

**IN THE FOURTH JUDICIAL CIRCUIT COURT  
SHELBY COUNTY, ILLINOIS**

Coalition Opposing Governmental Secrecy	)	
and Edgar County Watchdogs, Inc,	)	
	)	
<i>Plaintiffs,</i>	)	Case No.: 2025CH9
	)	
v.	)	Judge:
	)	
Shelby County State’s Attorney,	)	
	)	
<i>Defendant.</i>	)	
	)	

**Complaint**

Plaintiffs Coalition Opposing Governmental Secrecy and Edgar County Watchdogs, Inc (“together Plaintiffs”), bring this lawsuit against Defendant Shelby County State’s Attorney to force its compliance with Illinois’ Freedom of Information Act (“FOIA”), as codified at 5 ILCS § 140/1, *et seq.*, and produce the demanded records. Plaintiffs allege the following based on personal knowledge stemming from their acts and experiences, an investigation conducted by their attorneys, and upon information and belief:

**The Parties, Jurisdiction, and Venue**

1. Plaintiff Coalition Opposing Governmental Secrecy (“COGS”) is a Missouri non-profit corporation with 501(c)(3) status whose mission is to aid and encourage citizen participation in government and the political process, and to empower the public by helping them access publicly available information via Freedom of Information, Sunshine and similar requests for government records. Some of COGS’ member organizations include: Catholic Vote; Edgar County Watchdogs, Inc; Judiciocracy LLC (and its publications); Metric Media LLC (and its publications; Children of the Court, ClearFront Alliance, ParentsCare, and The Record Inc (and its publications). A current list can be found at: <https://stopsecrecy.org/about/>.

2. COGS is registered to transact business in Illinois as a not-for-profit corporation, file No.: 7508-9767

3. Plaintiff Edgar County Watchdogs, Inc is a public watchdog committed to providing comprehensive, recurring, timely, and accurate news coverage of local governmental affairs and qualifies as a news media organization, as defined by FOIA's Section 2(f), in the business of, *inter alia*, reporting on local news and events.

4. Plaintiff Edgar County Watchdogs, Inc is a member of COGS and relies on its assistance conducting its FOIA investigations and has assigned a non-exclusive right to litigate on its behalf when judicial intervention becomes necessary.

5. The Defendant, Shelby County State's Attorney ("Defendant"), is a public body, as defined by FOIA's Section 2(a), subject to the jurisdiction of this Court

6. Jurisdiction is proper in this Court because Defendant is a Public Body under FOIA subject to the jurisdiction of this Court.

7. Venue is proper based on 735 ILCS §§ 5/2-101, 103, which, *inter alia*, requires suit be brought in the county in which the transaction or some part of the transaction occurred, or the cause of action arose; and 5 ILCS § 140/11, which provides, *inter alia*, that a lawsuit to enforce a demand for documents under FOIA may be brought in this county.

### **Illinois' Freedom of Information Act**

8. Illinois' FOIA statute declares that it is "the public policy of the State of Illinois that all persons are entitled to full and complete information regarding the affairs of government and the official acts and policies of those who represent them as public officials and public employees consistent with the terms of this Act." 5 ILCS § 140/1.

9. The Illinois Legislature continues to recognize that “such access is necessary to enable the people to fulfill their duties of discussing public issues fully and freely, making informed political judgments and monitoring government to ensure that it is being conducted in the public interest.” Id., at § 140/1.

10. “Restraints on access to information, to the extent permitted by this Act, are limited exceptions to the principle that the people of this State have a right to full disclosure of information relating to the decisions, policies, procedures, rules, standards, and other aspects of government activity that affect the conduct of government and the lives of any or all of the people. ... This Act shall be construed to require disclosure of requested information as expediently and efficiently as possible and adherence to the deadlines established in this Act. Id., at § 140/1.

11. “All records in the custody or possession of a public body are presumed to be open to inspection or copying. Any public body that asserts that a record is exempt from disclosure has the burden of proving by clear and convincing evidence that it is exempt.” Id., at § 140/1.2.

