories in this action.
8. With regard to each expert witness identified by the Defendant:
  - a. All documents prepared by the expert;
  - b. All documents sent to the expert by the Defendant or its counsel;
  - c. All documents relied upon by the expert;
  - d. All documents used or consulted, or reviewed by the expert;
  - e. All documents setting forth the compensation agreement between the Defendant or its counsel or its insurer and the expert;
  - f. All documents used, relied upon, consulted, or reviewed by the expert in answering expert witness interrogatories;
  - g. All documents that have been or will be shown to the expert prior to trial testimony; and
  - h. All documents, including a current curriculum vitae, used to establish the expert's qualifications for trial purposes.
9. All documents relevant to any claim or defense received from any third party, regardless of whether or not a subpoena was utilized, since commencement of this action.
10. A copy of each and every document referenced in and/or identified in response to any discovery request in this action.
11. A copy of all correspondence (internal or external) concerning Plaintiff or Plaintiff's request

12. A copy of all correspondence between Defendant and Charleston County regarding Defendant's role as destination marketing organization for the county.
13. A copy of all agreements between Defendant and Charleston County.
14. A copy of all correspondence between Defendant and any third party concerning the either ATAX or general accounting of Defendant.

PLEASE TAKE NOTICE that pursuant to Rule 36, SCRPC you are hereby requested to admit the truth of the following matter:

1. Admit that you provided the document "Charleston Area Convention & Visitor's Bureau Exhibit A", filed in this matter on January 14, 2022, as the third page of Exhibit 1 to the affidavit of Plaintiff, to Charleston County.

I hereby certify that this document has been duly served upon opposing counsel by email, per an agreement between opposing counsel and the undersigned providing for service in that manner, on the date given below.

Respectfully submitted,

s/Taylor Smith  
Taylor M. Smith IV  
HARRISON, RADEKER & SMITH, P.A.  
Post Office Box 50143  
Columbia, South Carolina 29250  
(803) 779-2211  
(803) 779-6700 (facsimile)  
taylor@harrisonfirm.com (email)  
ATTORNEY FOR PLAINTIFF

Columbia, South Carolina  
August 26, 2022

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

*Mare Baracco,*

*Plaintiff,*

vs.

*Charleston Area Convention and Visitors  
Bureau,*

*Defendant.*

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO. 2021-CP-10-02999

**DEFENDANT, CHARLESTON AREA  
CONVENTION AND VISITORS  
BUREAU'S, ANSWERS TO  
PLAINTIFF'S FIRST SET OF  
INTERROGATORIES**

Defendant Charleston Area Convention and Visitors Bureau ("Defendant"), by and through its undersigned counsel, answers Plaintiff, Mare Baracco's ("Plaintiff"), First Set of Interrogatories, pursuant to Rule 33 of the South Carolina Rules of Civil Procedure, of Civil Procedure. In setting forth responses thereto, this defendant does not waive the attorney-client, work product, or any other privilege or immunity from disclosure which may attach to information called for herein or responsive to the Interrogatories. This defendant does not concede the relevance or materiality of the Interrogatories, or the subject matters to which the Interrogatories refer. These responses are submitted by this defendant subject to and without in any way waiving or intending to waive, but on the contrary, intending to reserve and reserving:

A. All questions as to competency, relevancy, materiality, privilege and admissibility of evidence for any purpose of any of the documents referred to or responses given, or the subject matter thereof and any subsequent proceeding, or the trial of this action or any other action or proceeding;

B. The right to object to other discovery procedures involving or relating to the subject matters of the Interrogatories to which are herein responded; and

C. The right at any time to revise, correct, add to or clarify any of the responses set forth herein or documents referred to herein.

### **GENERAL OBJECTIONS**

1. Defendant objects to plaintiff's interrogatories request as the issue in controversy is purely a question of law and discovery is not warranted.

2. Defendant objects to each discovery request to the extent that it seeks information or documents that were compiled in anticipation of litigation or for trial and which are protected by the attorney work-product doctrine. Defendant further objects to each and every discovery request to the extent the information called for that is protected by the attorney-client privilege, consulting expert privilege, or any other privilege. The disclosure of any information protected by any of the foregoing privileges shall be deemed inadvertent and not with the intention to waive any privilege with regard to the information disclosed.

