IN THE SUPERIOR COURT OF CHATHAM COUNTY
STATE OF GEORGIA

CHATHAM AREA TRANSIT AUTHORITY, *Plaintiff*, v. BOARD of COMMISSIONERS of CHATHAM COUNTY, *Defendant*.	Civil Action File No. _____

CHATHAM AREA TRANSIT AUTHORITY'S EMERGENCY MOTION FOR PRELIMINARY INJUNCTION

An adversely adjudicated outcome cannot be circumvented by an unlawful power grab. But the Board of Commissioners of Chatham County ("Commission" or "Defendant") seeks to do just that to regain political control of the board of the Chatham Area Transit Authority (the "Authority" or "Plaintiff") following the passage of House Bill 756 ("H.B. 756"). In retaliation against the State, on September 5, 2025, the Commission intends to amend H.B. 756 pursuant to the County Home Rule Provision, Article IX, Section II, Paragraph 1 of the Georgia Constitution, and remove the Authority's duly appointed board of directors—an outcome that the Commission tried and failed to effectuate in a court of law.

This action follows two other failed attempts at political retribution. In

an effort to reclaim the Authority's board, the Commission unsuccessfully challenged the constitutionality of H.B. 756, *see* Order Granting Motion to Dismiss, *Lockett et al. v Chatham Area Transit Auth.,* No. SPCV25-00791-WA (Ga. Super. Ct. Chatham Cnty. July 2, 2025), attached as Ex. A. Further, it imposed drastic funding cuts by reducing dedicated funding streams from both property and sales taxes that the Authority utilizes for operations.

The Commission's effort to amend the nature of appointments to the Authority board relies on its misguided belief that it may amend an Act of the General Assembly simply because it does not like the Act. Of course, that is not true. The County Home Rule Provision provides only limited circumstances when it may be used, and such actions require strict adherence to its enumerated procedural requirements. The Commission's attempt to utilize this Provision fails on both fronts.

Moreover, allowing the Commission to exercise County Home Rule and reconstitute the Authority board as it prefers threatens irreparable harm to both the Authority and the riders that rely on its services. Accordingly, the Authority respectfully requests that this Court enjoin the Commission from taking any further action against the Authority or its board pending resolution of the Commission's appeal to the Supreme Court of Georgia in *Lockett*. Given the time-sensitive nature of the Commission's intended action, and pursuant to Uniform Superior Court Rule 6.7, the Authority further requests that this

Court "shorten or waive" the time requirement for briefing and grant an immediate hearing on the requested relief.

Granting emergency relief would preserve the status quo and protect the Authority from further retaliatory action by the Commission as the Supreme Court considers the Commission's appeal. For these reasons, the Court should grant the emergency relief sought in the motion.

BACKGROUND

I. Legal and statutory framework.

A. Local Acts governing the Authority's board composition.

The Authority was created in 1986 when the General Assembly adopted H.B. 1699 (1986 Ga. Laws p. 5082) (the "1986 Act"). The 1986 Act established the Authority's board membership and powers. *See* 1986 Act § 2.2. The Authority board was to include: (1) a Savannah resident appointed by the mayor and aldermen; (2) a resident of unincorporated Chatham County appointed by the Commission; and (3) one resident of any municipality other than Savannah within a special service district for transit services, as provided by the Commission. *Id*. §§ 2.2(1)–(3). The third member would be appointed by resolution adopted by the municipality governing each special service district for transit services (other than Savannah). *Id*. § 2.2(b).

In 2012, the General Assembly enacted H.B. 1275, which reconstituted the Authority board's membership. 2012 Ga. Laws. 5296 (the "2012 Act"). The

2012 Act expanded the Authority board's membership from three to nine members, including: (1) three members of the Commission; (2) one resident of unincorporated Chatham County appointed by the Commission; (3) one resident of Chatham County who is a person with a disability, also appointed by the Commission; (4) one resident of Chatham County at large, also appointed by the Commission; (5) a member of Savannah's Board of Aldermen; (6) one Savannah resident appointed by the Mayor and Aldermen; and (7) one resident of a Chatham County special service district for transit services other than Savannah, who would be appointed by a majority of the governing authorities of special service district for transit municipalities. *Id.* §§ 2.2(a)(1)–(7).