12. In furtherance of the Illinois’ Legislatures above goals unless otherwise exempt, public bodies must comply with requests for public documents and information. Id., at §§ 140/1.2, 140/3.

13. Once a request is received, “[e]ach public body shall, promptly, either comply with or deny a request for public records within 5 business days after its receipt of the request[.]” Id., at § 140/3(d). Such time to respond may be extended for an additional five (5) business days based on good causes. Id., at § 140/3(e).

14. “[A] [d]enial shall be in writing as provided in Section 9 of this Act. Failure to comply with a written request, extend the time for response, or deny a request within 5 business days after [a requests] receipt shall be considered a denial of the request.” Id., at § 140/3(d).

15. Moreover, FOIA outlines a number of requirements for a public body and its FOIA Officer to adhere to once it receives a request for a public record. Such requirements include: (1) noting date the request was received; (2) computing the response deadline; (3) creating and maintaining an electronic or paper record of the request until the request is complied with or denied; and (4) creating a file for the retention of the request, response, and all communications concerning the same. 5 ILCS § 140/3.5(a).

16. FOIA also states that if a request is denied, the public body must, *inter alia*, “notify the requester in writing of the decision to deny the request, the reasons for the denial, including a detailed factual basis for the application of any exemption claimed, and the names and titles or positions of each person responsible for the denial.” Id., at § 140/9(a).

17. To enforce the public’s right to access public information, FOIA provides a private right of action whereby: “[a]ny person denied access to inspect or copy any public record by a public body may file suit for injunctive or declaratory relief.” Id., at § 140/11(a).

18. “If a person seeking the right to inspect or receive a copy of a public record prevails in a proceeding under this Section, the court shall award such person reasonable attorney’s fees and costs.” Id., at § 140/11(i).

19. Moreover, “[i]f the court determines that a public body willfully and intentionally failed to comply with this Act, or otherwise acted in bad faith, the court shall also impose upon the public body a civil penalty of not less than \$2,500 nor more than \$5,000 for each occurrence.” Id., at § 140/11(j).

### **Plaintiffs-Specific Allegations**

20. Here, Plaintiffs originally submitted their request (“Request”) on June 9, 2025, attached hereto as Group Exhibit A.

21. The Request sought, *inter alia*: Deposition Transcripts. The request also advised that Plaintiffs are members of the media and eligible for a fee waiver. June 9, 2025 E-Mail, attached hereto as Group Exhibit A.

22. On June 13, 2025, the Defendant sent an email extending the response time and asserting that the request was unduly burdensome. June 13, 2025 E-Mail, attached hereto as Group Exhibit B.

23. Later on June 13, 2025, Plaintiffs agreed to allow the defendant additional time to respond, up to June 30, 2025. June 13, 2025 E-Mail, attached hereto as Group Exhibit C.

24. On June 30, 2025, the Defendant sent another email stating only three deposition transcripts had been filed with the court and requesting an additional three-day extension. June 30, 2025 E-Mail, attached hereto as Group Exhibit D.

25. Later on June 30, 2025, Plaintiffs agreed to the Defendant's request for a three-day extension. June 30, 2025 E-Mail, attached hereto as Group Exhibit E.

26. On July 1, 2025, Plaintiffs sent an email noting that the protective order in the Banning matter did not automatically prohibit disclosure of deposition transcripts and asking the Defendant to cite specific FOIA exemptions and produce the non-exempt portions. July 1, 2025 E-Mail, attached hereto as Group Exhibit F.

27. On July 3, 2025, the Defendant produced only the three deposition transcripts filed with the court and denied the remainder of the deposition transcripts requested. July 3, 2025 E-Mail, attached hereto as Exhibit G.

28. Defendant never cited the specific FOIA exemptions it relied on to withhold the demanded documents.

29. Plaintiffs' work is to report matters about which the public should be aware. Here, Plaintiffs are being prevented from access to data to which the public has a right, even after reminding Defendant of its obligation under the law.