3. Any information produced in response hereto is produced expressly subject to any objections contained herein and is produced without in any way waiving or intending to waive any objections that Defendant may have with respect to the subsequent use of such information and Defendant respectfully reserves:

a. All questions as to admissibility of any and all such information, in whole or in part, or of the subject matter thereof;

b. The right to object to the use of any such information, in whole or in part, or the subject matter covered thereby, in any subsequent step or proceeding in this action, on any or all of the foregoing grounds or on any proper grounds whether or not enumerated above; and

c. The right to object to any and all grounds at any time to discovery procedures involving or related to the subject matter of the information sought by the requesting party.

4. Defendant objects to each, and every discovery request to the extent that it seeks information that is equally available to or already in the possession of the party and its counsel and the burden on the party or its counsel to obtain the requested information is no greater than the burden on Defendant.

5. Defendant objects to each, and every discovery request to the extent it is overly broad, oppressive, unduly burdensome, or unduly expensive. Defendant further objects to each, and every discovery request to the extent it seeks information not limited in time, nature, and scope.

6. Defendant objects to each, and every discovery request to the extent that it seeks confidential or proprietary information. Similarly, Defendant reserves the right to redact sensitive or proprietary information from any documents that it produces in response hereunder.

7. Defendant objects based on lack of relevance to the claims and defenses to the extent the discovery requests seek documents created after the commencement of this action, information, or documents regarding any internal investigation by Defendant occurring after the commencement of this action, or information or documents regarding or evidencing communications with any person or entity that involve in-house and/or outside counsel for Defendant occurring after the commencement of this action.

8. Defendant reserves the right to produce responsive information relating to any subsequently discovered fact, to amend the objections and responses set forth below or to assert other factual and legal contentions as additional facts are discovered.

## INTERROGATORIES

### Interrogatory No. 1:

Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case, indicate whether written or recorded statements have been taken from the witnesses, and indicate who has possession of such statements.

### ANSWER:

**Laurie Smith**

**375 Meeting Street, Charleston, SC 29403**

**c/o Robinson Gray Stepp & Laffitte, LLC**

**No written or recorded statements exist for this witness.**

**Kreig Brugler**

**375 Meeting Street, Charleston, SC 29403**

**c/o Robinson Gray Stepp & Laffitte, LLC**

**No written or recorded statements exist for this witness.**

**Bobby Creech**

**40 Calhoun Street, Suite 460**

**Charleston, SC 29401**

**c/o Robinson Gray Stepp & Laffitte, LLC**

**No written or recorded statements exist for this witness.**

### Interrogatory No. 2:

Set forth a list of all photographs, plats, sketches, and all other documents (including, but not limited to, any video footage) in the possession, custody, or control of the Defendant or counsel that relate to any claim or defense in this litigation.

**ANSWER:**

**See David Jennings' August 24, 2020 correspondence in response to Plaintiff's FOIA request.**

**Interrogatory No. 3:**

List the names and addresses of all expert witnesses whom the Defendant proposes to use as witnesses at the trial of this case and set forth a description of the expert's opinion(s) with regard to the case and the subjects about which the Defendant believes such expert may testify at trial.

**ANSWER:**

**This Defendant has not identified an expert witness whom this Defendant has proposed to use as a witness at the trial of this case. This Defendant reserves the right to supplement this response.**

**Interrogatory No. 4:**

For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth a summary sufficient to inform the Plaintiffs of the important facts known to or observed by such witness and provide a copy of any written or recorded statements taken from such witness.

**ANSWER:**

**Laurie Smith is the Chief Operating Officer for Charleston Area Convention & Visitors Bureau. She has knowledge of the operation of Charleston Area Convention & Visitors Bureau and the receipt of Plaintiff's FOIA request.**

**Kreig Brugler is the Finance Director for Charleston Area Convention & Visitors Bureau. He has knowledge about the financial operation of Charleston Area Convention & Visitors Bureau.**

**Bobby Creech is the certified public accountant for Charleston Area Convention & Visitors Bureau. He has knowledge about the financial operation of Charleston Area Convention & Visitors Bureau.**

**Interrogatory No. 5:**

Set forth the names and addresses of all insurance companies, bonding companies, and similar entities that have insurance coverage, any bond(s), indemnification obligations, and/or other coverage relating to the claim and set forth the number or numbers and/or other identifying information of the policies, bonds, etc., involved and the amount or amounts of coverage provided in each policy, bond, etc.