In the 2025 session, the General Assembly enacted H.B. 756, which again reconstituted the Authority board by abolishing the 2012 board structure and recreating board memberships with new appointment provisions. *See* Ga. H.B. 756 § (a)(1). The new board consists of up to 11 members. *Id.* § (a)(2). There are ten mandatory members: (1) two members of the Commission appointed by the Commission; (2) one member of the Board of Aldermen of Savannah appointed by the City of Savannah; (3) one member of the Garden City Council; (4) one member appointed by the Savannah-Georgia Convention Center Authority; (5) one resident of Chatham County who is a person with a disability appointed by the Commission; (6) one Savannah resident appointed

by the Board of Aldermen of Savannah; (7) one member or employee of a business advocacy organization appointed by the Chatham County legislative delegation; (8) one member of a tourism advocacy organization appointed by the Chatham County legislative delegation; and (9) one resident of Chatham County appointed by the Chatham County legislative delegation. *Id*. §§ (2)(A)–(B), (D)–(J). There is one optional member: if Port Wentworth chooses to participate, the city council of Port Wentworth may appoint one of its members. *Id*. § 2(C).

B. The Georgia Constitution's County Home Rule Provision.

The County Home Rule Provision, Article IX, Section II, Paragraph 1 of the Georgia Constitution, allows counties to adopt "clearly reasonable ordinances, resolutions, or regulations relating to its property, local affairs, and local government" when there is no provision of "general law" that governs such matters and the enacted legislation is consistent with the Constitution and "any local law applicable thereto." Ga. Const. Art. IX, § 2, ¶ 1(a).

Relatedly, the County Home Rule Provision allows counties to amend or repeal local acts applicable to their governing authority through two procedures. As relevant here, one of those procedures allows a county to amend or repeal the act "by a resolution or ordinance duly adopted at two regular consecutive meetings of the county governing authority not less than seven nor more than 60 days apart." Ga. Const. Art. IX, § II, ¶ l(b)(1). When using this

procedure, the county must provide the public with sufficient notice of the amendment. Notice is sufficient when a description of the amendment is "published in the official county organ once a week for three weeks within a period of 60 days immediately preceding its final adoption." *Id.* The notice "shall state that a copy of the proposed amendment or repeal is on file in the office of the clerk of the superior court of the county for the purpose of examination and inspection by the public." *Id.* The clerk of the superior court shall then "furnish anyone, upon written request, a copy of the proposed amendment or appeal." *Id.*

II. Relevant facts.

Since the passage of H.B. 756 in May, the Commission has deployed both legal action and operational meddling to regain political control of the Authority and its board. On May 27, 2025, Chatham County and six Commission-appointed members of the Authority's nine-seat board filed a complaint in the Superior Court of Chatham County seeking declaratory and injunctive relief on the grounds that H.B. 756 was an unconstitutional bill of attainder and violative of the Georgia Constitution's Uniformity Clause. Ex. A at 1. On July 2, 2025, the Court dismissed the suit on procedural grounds, holding that the Court lacked subject matter jurisdiction and that the plaintiffs lacked standing, *id.* at 4–5. The court also dismissed on substantive grounds, holding that plaintiffs failed to demonstrate that H.B. 756 is a bill of attainder

or conflicts with Code Section 32-9-9. *Id.* at 9–13. The case is now before the Supreme Court of Georgia on appeal. *Lockett et al. v. Chatham Area Transit Auth. et al.*, Ga. S26A0030 (Aug. 6, 2025).

Simultaneous to its legal attack, the Commission launched an assault against the Authority with budget cuts. In June, the Commission failed to allocate special purpose local sales tax ("SPLOST") funds to the Authority for critical capital investments and operational costs, despite the Authority's stated need and historical reliance on such funds. Declaration of Stephanie Cutter, attached as Ex. B, at ¶¶ 7, 10. In the previous round of SPLOST funding, the Commission allocated $10 million to the Authority for bus and ferry maintenance. *Id.* ¶ 11. The following month, on July 24, 2025, Chairman Chester Ellis and the Commission refused to approve the Authority's recommended millage rate despite recommendations otherwise. *Id.* ¶ 14. During the Commission's public meeting, Chairman Ellis lobbied to cut the Authority's millage by half, a decision which would have resulted in a $9 million reduction in the Authority's tax revenue. *Id.* ¶ 15. Though Chairman Ellis' proposed cut was not approved, the Commission still voted to cut the Authority's millage, resulting in a $1.9 million reduction in tax revenue. *Id.* ¶ 14. As a direct result of both the millage cut and the lack of SPLOST funds, the Authority is facing a $4.8 million reduction in projected revenue for the coming fiscal year. *Id.* ¶ 22.

