

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

Joy D. Phillips individually and
as guardian of Sierra A. Phillips,
and James C. Phillips,

Plaintiffs,

v.

Community Options, Inc.,
Angela Stuckey, Shirley Anderson,
and Willa Manigault,

Defendants.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

C/A No.: 2023-CP-08-03019

RECEIVED

Jul 02 2026

SC Court of Appeals
ORDER GRANTING
PLAINTIFFS' MOTION
TO COMPEL DOCUMENT
REQUEST NO. 12

This matter is before the Court via WebEx on January 5, 2026 on Plaintiffs Joy D. Phillips and James C. Phillips' motion to compel Defendants Angela Stuckey, Shirley Anderson, and Willa Manigault in response to document Request No. 12, which seeks communications relating to (a) Sierra A. Phillips, a vulnerable adult and the daughter of the Phillips, (b & c) the Plaintiffs, and (d & e) reports of abuse, neglect, or injury of any resident of a Community Options facility, including the Thistle Community Training Home (CTH) II where Sierra resided.¹ Specifically, the Phillips ask the Court to compel Stuckey, Anderson, and Manigault to surrender their personal cell phones to their lawyer for a forensic examination and collection of text messages and production of the same. The Phillips argue that such messages do, in fact, exist and pertain to core contentions in this case. Attorney Chris Kenney was present on behalf of Plaintiffs and attorney Ashley Heslop attended on behalf of Defendants. The Court heard from the parties and reviewed all available memoranda. For reasons that follow, the motion is **GRANTED**.

¹ All findings of fact and conclusions of law indicated in this Order are made for the purpose of ruling on this motion only.

FACTUAL AND PROCEEDURAL BACKGROUND

The Court has carefully reviewed the submissions of the parties and the record in this case. The factual and procedural background here is complicated but important to this discovery dispute.

The Phillips' Allegations and Claims

According to the Complaint, Sierra is a 27-year-old woman with autism, dwarfism, a heart condition, ADHD, and the mental ability of an 8 to 10-year-old child who was residing in the Thistle CTH II group home for adults with special needs run by Defendant Community Options, Inc. *See* Compl. ¶¶ 6, 11. The Phillips allege that for months, Community Options' employees physically abused Sierra by hitting and kicking her. *See id.* ¶¶ 47–56, 86–91. They allege that, when the staff believed the Phillips might discover the abuse, staff made a false police report accusing the Phillips of physically and sexually abusing their own child. *See id.* ¶¶ 57–85. The Phillips allege that they were investigated by four different police agencies, cooperated fully, sat for interviews, and were cleared by police after 41 days of being restricted from seeing their daughter. *See id.* ¶¶ 79–85. Thereafter, they removed Sierra from Thistle CTH II and brought this action for themselves and Sierra for (1) assault and battery, (2) defamation, (3) civil conspiracy, and (4) negligent hiring and supervision. *Id.* ¶¶ 92–119. The Defendants deny these allegations.

Service of Request No. 12.

This action was filed on October 25, 2023. Discovery, including Request No. 12, was served on Stuckey, Anderson, and Manigault with the Summons and Complaint on October 26, 2023, November 7, 2023, and October 26, 2023, respectively.

On January 11, 2024, all Defendants served responses and objections to the discovery with an initial document production of 21 PDF files consisting of 3,894 pages. No native files or text messages were produced. In response Request No. 12, the Defendants responded:

RESPONSE: Community Options objects to this Request to the extent it seeks the disclosure of information prepared in anticipation of litigation, and information protected by the attorney-client and/or work product privileges. Notwithstanding said objections, please see documents provided herewith.

STUCKEY RESPONSE: See Community Options' Response, incorporating all objections.

ANDERSON RESPONSE: See Community Options' Response, incorporating all objections.

MANIGAULT RESPONSE: See Community Options' Response, incorporating all objections.

DEFs' Resp. RFP 12 (bold and underline original).

On March 5, 2024, the Phillips' counsel sent correspondence outlining nine areas of concern and requested a response or reconsideration of the Defendants' position. *See* PL's MTC at Ex. A. On April 1, 2024, the Phillips moved to compel.

On August 12, 2024, the Clerk issued a notice that the motion would be heard on August 28, 2024. The day before the hearing, the Defendants sent the Phillips a second document production and Defendants' counsel indicated supplemental written responses would follow that would hopefully resolve some outstanding issues. By agreement, the hearing was continued.

On August 30, 2024, the Phillips received a first supplemental response, but it did not include any supplemental production in response to Request No. 12.

On September 19, 2024, the Defendants served a second supplemental response that included one two-page document purporting to be text messages to or from Manigault concerning

Sierra. *See* Phillips_Manigault Text Msgs_0001–02. It is not clear who it was sent to or when. No other text messages from Stuckey, Anderson, and Manigault have been produced.