**ANSWER:**

**Not applicable.**

**Interrogatory No. 6:**

Set forth an itemized statement of all damages, exclusive of pain and suffering, claimed to have been sustained by the party.

**ANSWER:**

**Not applicable.**

**Interrogatory No. 7:**

For each of the Defendant' defenses in this action, state the facts that support the defense.

**ANSWER:**

**This Defendant is a destination marketing organization, and as such, is not subject to the South Carolina Freedom of Information Act.**

**To the extent applicable and relevant, Defendant responded to Plaintiff's FOIA request on August 24, 2020.**

**Interrogatory No. 8:**

For each allegation of the complaint in this action that the Defendant deny, set forth the facts that support the denial.

**ANSWER:**

**See this Defendant's response to Interrogatory No. 7.**

**Interrogatory No. 9:**

Provide a detailed explanation of all efforts undertaken by Defendant or its attorney, David Jennings, to search for or retrieve responsive records to Plaintiff's August 6, 2020, request (hereafter "request") for "all receipts and invoices for all transactions of Charleston County Accommodations Tax (ATAX) expenditures ...".

**ANSWER:**

**This Defendant does not record transactions in a manner that would produce a responsive document and/or information to plaintiff's August 6, 2020 request.**

**Interrogatory No. 10:**

Provide a detailed explanation of why Defendant's accounting records "do not itemize or allocate expenditures according to individual revenue categories," as stated by David Jennings in his response to Plaintiff's request.

**ANSWER:**

**This Defendant is not required to itemize or allocate expenditures according to individual revenue categories, and thus, does not memorialize its accounting records in that fashion.**

**Interrogatory No. 11:**

Set forth the name, edition, and most recent update of any and all accounting software, if any, that is used to account for Charleston County Accommodations Tax (hereinafter “ATAX”) expenditures.

**ANSWER:**

**Defendant objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, not limited in time or scope, is intended to harass, burden and embarrass the Defendant, and is not reasonably designed to lead to the discovery of admissible evidence.**

**Interrogatory No. 12:**

Set forth the name, edition, and most recent update of any and all accounting software, if any, that is used by Defendant.

**ANSWER:**

**Defendant objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, not limited in time or scope, is intended to harass, burden and embarrass the Defendant, and is not reasonably designed to lead to the discovery of admissible evidence.**

**Interrogatory No. 13:**

Set forth the name, position of individual or individuals (and contact information) who input or otherwise manage accounting for Defendant, including any third parties who have assisted with accounting.

**ANSWER:**

**Defendant objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, not limited in time or scope, is intended to harass, burden and embarrass the Defendant, and is not reasonably designed to lead to the discovery of admissible evidence.**

**Interrogatory No. 14:**

Set forth the name and position of the individual or individuals (and contact information) who manage ATAX accounting, to include, but not be limited to, Defendant's service as destination marketing organization for Charleston County.

**ANSWER:**

**Kreig Brugler, Charleston Area Convention and Visitors Bureau Finance Director**

**c/o Robinson Gray Stepp & Laffitte, LLC**

**Bobby Creech, Charleston Area Convention and Visitors Bureau Certified Public Accountant**

**c/o Robinson Gray Stepp & Laffitte, LLC**

**Interrogatory No. 15:**

Set forth the name and contact information for any person whom Defendant consulted with concerning how to respond to Plaintiff's requests for information dated August 6 or August 10, 2020.

**ANSWER:**

**This Defendant consulted with its attorney, David Jennings. Any discussions between the Defendant and Mr. Jennings are protected by attorney-client privilege.**

**Interrogatory No. 16:**

Set forth the name and contact information for any person who Defendant consulted with or hired to design an approach to accounting for ATAX funds specifically or accounting generally.

**ANSWER:**

**Defendant objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, not limited in time or scope, is intended to harass, burden and embarrass the Defendant, and is not reasonably designed to lead to the discovery of admissible evidence.**

**Interrogatory No. 17:**

Provide a detailed explanation as to why Defendant did not supply all receipts and invoices of Defendant, as opposed to just those associated ATAX and/or Charleston County, in response to Plaintiff's requests for information dated August 6 or August 10, 2020.