Most recently, on August 22, 2025, the Commission approved by a vote of 6–3 a Resolution, attached as Ex. C, to amend H.B. 756 using the County Home Rule Provision, under the guise that H.B. 756 "unconstitutionally vacated the Board of Directors of the Chatham Area Transit Authority . . . in violation of the Transit Authority Act[.]" Ex. B at 1. The Commission will reconvene on September 5, 2025, to formally approve the Resolution and purportedly amend H.B. 756.

SUMMARY OF ARGUMENT

The Authority will be irreparably harmed by the Commission's reconstitution of the Authority board unless this Court grants injunctive relief. The Authority's threatened injuries outweigh potential consequences to the Commission as in the interim, the Authority would be left with two boards, one constituted pursuant to state law, and the other controlled by the Commission. Ultimately, at trial, the Authority is likely to prevail on the merits of its claims. The County Home Rule Provision does not allow the Commission to amend a local act regarding an entity outside of its control or supersede a general law of the General Assembly. The Commission's failure to comply with the County Home Rule Provision's mandatory procedural requirements for revoking portions of H.B. 756 is a clear violation of that provision. Ultimately, granting the injunction serves the public interest.

LEGAL STANDARD

Trial courts should grant interlocutory injunctions when the moving party shows that: "(1) there is a substantial threat that the moving party will suffer irreparable injury if the injunction is not granted; (2) the threatened injury to the moving party outweighs the threatened harm that the injunction may do to the party being enjoined; (3) there is a substantial likelihood that the moving party will prevail on the merits of her claims at trial; and (4) granting the interlocutory injunction will not disserve the public interest." *City of Waycross v. Pierce Cnty Bd. of Comm'rs*, 300 Ga. 109, 111–12 (2016) (quotation omitted). The first factor—irreparable injury—is the most important to the Court's analysis. *Id.* (quotation omitted). Further, because this test is a "balancing test," the Authority need not prove all four factors to obtain the injunction. *SRB Investment Svcs., LLLP v. Branch Banking & Trust Co.*, 289 Ga. 1, 5 & n.7 (2011).

ARGUMENT

I. The Authority will be irreparably harmed by the Commission's reconstitution of the Authority board unless this Court grants injunctive relief.

Should the Commission be permitted to disrupt the status quo and amend H.B. 756 pursuant to the County Home Rule Provision, the Authority will be marred by significant, enduring confusion regarding its corporate governance and controlling body. This confusion will impact and impede every

Authority function, including contracting authority, personnel choices, transit routes, budget decisions, and other operational concerns, resulting in irreparable harm to the Authority.

In effect, without injunctive relief, from September 5, 2025, until such time as the Supreme Court rules on the Commission's appeal regarding the constitutionality of H.B. 756, there will be *two* Authority boards: the State's 11-seat board organized under H.B. 756, and the Commission's nine-seat board organized under its County Home Rule Provision amendment. But as the Supreme Court has observed, "no man can serve two masters." C*lark v. Clark*, 167 Ga. 1 (1928) (a servant "cannot serve himself and his master in a transaction where his personal interest conflicts with his duties to his master"). Though this maxim often arises in matters related to conflicts of interest, it nonetheless illustrates the principle that one cannot serve two entities with competing interests, as would happen here without an injunction.

The potential harm of two boards is not merely hypothetical; in fact, it is not hard to anticipate the divergent directions that a State-authorized 11-seat board and a Commission-controlled nine-seat board might take when leading the Authority. To wit: since H.B. 756 was enacted in May, Chairman Ellis and the Commission have retaliated against the State by cutting two critical Authority funding channels: SPLOST funds and the Authority's millage rate.

In May, the Authority submitted a $48.2 million request for SPLOST funding with a report of its intended projects through 2032. Ex. B ¶ 7. Historically, the Authority has relied on SPLOST funds to shore up its budget and support critical maintenance and repair projects for the Authority's aging bus fleet. *Id.* ¶ 11. Despite the Authority's requests, there is *no funding* listed for the Authority in the SPLOST agreement approved by the Commission on June 18, 2025. *Id.* ¶ 10.