Stuckey, Anderson, and Manigault’s Depositions

On May 28 and 29, 2025, Stuckey, Anderson, and Manigault were deposed. Notably, all three individuals testified about using their personal cell phones to send work-related texts.

Anderson testified that, on January 2, 2023, she texted from her phone photos she took of Sierra’s bottom with red markings to Stuckey and a Community Options supervisor at the time the allegations against the Phillips were made. *See* Anderson Dep. 41–43, 49–51.² These texts have never been produced, just the photos. Anderson also testified that she would text Stuckey or Manigault using her phone “[t]o let them know something, yes.” *Id.* at 87. When asked if she still had those messages on her phone, Anderson claimed her phone “got messed up, and it had to be reset, yes, so I don’t have those messages anymore.” *Id.* at 87–88. During her deposition—i.e., more than 18 months after she was served with Request No. 12—Anderson testified that she lost these messages “about a month ago.” *Id.* Anderson testified that she never provided her lawyer with access to her phone. *Id.* at 88–89.

Similarly, Stuckey testified that she texts with her work colleagues about what is going on at the group home. *See* Stuckey Dep. 150–51. Stuckey testified that she received the photos of Sierra’s bottom from Anderson via text. *Id.* at 154, 190. Stuckey also testified that she has replaced her phone “two or three times probably” since then but that when she replaced her phone, she migrated the old data to the new phone. *Id.* at 110–11. However, Stuckey also testified: “I always

² Citations to deposition testimony refer to the transcripts filed as Exhibits B, C, and D to the motion to compel Request No. 12, filed on August 28, 2025.

clean my phone out. I clean my phone out basically every day. ... I delete what doesn't need to be because -- for a job reason." *Id.* at 111–12.

Manigault also testified that she texts “back and forth” with her co-workers about work on her personal phone. *See* Manigault Dep. 19–20. Manigault testified that she reviewed her phone (not her lawyer) and produced a single two-page document of a text message to her supervisor Carolyn White. When asked about other text messages to White, she answered:

Q. Is there -- I assume this is not the only time you've texted Ms. White.

A. No, I don't think that's the only time I texted Ms. White.

Id. at 21–22. Manigault maintained that, based on her review, the only text she found “for Sierra” was the two-page document marked Phillips_Manigault Text Msgs_0001–02. *Id.* at 23. Notably, Request No. 12 is not limited to communications solely about Sierra.

Motion and Hearing on the Motion

On August 28, 2025, the Phillips filed this motion asking the Court to (1) overrule all objections to Request No. 12, (2) order Defendants' counsel to forensically collect the individual Defendants' personal phones and produce responsive text messages, and (3) sanction the individual Defendants with a spoliation instruction if the messages cannot be retrieved. *See* PLs' MTC Req. No. 12, p. 10.

On January 5, 2026, the motion came before the Court for a hearing via the WebEx virtual courtroom.³ The Phillips were represented by Christopher P. Kenney, Esq., of Chris Kenney Law. The Defendants were represented by Ashley Heslop, Esq., of Hall Booth Smith, P.C.

³ Citations to the January 5 hearing refer to the hearing transcript, filed March 16, 2026.

During the hearing, Defendants' counsel acknowledged there were text messages between the individual Defendants with photos of Sierra that were purportedly taken at the time the allegations against the Phillips were made, but argued "there was a gap" between the time Sierra left Community Options and when the litigation was filed and that "some of them have gotten new phones over the time frame, some of them have updated phones." Hr.'g Tr. 8–9. The Phillips dispute this contention, arguing that the individual Defendants were served with Request No. 12 in the same calendar year as the messages with the photo and there has been "no effort" by the Defendants to retrieve the messages. *Id.* at 9. The Phillips pointed to testimony from Anderson claiming she "lost" the messages one month prior to her deposition and testimony from Stuckey that she has deleted messages since this litigation began. *See id.* at 9–10. They also argued that when phones are upgraded, old data migrates to the new phone. *See id.*

The Phillips urged the Court to order the individual Defendants to provide their phones to their lawyer for a forensic collection and review and to require filed affidavits explaining what was done to retrieve the information. Hr.'g Tr. 11–12. The Defendants object to this procedure. Defendants' counsel told the Court that neither she nor her office ever inspected the phones for discoverable evidence; "Instead, I asked them [i.e., the individual Defendants], Check your phones, look for anything." *See id.* at 13–14. The Phillips' counsel argued this was a sanctionable admission and disputed the contention that since the individual Defendants "didn't come up with any incriminating messages, [counsel had] no obligation as the lawyers to go and check or to require the client to turn the phone over[.]" *Id.* at 17–18.