30. Under Section 3(d) of FOIA, Defendant was obligated to respond to Plaintiffs' Request, but failed to produce the demanded documents and issue a written denial as required by FOIA's Section 9(a).

31. The Denial is wrongful under the law because:

The Defendant wrongfully applied exemptions and exceptions to effectuate the Denial and absolve itself of its obligations to provide public information under the law; and

32. Moreover, upon information and belief, Defendant has failed to satisfy its other obligations under FOIA, as articulated in Section 3.5(a).

33. Defendant's intentional refusal to satisfy its obligations under FOIA are so egregious that Plaintiffs had to suffer the time and financial burden of hiring a law firm and filing a lawsuit to vindicate their rights under the law.

34. Illinois takes great pains to ensure our government officials are responsive to our citizens. The responding party here – acting in the capacity of a FOIA official. The public will gain not only by this lawsuit, but ensuring that FOIA Officers understand that their obligations to the public are not mere suggestions, but matters of law.

**Count I**  
**Failure to Produce Demanded Records**

35. Plaintiffs incorporate the above paragraphs by reference as if fully set forth herein.

36. Defendant is a public body under Section 2(a) of FOIA.

37. The records requested by Plaintiffs are non-exempt public records and are subject to FOIA's inspection requirements.

38. FOIA required Defendant to respond to a records request within five (5) days of receipt or request an additional five (5) days to respond.

39. Defendant failed to properly respond to Plaintiffs' Request or request additional time to respond to the same within the statutorily prescribed time period, in violation of FOIA's Section 3(d).

40. Defendant violated FOIA when it failed to produce the requested records within the statutory time period or any time thereafter; and otherwise failed to response to Plaintiffs' Request.

**Count II**  
**Willful and Intentional Violation of FOIA**

41. Plaintiffs incorporate the above paragraphs by reference as if fully set forth herein.

42. Defendant is a public body under Section 2(a) of FOIA.

43. The records requested by Plaintiffs are non-exempt public records and are subject to FOIA's inspection requirements.

44. Upon information and belief, Defendant failed to satisfy any of FOIA's attendant requirements, including: (1) noting date the request was received; (2) computing the response deadline; (3) creating and maintaining an electronic or paper record of the request until the request is complied with or denied; or (4) creating a file for the retention of the request, response, and all communications concerning the same, in violation of FOIA's Section 3.5(a).

45. Defendant willfully, intentionally, and in bad faith failed to comply with five (5) separate requirements of FOIA.

**Count III**  
**Willful and Intentional Failure to Conduct A Reasonable Search**

46. Plaintiffs incorporate the above paragraphs by reference as if fully set forth herein.

47. The records requested by Plaintiffs are non-exempt public records and are subject to FOIA's inspection requirements.

48. Upon information and belief, Defendant failed to even perform a reasonable and comprehensive search for records.

49. Defendant failed to properly conduct a search for responsive records in violation of FOIA's Section 3(d)

50. Defendant violated FOIA when it failed to conduct a reasonable and comprehensive search for the requested records.

**Count IV**  
**Willful and Intentional Violation of FOIA**

51. Plaintiffs incorporate the above paragraphs by reference as if fully set forth herein.

52. The records requested by Plaintiffs are non-exempt public records and are subject to FOIA's inspection requirements.

53. Upon information and belief, Defendant failed to satisfy FOIA's attendant requirements, including: (1) improperly noting date the request was received; (2) initially creating and maintaining an electronic or paper record of the request, in violation of FOIA's Section 3.5(a).

54. Defendant willfully, intentionally, and in bad faith failed to comply with the earlier Counts' requirements and the separate requirements of FOIA noted in this Count.