In July, Chairman Ellis further retaliated against the Authority by attempting to slash its millage by *half*—a decision which would have resulted in a $9 million reduction in revenue and an immediate thinning of public transit services. *Id.* ¶ 15. Though Chairman Ellis' proposed cut was not approved by the Commission, he and Commissioner Kicklighter still successfully persuaded the Commission to cut the Authority's millage, resulting in a $1.9 million reduction in tax revenue. *Id.* ¶ 14.

As a direct result of these cuts, the Commission has forced the Authority to reduce its projected revenue for the next fiscal year by $4.8 million. Ex. B ¶ 22. These actions evidence a patent disregard for Chatham County residents and riders and foreshadow further ruinous effects for the Authority under the Commission's control.

But the structural and organizational harms to the Authority are not the extent of the irreparable harm that will occur if this Court does not grant the

Authority's requested injunction. The brunt of the fallout will be borne by the Chatham County residents who rely on the Authority for essential transportation services. Public transportation systems, like the Authority, "facilitate travel and transportation for public convenience and general welfare." *Oliver v. Hall Cnty. Mem'l Hosp.*, 62 Ga. App. 95 (1940) (drainage districts, public transit hubs, and hospitals are entities founded for public benefit). Citizens depend on the Authority for an essential service—transportation.

By withholding SPLOST funds and cutting the Authority's millage, the Commission has already forced the Authority to reduce its projected revenue for the next fiscal year by $4.8 million. Ex. B ¶ 22. Ultimately, its actions will result in fewer routes, sparser schedules, deferred maintenance, and deprivation of transit services for Chatham County riders. *Id.* Riders without other transportation options will be unable to rely on the Authority's services to reach indispensable destinations, such as jobs, medical appointments, and the like. As Georgia's appellate courts have held, the deprivation of other essential government services, such as water and sewer, constitutes irreparable harm sufficient to support a preliminary injunction. *See Waycross*, 300 Ga. at 113. Thus, loss of transportation access here is a deprivation of an essential government service to Chatham County residents.

Critically, there is no other intervening cause that has led to these harms to the Authority and resultant harms to the Authority's riders. Rather, these harms directly flow from the Defendants' attempt to treat the Authority as their private fiefdom. The deprivation of SPLOST funds and the reduced millage rate are not run-of-the-mill budget cuts which could be reasonably anticipated as part of Chatham County's budgeting process. These decisions are direct evidence of the retributive motivations shared by Chairman Ellis, Commissioner Kicklighter, and the Commission towards the State's reorganized Authority board.

As Commissioner Kicklighter said in the Commission's July 24, 2025, meeting, "All we control as far as Chatham Transit Authority, now, especially now that the state decided to jump in—**all we control is that budget at the moment**, and [Chairman Ellis is] utilizing the only tool [the Commission] ha[s] to direct the services in areas where the people are actually paying." Ex. B ¶ 17. To which Chairman Ellis responded, "You understand exactly what I'm trying to do." *Id.* Commissioner Kicklighter went on to say, "And it's a brilliant move, and it's your only move, and our only move if we want to have any say now, especially since the state jumped in there and restructured the whole thing. **We control the purse strings at the moment**[.]" *Id.* ¶ 18. Chairman Ellis agreed. *Id.*

Chairman Ellis and Commissioner Kicklighter have no regard for the Authority or the riders that depend on its services. Moreover, the Commission has proven that it cannot be trusted to make decisions in the Authority's best interest—and by extension, riders' best interests—as evidenced by its efforts to grievously cut the Authority's revenue. As such, allowing the Commission to repeal H.B. 756 and reinstate an Authority board under its control will only further irreparably harm the Authority, its operations, and ultimately, its riders.

II. The Authority's threatened injuries outweigh potential consequences to the Commission if the Court preserves the status quo by granting injunctive relief.

The Authority's threatened injuries are existential to both the Authority and the riders it serves. In contrast, if the court grants injunctive relief, the Commission does not face any significant consequence. The injunction will merely require the Commission to abide by H.B. 756, thereby maintaining the status quo while the Supreme Court weighs Chatham County's appeal in *Lockett*. Preservation of the status quo is "the main purpose of an interlocutory injunction," thus allowing "the parties and the court time to try the case in an orderly manner." *Waycross*, 300 Ga. at 111. In fact, the *only* consequence the Commission may face is being unable to supplant the sitting board of the Authority in favor of its preferred candidates.