LEGAL STANDARD

A trial court's rulings on discovery matters will not be disturbed on appeal absent a clear abuse of discretion. *Arthur v. Sexton Dental Clinic*, 368 S.C. 326, 333, 628 S.E.2d 894, 898 (Ct.

App. 2006). An abuse of discretion occurs when the ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support. *Id.*

CONCLUSIONS OF LAW

The question here is whether Stuckey, Anderson, and Manigault have done enough to collect, review, and produce potentially responsive text messages and, if not, what should be done now to ensure the evidence is gathered and produced. The Court is persuaded by both the facts and the law that the individual Defendants have not fulfilled their obligations under Rules 26 and 34, SCRCP, to diligently collect, review, and produce text messages the Phillips have been requesting since 2023. The motion is **GRANTED** for the following four reasons.

First, text messages responsive to Request No. 12 are undoubtedly relevant within the meaning of Rule 26(b)(1), SCRCP. This case is about allegations that the individual Defendants abused Sierra and sought to cover it up by falsely accusing her parents. Notably, these allegations are hotly contested. As the Phillips argue, “In this case, someone is not telling the truth about what happened to Sierra, which makes contemporaneous text message communications from and between the Defendants critical, perishable evidence.” MTC Req. No. 12, p.6. The Court agrees and concludes that discovery of text messages that relate to Sierra, the Phillips, and reports of abuse, neglect, or injury of a Community Options resident are relevant to this case.

Second, the Court is persuaded by the evidence that responsive text messages do, in fact, exist. The Defendants argue that the “suggestion that Individual Defendants have failed to disclose all accessible relevant data is based on *pure speculation*,” Defs.’ MIO, 10 (emphasis added). The Court disagrees.

Stuckey, Anderson, and Manigault all testified that they used their personal phones to send work-related text messages. According to Stuckey and Anderson, when the abuse allegations were

made on January 2, 2023, and photos were taken of Sierra, the photos were exchanged via text message. Whatever messages were sent, they are obviously relevant and must be produced.

Furthermore, the Phillips point to another text message from December 19, 2022, that Stuckey sent to her supervisor but erroneously included Joy Phillips. *See* MTC Req. No. 12 at Ex. A. In it, Stuckey refers to one of the vulnerable adults as “to [sic] special” and tells her supervisor: “Been at work since 12 last night right now F all then.” *Id.* During her deposition, Stuckey confirmed she was using a four-letter expletive when referring to Sierra and the other vulnerable adults in the group home. *See* Stuckey Dep. 198–205. This message was never produced by the Defendants and confirms precisely what the individual Defendants all testified to during their depositions: namely, that they used their personal phones to discuss work.

It is clear based on this record that responsive messages exist but that, instead of collecting the phones and reviewing the messages for responsiveness, counsel left it to the individual Defendants to decide whether they had responsive messages. The Phillips argue it is not surprising that these individuals failed to produce self-incriminating messages; however, the Court notes that, even if the individual Defendants acted in good faith, they may have required some technical assistance to ensure they were properly identifying potentially discoverable information for further review, but that no such assistance was given. Considering that the record demonstrates the existence of responsive yet unproduced messages, court intervention is now appropriate.

Third, the Defendants’ legal position is also untenable. They urge the Court that “[t]he only text message that has been discussed” is one message sending the photos, *see* Hr.’g Tr. 16, and suggest that the Phillips must prove the existence of other messages before the Defendants are obligated to search for them. *Cf.* Hr.’g Tr. 8, 19 (arguing there has been “no testimony” about the existence of responsive text messages). This is incorrect.

Nothing in the discovery rules places the burden on the requesting party to prove the existence of information requested before the disclosing party is obliged to search for it. When there is no responsive information, the responding party should simply state as much and provide the appropriate certification of the same. *See* Rule 26(g), SCRCP. That is not the case here; here, the Defendants object to responding to Request No. 12.

When a party objects to disclosure, as the Defendants did here, the burden is first on the objecting party to “show[] a particularized harm” that constitutes good cause to protect the disclosing party from annoyance, embarrassment, oppression, or undue burden. *See Hollman v. Woolfson*, 384 S.C. 571, 578, 683 S.E.2d 495, 498 (2009); *see also* Rule 26(c), SCRCP. Once this initial showing is made, the burden shifts to the requestor to demonstrate relevance and necessity, after which a court will balance any competing concerns. *See id.*

The Defendants’ position is untethered from this framework because they make no factual showing in support of their objections. Defendants’ memorandum is replete with general assertions about courts imposing discovery limits and individual privacy concerns. *See, e.g.*, Defs.’ MIO, 6–7, 10–12. This Court is mindful of its need to impose reasonable limits on discovery and the privacy concerns implicated by cell phone productions. But none of these general principles override the specific facts or the need for the information requested in this case. Cell phone information is not immune to civil discovery, and the Phillips are not proposing that Stuckey, Anderson, and Manigault hand over their devices to Plaintiffs’ counsel for unrestricted review. Instead, the Phillips are asking that the Defendants’ lawyer review the messages with the assistance of a forensic expert and then produce responsive messages. This procedure—requiring collection, review, and production—is no different than the procedure used to produce every other type of document and tangible thing discoverable under Rule 34, SCRCP.