**Prayer for Relief**

Wherefore, Plaintiffs respectfully requests that the Court find:

a. According to 5 ILCS § 140/11(h), this case be afforded precedence on the Court's docket, except for cases which the Court considers to be of greater import, and assign this matter for hearings and trial at the earliest convenience and otherwise expedited these proceedings;



b. Find that Defendant has violated FOIA's Section 3(d) by failing to timely respond to Plaintiffs' Request;

c. Find that Defendant has violated FOIA's Section 3(d) by failing to timely respond to Plaintiffs' Request

d. Find that Defendant has violated FOIA's requirement to produce records by refusing to produce any responsive records through an improper unsubstantiated, and wrongful denial;

e. Find that Defendant has violated FOIA's Section 3.5(a) by failing to:

i. note the date the Request was received;

ii. create or maintain an electronic or paper record of the Request until the request is complied with or denied; and

iii. create a file for the retention of the request, response, and all communications concerning the same;

f. Order Defendant to produce all requested records, documents, and information;

g. Enjoin Defendant from withholding non-exempt public records under FOIA;

h. Order Defendant to pay civil penalties of not less than \$2,500 nor more than \$5,000 for each of the above violations of FOIA, pursuant to 5 ILCS § 140/1(j);

i. Award Plaintiffs reasonable attorney's fees and costs, pursuant to 5 ILCS § 140/1(i); and

j. Grant any and all further relief that this Court deems just and proper.

Dated: November 21, 2025

Respectfully Submitted:

By: /s/ Edward "Coach" Weinhaus

Edward "Coach" Weinhaus, Esq.  
Cook County #64450 / ARDC #6333901  
**LegalSolved, LLC, FOIASolved division**  
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E-mail: aflorek@florekllc.com

# **EXHIBIT A**

From: [Kirk Allen](#)  
To: [Shelby County States Attorney - Ruth Woolery](#)  
Bcc: [John Kraft](#)  
Subject: FOIA Request  
Date: Monday, June 9, 2025 10:29:00 AM

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In accordance with the Freedom of Information Act of Illinois, I am requesting the following public records.

1. A copy of all deposition transcripts in the Nicholas Banning case - # **3:21-cv-03100-CRL**. I do not expect them to be located in your "office". They will be in the possession of the law office who represented the county in this case.
2. A copy of all emails sent to and received from the lawyer or law firm who represented the Nicholas Banning case in the last 10 days.

I qualify as both media and non-profit under the definitions in Section 2 (c-10) ("Commercial purpose"), Section 2 (f) ("News media"), Section 2 (g) ("Recurrent requester"), and Section 2 (h) ("Voluminous request") of the Freedom of Information Act, for the purposes of being exempt to the provisions of Section 3.1 (Requests or commercial purposes), Section 3.2 (Recurrent requesters), Section 3.6 (Voluminous requests), and Section 6 (Authority to charge fees).

I request expedited processing on the basis of an urgency to inform the citizens and taxpayers of Illinois about their government's activities. If any element of this request is denied in whole or in part, I ask that you justify all withholdings individually by reference to specific exemptions of the Act. Please provide all responsive information to me electronically.

I request a rolling production of records, such that the public body furnishes records to my attention as soon as they are identified, preferably electronically, but as needed then to my attention, at the below address. If you have any questions please do not hesitate to contact me. Rolling production is not to be perceived as an agreement to extend the time frame for compliance under FOIA.

If you are not the FOIA officer responsible for any part of this request you are required by law to forward it to the appropriate FOIA officer.

The purpose of the request is to access and disseminate information regarding the legal rights of the general public and is not for the principal purpose of personal or commercial benefit.

As outlined in FOIA, documents shall be furnished without charge or at a reduced charge, as determined by the public body, if the person requesting the documents states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. Waiver or reduction of the fee is in the public interest if the principal purpose of the request is to access and disseminate information regarding the health, safety and welfare or the legal rights of the general public and is not for the principal purpose of personal or commercial benefit.

I am requesting the records be provided in electronic format if that is the method in which they are stored. If they are in paper form and the copier can convert them to electronic format I would appreciate receiving them electronically.