The Commission's vindictive actions are motivated by its singular desire to control the Authority, not to combat any purported harm. Accordingly, any alleged injury stemming from the Commission's inability to take over the Authority must pale in comparison to the harm that the Authority and its riders would endure if the injunction were not granted.

III. At trial, the Authority is likely to prevail on the merits of its claims.

A. The County Home Rule Provision does not allow the Commission to amend a local act regarding an entity outside of its control or supersede a general law of the General Assembly.

The Commission's reliance on the County Home Rule Provision substantively fails for two reasons: (1) the Authority is not "property, affairs, [or] local government" such that Chatham County may adopt ordinances, relations, or regulations relating to it, and (2) the General Assembly's general law authorizing the creation of a transit authority supersedes the Commission's attempt to amend the local act.

The County Home Rule Provision only allows the governing authority of a county to adopt clearly reasonable ordinances, resolutions, or regulations "relating to its property, affairs, and local government[.]" Ga. Const. Art. IX, § 2, ¶ 1(a). As such, a county's home rule powers only extend to that which it owns or controls. The Supreme Court of Georgia's emphasized the limited nature of a county's home rule powers in *Wood v. Gwinnett County,* 243 Ga.

833 (1979). There, the Court held that a county commission could not amend an authority's formation legislation because the authority "[was a separate 'political subdivision of the State of Georgia and a public corporation' and not an arm of the county which could be controlled by the commissioners." *Id.* at 834–35. As evidence of its separateness, the Court considered the authority's discrete membership, powers, and duties, and noted that the authority's revenue bonds were "required to bear a notation that they [were] not a debt of Gwinnett County nor ha[d] the county any obligation whatever for them." *Id.*

Here, the Authority does not belong to Chatham County, nor is it an arm of the county under the Commission's control. The Authority was created by the General Assembly as an "instrumentality of the State of Georgia and a public corporation" empowered with contracting authority, the ability to bring and maintain actions, and the power to complain and defend in all courts of law and equity. *See* 1986 Act § 2.1. Just as the authority in *Wood*, the Authority maintains separate membership, powers, and duties from the Commission, *see generally*, *id.* Chs. 2–3, and its "[r]evenue bonds issued . . . shall not be deemed to constitute a debt of the State of Georgia, **Chatham County**, or any municipality served by the authority." *Id.* § 4.11 (emphasis added). Accordingly, the Authority is separate and apart from Chatham County and thus beyond the scope of entities which can be regulated by the Commission pursuant to the County Home Rule Provision.

Additionally, the Commission cannot use the County Home Rule Provision to override a general law of the General Assembly. Ga. Const. Art. IX, § 2, ¶ 1(a) (authorizing County Home Rule so long as "no provision has been made by general law"). The Commission contends that it can amend H.B. 756 because the Act "created a board of eleven (11) members, only five of whom are appointed by the City of Savannah and Chatham County, which is not a majority of the Commission and is in violation of the Transit Authority Act." Ex. C at 1. But as the Eastern Judicial Circuit has already held, the Commission's myopic reading of the Transit Authority Act, a general law, misunderstands the General Assembly's meaning and does not give rise to any such conflict between H.B. 756 and Code Section 32-9-9. *See* Ex. A at 16–17. Rather, H.B. 756 apportions the right of appointment entirely to entities within Chatham County and Savannah and thus does not violate the majority requirement in Code Section 32-9-9(d).

Code Section 32-9-9(d) requires the relevant county and city be allowed to appoint, at a minimum, the majority of the local transit authority's board. *See* O.C.G.A. § 32-9-9(d) ("the central city served by such mass rapid transit system and any county or counties whose territory or any part thereof lies within the territorial limits of such authority … shall have the right to appoint the members of such authority, or a majority thereof"). However, the statute is silent as to whether the appointment authority belongs to the county or city

government—only that it belongs to the "county" or "central city." Accordingly, and contrary to the Commission's Resolution, Code Section 32-9-9(d)'s text does not require that a county's commissioners or a city's aldermen be given the majority of appointments.