Fourth, while the Court is reserving any ruling on the question of spoliation or sanctions, it is mindful that litigants have duty to ensure perishable evidence is not destroyed during the pendency of a lawsuit. The duty to preserve material evidence attaches when “a party reasonably should know that the evidence may be relevant to anticipated litigation.” *Silvestri v. Gen. Motors Corp.*, 271 F.3d 583, 590–591 (4th Cir. 2001); *see also Kershaw County Bd. of Educ. v. U.S. Gypsum Co.*, 302 S.C. 390, 394, 396 S.E.2d 369, 372 (1990) (explaining an adverse inference may be drawn when evidence is lost or destroyed by a party).

Here, there has been testimony from the individual Defendants that they deleted messages and changed phones. Whether those messages can be recovered is presently unknown, but the Court believes the individual Defendants should try before any decision is made concerning spoliation. The Phillips’ counsel has proposed a protocol for a forensic expert to attempt to retrieve those messages and then furnish whatever is recovered to Defendants’ counsel for a relevance review and production. *See Hr.’g Tr.* 11–12. Because the information sought is discoverable and involving an expert may obviate the need for further proceedings on this issue, the Court agrees a forensic collection and review is needed. The individual Defendants had ample opportunity to avoid this by performing their own diligent search for the requested information. Instead, they objected to Request No. 12, only for the Phillips to demonstrate through other discovery that such information does, in fact, exist. Given these inconsistencies, the Court will now order a more formal protocol. *Cf. Bennett, v. State Farm Fire & Cas. Co., Inc.*, No. 6:23-CV-04234-DCC-KFM, 2025 WL 4234017, at *2 (D.S.C. Jan. 13, 2025) (adopting forensic protocol for phone imaging due to “inconsistencies on the record”).

CONCLUSION

For the reasons set forth above, the motion is **GRANTED** and the Court **ORDERS** the following relief:

1. All objections to Request No. 12 are **OVERRULED** except for any claim under the attorney-client privilege, which must be made through a detailed privilege log.
2. Within 30 days of this Order being filed, the individual Defendants **SHALL** surrender all phones in their possession, including phones that are no longer being used, to their counsel for an expert forensic collection and copying, at the Defendants' expense, of all accessible text messages from January 1, 2017, through October 25, 2023. This collection effort **SHALL** include a documented effort to recover any potentially available text messages from any backup copies of phone data and "Cloud" services (e.g., iCloud, Microsoft 365, etc.).
3. Within 60 days of this Order, Defendants' counsel **SHALL** review all recovered text messages for responsiveness to Request No. 12 and produce the text messages in Excel/csv, PDF, and native forms with all associated attachments in native form to Plaintiffs' counsel along with a privilege log itemizing any claims of attorney-client privilege. Responsive communications referring to vulnerable adults other than Sierra may be redacted to redact the names of those individuals. The communication may also be marked "confidential" under the existing Confidentiality Order (filed Jan. 11, 2024).

4. With the above-referenced production, Defendants **SHALL** serve an affidavit from the forensic expert detailing the devices inspected, the procedures used to recover and collect text messages, whether recovery and collection was successful and if not, why, and the number of potentially responsive messages collected as a result.
5. With the above-referenced production, Defendants **SHALL** also serve an affidavit from their counsel attesting to the procedures used to review and produce collected messages for responsiveness to Request No. 12.
6. Within 30 days of receiving the above-referenced production from the Defendants, the Phillips **SHALL** either file a notice stating that this motion is resolved or file a renewed motion for further proceedings consistent with this Order.

The Court **SHALL** retain jurisdiction of this motion to ensure compliance with this Order and for any further proceedings. The issues pertaining to spoliation and sanctions are reserved.

AND IT IS SO ORDERED.

[Judge's signature page follows]



Berkeley Common Pleas

Case Caption: Joy D. Phillips , plaintiff, et al VS Community Options, Inc. ,
defendant, et al
Case Number: 2023CP0803019
Type: Order/Other

And It Is So Ordered!

s/Dale E. Van Slambrook S.C. Circuit Court Judge
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