**ANSWER:**

**Plaintiff did not request all receipts and invoices of this Defendant.**

**Interrogatory No. 18:**

Any proposal or other record evidencing an offer ever sent to Charleston County to serve as its destination marketing organization.

**ANSWER:**

**Defendant objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, not limited in time or scope, is intended to harass, burden and embarrass the Defendant, and is not reasonably designed to lead to the discovery of admissible evidence.**

**Interrogatory No. 19:**

Provide a detailed explanation as to why Defendant formerly had the following language in its written agreements with the County of Charleston but does no longer: "Agency agrees that by acceptance of public funds provided herein, the Agency acts as a 'public body' as defined in the S.C. Freedom of Information Act (§30410, et. seq.) S.C. Code of Laws for 1976 as amended, with respect to the expenditure of those funds ..."

**ANSWER:**

**Destination marketing organizations are not subject to the South Carolina Freedom of Information Act.**

**Interrogatory No. 20:**

Provide a detailed explanation of how Defendant calculated the numerical figures contained in the document “Charleston Area Convention & Visitor’s Bureau Exhibit A”, filed in this matter on January 14, 2022, as the third page of Exhibit 1 to the affidavit of Plaintiff.

**ANSWER:**

**Defendant objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, not limited in time or scope, is intended to harass, burden and embarrass the Defendant, and is not reasonably designed to lead to the discovery of admissible evidence.**

Respectfully submitted,

*s/Robert E. Tyson, Jr.*

---

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La'Jessica Stringfellow (SC Bar No. 102376)  
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David G. Jennings (SC Bar No. 2986)  
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[djennings@rosenhagood.com](mailto:djennings@rosenhagood.com)  
(843) 577-6726

*Attorneys for Defendant, Charleston Area Convention and  
Visitors Bureau*

Columbia, South Carolina  
September 26, 2022

**CERTIFICATE OF SERVICE**

I hereby certify that *Defendant, Charleston Area Convention and Visitors Bureau's, Answers to Plaintiff's First Set of Interrogatories* will be sent via electronic mail to the following parties:

Taylor M. Smith IV  
HARRISON, RADEKER & SMITH, P.A.  
Post Office Box 50143  
Columbia, South Carolina 29250  
(803) 779-2211  
(803) 779-6700 (facsimile)  
[taylor@harrisonfirm.com](mailto:taylor@harrisonfirm.com) (email)  
ATTORNEY FOR PLAINTIFF

*s/Robert E. Tyson, Jr.*

Columbia, South Carolina  
Monday, September 26, 2022

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

*Mare Baracco,*

*Plaintiff,*

vs.

*Charleston Area Convention and Visitors  
Bureau,*

*Defendant.*

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO. 2021-CP-10-02999

**DEFENDANT, CHARLESTON AREA  
CONVENTION AND VISITORS  
BUREAU'S, RESPONSES TO  
PLAINTIFF'S FIRST SET OF  
REQUESTS TO PRODUCE**

Defendant, Charleston Area Convention and Visitors Bureau (“Defendant”), by and through his undersigned attorneys, herein responds to Plaintiff Mare Baracco’s (“Plaintiff”) First Requests for Production, pursuant to Rule 34 of the South Carolina Rules of Civil Procedure. In setting forth responses thereto, this defendant does not waive the attorney-client, work product, or any other privilege or immunity from disclosure which may attach to information called for herein or responsive to the Requests. This defendant does not concede the relevance or materiality of the Requests, or the subject matters to which the Requests refer. These responses are submitted by this defendant subject to and without in any way waiving or intending to waive, but on the contrary, intending to reserve and reserving:

A. All questions as to competency, relevancy, materiality, privilege and admissibility of evidence for any purpose of any of the documents referred to or responses given, or the subject matter thereof and any subsequent proceeding, or the trial of this action or any other action or proceeding;

B. The right to object to other discovery procedures involving or relating to the subject matters of the Requests to which are herein responded; and

C. The right at any time to revise, correct, add to or clarify any of the responses set

forth herein or documents referred to herein.

### **GENERAL OBJECTIONS**

1. Defendant objects to plaintiff's requests to produce as the issue in controversy is purely a question of law and discovery is not warranted.