Moreover, Code Section 32-9-9(d) vests in the *legislature* the power to determine qualifications for membership and apportionment of the right of appointment. *Id.* (the majority appointment provision is "subject to such qualifications for membership and such apportionment of the right of appointment as the special Act creating such authority may provide"). As such, although the "county" or counties served and the "central city" have the right to appoint the majority of the board, the legislature is empowered to determine who qualifies as a board member—meaning that it may grant appointments to governmental units representing the interests of the *entire* city or county. *See* O.C.G.A. § 32-9-9(d) (making a central city or county's majority appointment power "subject to such qualifications for membership" as provided by the special Act creating the transit authority). This includes Chatham County's state government, other cities in Chatham, and the Convention Authority, in addition to the Chatham County and City of Savannah governing authorities.

B. The Commission's failure to comply with the County Home Rule Provision's mandatory procedural requirements for revoking portions of H.B. 756 is a clear violation of that provision.

To amend a local act under the County Home Rule Provision, a county must satisfy all the Constitution's mandatory procedural requirements. *See generally* Ga. Const. Art. IX, § II, ¶ l(b)(1). As noted above, *see supra* p. 6, a county must publish notice in the county organ, and the notice shall state that a copy of the proposed amendment or repeal is on file in the office of the clerk of the superior court of the county for the public's inspection and examination.

The Commission's attempts to undo H.B. 756 suffer from a critical procedural flaw, as the substance of the Commission's notice in the county organ was deficient. The notice in the county organ must state that "proposed amendment or repeal is on file in the office of the clerk of the superior court of the county[.]" *Id*. On August 4, 11, and 18, 2025, the Commission posted the following publication in the Savannah Morning News:

> Notice of Public Hearing The Board of Commissioners of Chatham County, Georgia will on Friday August 22, 2025 at its regularly scheduled meeting of the Chatham County Board of Commissioners beginning at 9:30 a.m. on the 2nd Floor of the Chatham County Courthouse Administrative Legislative Building located on Wright Square, 124 Bull Street, Savannah, GA 31401 shall at this meeting conduct a public hearing concerning a resolution to amend a local 323 passed as House Bill 756 at the 2025 session of the Georgia General Assembly that unconstitutionally vacates the board of directors of the Chatham Area Transit Authority (CAT) in violation of the Transit Authority Act, O.C.G.A. §32-9-9 back to the current law.

This publication notably omits whether the proposed amendment is on file in the office of the clerk of the Chatham County Superior Court, thereby depriving the public of the opportunity to examine the Commission's proposed amendment. The Commission's notice attempt demonstrates its prioritization of its own interests at the expense of the citizens it purports to serve. Accordingly, the Commission's attempted use of the County Home Rule Provision is procedurally defective and therefore invalid.

IV. Granting the injunction serves the public interest.

The Commission should be enjoined from exponentially increasing the harms it has already caused to the Authority and to riders in the Chatham Area. Granting this injunction serves the public interest by minimizing further disruption to the Authority's operations through the wholesale replacement of its board. Enjoining the Commission would preserve the Authority's operations by stabilizing its leadership, thereby ensuring reliable transportation services in the Chatham Area. Since the County's adoption of H.B. 756, the Commission has focused solely on advancing its own interest to regain political control of the Authority at the expense of the public it purports to serve. The Commission has relentlessly pursued its vindictive agenda against the Authority by withholding critical funding and slashing the Authority's millage, thereby hampering critical services to riders. If the Commission is successful in

displacing the Authority's board and creating fragmented leadership, then the riders who rely on the Authority's services for their livelihoods would endure even further disruption to the Authority's already handicapped operations. Accordingly, the public interest is served by granting the injunction.

CONCLUSION

For the above reasons, the Court should enjoin the Commission from amending H.B. 756 pursuant to the County Home Rule Provision and prevent the Commission from taking any further action against or related to the Authority and its board until the Supreme Court of Georgia rules on Chatham County's constitutional challenge.

Respectfully submitted this 4th day of September 2025.

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CERTIFICATE OF SERVICE

I hereby certify that I have electronically filed the above reply brief with the Clerk of the Superior Court of Chatham County, using the Odyssey system, which will automatically send electronic mail notification to all counsel of record.

This 4th day of September 2025.

/s/ *David B. Dove*
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