Thanks,

Kirk Allen

Edgar County Watchdogs

PO Box 593

Kansas, IL 61933

# **EXHIBIT B**

From: [Shelby County States Attorney - Ruth Woolery](#)  
To: [Kirk Allen](#)  
Subject: RE: FOIA Request  
Date: Friday, June 13, 2025 2:03:41 PM  
Attachments: [image001.gif](#)  
[6-9-25 Email.pdf](#)

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Mr. Allen,

1. While I have requested copies of all deposition transcripts in the Nicholas Banning matter, to date, I have not received those from counsel for the County and therefore cannot provide them to you. Further, based upon my conversations with counsel, complying with your request will be unduly burdensome based upon the number of depositions taken and the amount of confidential health information that will need to be redacted. Further, the time to respond is insufficient based upon the fact that these records are not stored in this office, and the request requires the collection of a substantial number of records requiring examination to determine to what extent they are exempt from disclosure. *See* 5 ILCS 140/3(e)(i), (ii), (v), (vi). I am not confident that a 5-day extension (to June 23, 2025) will be sufficient, however, I will do my best to respond in that timeframe. Further, to correct one of your prior assertions, I do not have access to Pacer, as Mr. Hanlon linked the state's attorney account to his private practice and attempts to create a new account have been denied based upon his prior use of the state's attorney email to create that account without leaving any password information upon his departure from office. You, however, may have access to the requested information through the Pacer website as I have been told that at least some of the depositions taken in the Nicholas Banning case were filed with the Court.
2. All responsive documents are attached hereto.

If you feel that this answer is not responsive, or is erroneous to your request, or you were otherwise denied publicly available information maintained by the State's Attorney's Office, you have the right to have this response reviewed by the Public Access Counselor by writing to:

Leah Bartelt  
Public Access Counselor  
Office of the Illinois Attorney General  
500 south 2<sup>nd</sup> Street  
Springfield, Illinois 62701  
Fax 217-782-1396  
[Public.access@ilag.gov](mailto:Public.access@ilag.gov)

If you choose to file a request for review with the public access counselor, you must do so within 60 calendar days of the date of this letter (See 5 ILCS 140/9.5(a)). You also have the right to judicial review of a denial by filing suit in the appropriate Illinois Court. See 5 ILCS 140/11.

# **EXHIBIT C**



From: [Kirk Allen](#)  
To: [Shelby County States Attorney - Ruth Woolery](#)  
Bcc: [John Kraft](#); [Rob Hanlon](#)  
Subject: RE: FOIA Request  
Date: Friday, June 13, 2025 2:16:00 PM  
Attachments: [image001.gif](#)

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If extending the time to June 30, 2025 would help I have no problem doing that.

In regards to the Pacer issue, have you reached out to Mr. Hanlon to rectify the matter?

Thanks  
Kirk Allen

# **EXHIBIT D**

From: [Shelby County States Attorney - Ruth Woolery](#)  
To: [Kirk Allen](#)  
Subject: RE: FOIA Request  
Date: Monday, June 30, 2025 4:17:18 PM  
Attachments: [image001.gif](#)

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Mr. Allen, I wanted to provide you with an update regarding your request below. Based upon my review of the docket, only 3 deposition transcripts were filed with the Court and are therefore public documents subject to FOIA. Those are the depositions of Adams, Clayton, and Zakowski. I am still in the process of reviewing and redacting those documents as they are all rather lengthy. I am also reviewing the Protective Order that was filed to confirm under what circumstances, if any, the transcripts can be released.

As for any other depositions taken in the Banning case, it is my position that the transcripts of those depositions are not public records subject to FOIA unless and until they are made a part of the court record. In addition, their disclosure is prohibited by State and Federal law and the rules of discovery. *See* 5 ILCS 140/7.

I am requesting an additional 3 days to finish reviewing and redacting the 3 transcripts that I agree are part of the public record.

If you feel that this answer is not responsive, or is erroneous to your request, or you were otherwise denied publicly available information maintained by the State's Attorney's Office, you have the right to have this response reviewed by the Public Access Counselor by writing to:

Leah Bartelt  
Public Access Counselor  
Office of the Illinois Attorney General  
500 south 2<sup>nd</sup> Street  
Springfield, Illinois 62701  
Fax 217-782-1396  
[Public.access@ilag.gov](mailto:Public.access@ilag.gov)

If you choose to file a request for review with the public access counselor, you must do so within 60 calendar days of the date of this letter (See 5 ILCS 140/9.5(a)). You also have the right to judicial review of a denial by filing suit in the appropriate Illinois Court. See 5 ILCS 140/11.