2. Defendant objects to each discovery request to the extent that it seeks information or documents that were compiled in anticipation of litigation or for trial and which are protected by the attorney work-product doctrine. Defendant further objects to each and every discovery request to the extent the information called for that is protected by the attorney-client privilege, consulting expert privilege, or any other privilege. The disclosure of any information protected by any of the foregoing privileges shall be deemed inadvertent and not with the intention to waive any privilege with regard to the information disclosed.

3. Any information produced in response hereto is produced expressly subject to any objections contained herein and is produced without in any way waiving or intending to waive any objections that Defendant may have with respect to the subsequent use of such information and Defendant respectfully reserves:

- a. All questions as to admissibility of any and all such information, in whole or in part, or of the subject matter thereof;
- b. The right to object to the use of any such information, in whole or in part, or the subject matter covered thereby, in any subsequent step or proceeding in this action, on any or all of the foregoing grounds or on any proper grounds whether or not enumerated above; and
- c. The right to object to any and all grounds at any time to discovery procedures involving or related to the subject matter of the information sought by the requesting party.

4. Defendant objects to each, and every discovery request to the extent that it seeks information that is equally available to or already in the possession of the party and its counsel and

the burden on the party or its counsel to obtain the requested information is no greater than the burden on Defendant.

5. Defendant objects to each, and every discovery request to the extent it is overly broad, oppressive, unduly burdensome, or unduly expensive. Defendant further objects to each, and every discovery request to the extent it seeks information not limited in time, nature, and scope.

6. Defendant objects to each, and every discovery request to the extent that it seeks confidential or proprietary information. Similarly, Defendant reserves the right to redact sensitive or proprietary information from any documents that it produces in response hereunder.

7. Defendant objects based on lack of relevance to the claims and defenses to the extent the discovery requests seek documents created after the commencement of this action, information, or documents regarding any internal investigation by Defendant occurring after the commencement of this action, or information or documents regarding or evidencing communications with any person or entity that involve in-house and/or outside counsel for Defendant occurring after the commencement of this action.

8. Defendant reserves the right to produce responsive information relating to any subsequently discovered fact, to amend the objections and responses set forth below or to assert other factual and legal contentions as additional facts are discovered.

### **REQUESTS FOR PRODUCTION**

#### **Request for Production No. 1:**

All documents the Defendant possesses that are capable of being used as exhibits at the trial of this case or any hearing in this action.

#### **RESPONSE:**

**See document bates labeled CACVB000001**

**Request for Production No. 2:**

Any and all documents, whether written, recorded, or otherwise, that relate to the claims and defenses in this action.

**RESPONSE:**

**See this Defendant's response to Request No. 1.**

**Request for Production No. 3:**

A copy of any and all written or recorded statements made by any witness in this case.

**RESPONSE:**

**None.**

**Request for Production No. 4:**

For each witness to the facts of the case, a copy of any and all written or recorded statements made by such witness.

**RESPONSE:**

**None at this time.**

**Request for Production No. 5:**

Any and all photographs, slides, video tape, motion pictures, film, data, data compilations, any and all cell phone data (to include texts, photos, or recordings), plats, sketches, or diagrams associated with this litigation.

**RESPONSE:**

**This Defendant does not have any documents responsive to this request.**

**Request for Production No. 6:**

Copies of all written communications and notes of spoken communications between the Defendant and/or any person on behalf the Defendant and any person(s) concerning any matter subject of this

action (with the exception of attorney-client privileged communications for which the privilege remains intact).

**RESPONSE:**

**See this Defendant's response to Request No. 1.**

**Request for Production No. 7:**

Copies of all insurance policies subject of the Plaintiff's interrogatories in this action.

**RESPONSE:**

**Not applicable.**

**Request for Production No. 8:**

With regard to each expert witness identified by the Defendant:

- a. All documents prepared by the expert;
- b. All documents sent to the expert by the Defendant or its counsel;
- c. All documents relied upon by the expert;
- d. All documents used or consulted, or reviewed by the expert;
- e. All documents setting forth the compensation agreement between the Defendant or its counsel or its insurer and the expert;
- f. All documents used, relied upon, consulted, or reviewed by the expert in answering expert witness interrogatories;
- g. All documents that have been or will be shown to the expert prior to trial testimony; and
- h. All documents, including a current curriculum vitae, used to establish the expert's qualifications for trial purposes.

**RESPONSE:**

**This Defendant does not have any documents responsive to this request. Defendant reserves the right to supplement its response if it engages an expert.**

**Request for Production No. 9:**

All documents relevant to any claim or defense received from any third party, regardless of whether or not a subpoena was utilized, since commencement of this action.

**RESPONSE:**

**This Defendant does not have any documents responsive to this request.**

**Request for Production No. 10:**

A copy of each and every document referenced in and/or identified in response to any discovery request in this action.

**RESPONSE:**

**See this Defendant's response to Request No. 1.**

**Request for Production No. 11:**

A copy of all correspondence (internal or external) concerning Plaintiff or Plaintiff's request

**RESPONSE:**

**See this Defendant's response to Request No. 1.**

**Request for Production No. 12:**

A copy of all correspondence between Defendant and Charleston County regarding Defendant's role as destination marketing organization for the county.

**RESPONSE:**

**Defendant objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, not limited in time or scope, is intended to harass, burden and embarrass the Defendant, and is not reasonably designed to lead to the discovery of admissible evidence.**

**Request for Production No. 13:**

A copy of all agreements between Defendant and Charleston County.

**RESPONSE:**

**Defendant objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, not limited in time or scope, is intended to harass, burden and embarrass the Defendant, and is not reasonably designed to lead to the discovery of admissible evidence.**

**Request for Production No. 14:**

A copy of all correspondence between Defendant and any third party concerning the either ATAX or general accounting of Defendant.

**RESPONSE:**

**Defendant objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, not limited in time or scope, is intended to harass, burden and embarrass the Defendant, and is not reasonably designed to lead to the discovery of admissible evidence.**

Respectfully submitted,

*s/Robert E. Tyson, Jr.*

---

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*Attorneys for Defendant, Charleston Area Convention and  
Visitors Bureau*

Columbia, South Carolina  
September 26, 2022

**CERTIFICATE OF SERVICE**

I hereby certify that *Defendant, Charleston Area Convention and Visitors Bureau's, Responses to Plaintiff's First Set of Requests to Produce* will be sent via electronic mail to the following parties:

Taylor M. Smith IV  
HARRISON, RADEKER & SMITH, P.A.  
Post Office Box 50143  
Columbia, South Carolina 29250  
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[taylor@harrisonfirm.com](mailto:taylor@harrisonfirm.com) (email)  
ATTORNEY FOR PLAINTIFF

*s/Robert E. Tyson, Jr.*

Columbia, South Carolina  
Monday, September 26, 2022

David G. Jennings  
djennings@rrhlawfirm.com

# ROSEN | HAGOOD

August 24, 2020

**VIA EMAIL**

Mare Baracco  
1006 Madrid Avenue  
Port Royal, SC 29935

Re: FOIA Request

Dear Ms. Baracco:

Your letters to Helen Hill dated August 6 & 10, 2020 have been forwarded to me for response. Without getting into a discussion of whether the contract with Charleston County can change South Carolina law as interpreted by the South Carolina Supreme Court, please be advised that the Charleston Area Convention and Visitors Bureau does not have any records which fall within the parameters of your request. Although we are not required to, we can provide you with the documentation of the receipt of funds from Charleston County, but the CACVB's accounting records do not itemize or allocate expenditures according to individual revenue categories.

If you would like to know when and how much ATAX money the CACVB received from Charleston County for the fiscal year ending June 30, 2020, please let me know. Thank you very much for your interest in the CACVB.

If I may be of further service, please let me know.

Sincerely,



David G. Jennings

DGJ/mm

cc: Helen Hill, Charleston Area Convention and Visitors Bureau (via email)

**RECEIVED**

**Apr 08 2024**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM CHARLESTONCOUNTY  
Court of Common Pleas

George M. McFaddin, Jr., Circuit Judge

Appellate Case No. 2023-001116

Mare Baracco,.....Appellant,

v.

Charleston Area Convention and Visitors Bureau,.....Respondent.

CERTIFICATION OF COUNSEL REGARDING MATTER  
INCLUDED IN THE RECORD ON APPEAL

I certify that the Record on Appeal contains all material proposed to be  
included by any of the parties and not any other material.

Respectfully submitted,

/s/ Taylor Smith  
Taylor M. Smith IV  
S.C. Bar No. 101584  
Meriwether Law, LLC  
923 Calhoun Street  
Columbia, South Carolina 29201  
(803) 779-2211  
Attorney for Appellant

April 8, 2024