*Ruth A. Woolery*

**Shelby County State's Attorney/FOIA Officer**  
301 E. Main St  
Shelbyville, IL. 62565  
(217) 774-5511  
(217) 273-5291  
[statesattorney@shelbycounty-il.gov](mailto:statesattorney@shelbycounty-il.gov)

# **EXHIBIT E**

From: [Kirk Allen](#)  
To: [Shelby County States Attorney - Ruth Woolery](#)  
Subject: Re: FOIA Request  
Date: Monday, June 30, 2025 6:00:58 PM  
Attachments: [image001.gif](#)

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Three day extension is fine.

Sent from my Verizon, Samsung Galaxy smartphone

Get [Outlook for Android](#)

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## **EXHIBIT F**

From: [Kirk Allen](#)  
To: [Shelby County States Attorney - Ruth Woolery](#)  
Bcc: [Edward Weinhaus](#); [John Kraft](#)  
Subject: RE: FOIA Request  
Date: Tuesday, July 1, 2025 11:18:00 AM  
Attachments: [image001.gif](#)

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Ms. Woolery,

The protective orders do not cover transcripts automatically. However, they can be seen to cover the responses within the testimony that would be protected health information and likewise, certain HIPAA protected exhibits. Please redact out the HIPAA protected information only and send them as a revised request to the original request.

Pointing to a section of the law for exemptions does not indicate what exemptions you are invoking. Please cite the appropriate exemption paragraph within 140/7.

Please note, we have obtained depositions not shown on the PACER docket entries through FOIA in numerous cases, and very prestigious law firms do not read the law the way you are reading it.

I will await receipt of the requested records by the agreed 3 day extension.

Thanks

Kirk Allen

ECWd

## **EXHIBIT G**



From: [Shelby County States Attorney - Ruth Woolery](#)  
To: [Kirk Allen](#)  
Subject: RE: FOIA Request  
Date: Thursday, July 3, 2025 4:06:10 PM  
Attachments: [image001.gif](#)  
[Kelly Adams\\_Redacted.pdf](#)  
[Jacqueline Clayton\\_Redacted.pdf](#)  
[Dep of Chris Zakowski - Cond - 2.15.23\\_Redacted.pdf](#)

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Mr. Allen, attached please find the redacted deposition transcripts relating to Adams, Clayton, and Zakowski, all of which were made part of the public record when filed with the district court.

As to the remaining depositions, my position remains that they do not become a “public record” for purposes of FOIA unless and until they are made part of the public court record. See **People v. Pelo**, 384 Ill.App.3d 776 (2008), which I find instructive.

If you choose to have this issue reviewed by the Public Access Counselor and they disagree, I am happy to comply and provide the requested documents.

If you feel that this answer is not responsive, or is erroneous to your request, or you were otherwise denied publicly available information maintained by the State’s Attorney’s Office, you have the right to have this response reviewed by the Public Access Counselor by writing to:

Leah Bartelt  
Public Access Counselor  
Office of the Illinois Attorney General  
500 south 2<sup>nd</sup> Street  
Springfield, Illinois 62701  
Fax 217-782-1396  
[Public.access@ilag.gov](mailto:Public.access@ilag.gov)

If you choose to file a request for review with the public access counselor, you must do so within 60 calendar days of the date of this letter (See 5 ILCS 140/9.5(a)). You also have the right to judicial review of a denial by filing suit in the appropriate Illinois Court. See 5 ILCS 140/11.

*Ruth A. Woolery*

**Shelby County State’s Attorney/FOIA Officer**  
301 E. Main St  
Shelbyville, IL. 62565  
(217) 774-5511  
(217) 273-5291  
[statesattorney@shelbycounty-il.gov](mailto:statesattorney@shelbycounty-il.gov)

