

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT  
IN AND FOR ALACHUA COUNTY, FLORIDA

CHRISTOPHER A. HANSON, individually and as attorney for himself and next friend and attorney for his two minor children,

Petitioners,

v.

UNIVERSITY OF FLORIDA BOARD OF TRUSTEES, and CUSTODIAN OF PUBLIC RECORDS, UNIVERSITY OF FLORIDA,

Respondents.

Case No.: 01-2026-CA-001794

**PETITIONERS' COMBINED RESPONSE IN OPPOSITION TO RESPONDENTS' MOTION FOR PROTECTIVE ORDER AND MOTION TO DISPENSE WITH RULE 1.200 CASE MANAGEMENT PROCEDURES, AND CROSS-MOTION TO SET AN EXPEDITED EVIDENTIARY SCHEDULE**

Petitioner Christopher A. Hanson, self-represented, responds in opposition to Respondents' Motion for Protective Order and Motion to Dispense with Rule 1.200 Case Management Procedures, both filed July 30, 2026, and cross-moves for an expedited evidentiary schedule, stating:

**I. Introduction and Summary**

1. The parties agree on the governing principle. Section 119.11(1), Florida Statutes, commands an immediate hearing and priority disposition. Petitioner invoked that provision in the Petition. The University invokes it in both motions.
2. Two observations frame the dispute that remains. First, the section's title is "Accelerated hearing; immediate compliance." The Legislature paired the speed the University now demands with the compliance the University has withheld; the University asks for the first half of the title while litigating against the second.
3. Second, the "threshold issue" the University proposes to decide first, "whether the University complied with Chapter 119," PO Mot. ¶ 2, is not a threshold. It is the whole

case. Recharacterizing the ultimate question as a threshold question is how these motions convert deciding compliance first into deciding the case without evidence.

4. One note on length. This combined response is long because the noncompliance it documents is long. Every additional page below exists because the University declined, at some earlier point, to answer a simple question. The lettered lists and the table carry the core of it; the Court is invited to begin there.
5. The University's answer is a hearing on a single affidavit, held August 24 at the earliest, with every question about that affidavit forbidden. Its Motion to Dispense with Rule 1.200 Case Management Procedures (the "Dispense Motion") asks for an evidentiary hearing "as soon as possible" while requesting that the motion itself be heard at the August 24 case management conference. Dispense Mot., WHEREFORE & ¶ 3. Its Motion for Protective Order (the "PO Motion") asks the Court to freeze all discovery, including the deposition of the University's only affiant, "until the Court determines the threshold issue." PO Mot. ¶ 2.
6. Taken together, the motions propose that the compliance question be decided on the University's chosen record, untested, no sooner than three and a half weeks out. Stripped of citation, the University's position is this: a records requester is entitled to whatever the University decides he is entitled to, and neither the Court nor a single question under oath may test what it withholds or why. Chapter 119 exists to prevent exactly that arrangement.
7. The records at issue belong to the University's own Freedom of Information Project. And in the section 119.11 case both parties cite, the University's own Brechner Center appeared as amicus curiae on the side of the requester. *Bd. of Trs., Jacksonville Police &*

*Fire Pension Fund v. Lee*, 189 So. 3d 120 (Fla. 2016) (amici curiae including the Brechner Center for Freedom of Information, supporting Lee). The positions the University now takes before this Court are irreconcilable with the core positions its own Freedom of Information Project has publicly and repeatedly taken on public records access and enforcement in Florida. Those institutional statements, made by the University's own unit and its agents on the very subjects of their charge, are admissions of a party opponent, and the University should be expected to answer for the contradiction.

8. Petitioner's answer is faster and it is evidentiary. Petitioner proposes: depositions completed the week of August 3 or August 10; written discovery responses on August 12, when they are already due under the rules; and the section 119.11(1) evidentiary hearing at the first available date after the deposition transcripts are prepared, on or after August 28, 2026.
9. Standard transcript preparation makes an earlier setting impractical, and Petitioner should not be forced to fund expedited transcripts by the University's own obstruction. Even so, this schedule reaches an evidentiary hearing sooner than the University's proposal, under which its motions would merely be argued on August 24 and the hearing itself set only afterward, on an untested record. It also honors the sequence Petitioner's filed Reply requested: a hearing that follows discovery.
10. The obstacle to an immediate, meaningful hearing is not the Petitioner.
11. One event now frames everything. On July 30, the University attached to its Motion for Protective Order, as Exhibit D, the complete set of documents it gathered in response to Petitioner's request: 479 pages, sorted into the three categories the University had refused

to identify since the request. PO Mot. ¶ 24. Until that day, at every point where the law called for an accounting, the University's positions were these:

- a. **On May 4**, it produced 53 pages, every one of them Petitioner's own correspondence returned to him, and closed the request without disclosing that anything else had been located.
  - b. **On May 8**, when Petitioner pressed, it described the balance only by what it was not: records that "relate to individuals who are not you." It never answered Petitioner's same-day restatement of his request for the University's internal communications.
  - c. **On July 7**, its Response and affidavit disclosed for the first time that "over 470 pages" had been gathered, with no counts, no categories, no itemization, and no claimed exemption.
  - d. **On July 16**, Petitioner asked four numbered written questions about the breakdown of those pages. The University answered none of them.
  - e. **On July 30**, in the motion now before the Court, the University still maintains that Petitioner has no right to "the creation of a privilege log and sworn certifications." PO Mot. ¶ 21.
12. When an accounting became tactically useful, the University produced one.
  13. And by the University's own affidavit, the parsing of the gathered pages, including the non-record and other-Hanson determinations that now define categories (3) and (2), was complete before the May 4 production. Hines Aff. ¶¶ 7–8; PO Mot. ¶ 11. The University was always able to account for what it gathered. It was never willing, until the accounting could arrive as an exhibit to a motion asking that no one be permitted to test it. The

University's story has changed at every step since March. Its object has never changed: at each point, Defendant's position of the moment was whichever one would end this matter without producing more records and without identifying what was actually found.

## **II. The Record the Motions Do Not Mention**

14. The Court should have the sequence that preceded these motions. Every entry below is documented in correspondence that has never been disputed in writing.
15. On July 13, Petitioner served interrogatories, requests for admission, and requests to produce, along with a second public records request for the search records themselves. His transmittal said: "Petitioner requests that the University respond on an expedited basis; if the University believes discovery in this proceeding requires leave of court or a different schedule, please say so promptly and Petitioner will take the question to the Court rather than let it lie." The University never stated such a position before filing its motions. It let it lie.
16. On July 14, the University's counsel wrote that his office would be "contacting Judge Keim's office this morning" about scheduling a hearing under section 119.11(1). No hearing was scheduled in the sixteen days that followed. The only event on the calendar, the August 24 case management conference, was set through an ordinary scheduling exchange with the Court's judicial assistant, in which the University's counsel wrote on July 15: "I am available for any of those times. Please let me know which slot the Court prefers, and our office can file a notice of hearing."
17. On July 15, in a telephone conference, the University's counsel confirmed that UFIT located 478 pages, and stated that the University intended to file a motion for protective

order. Petitioner memorialized both statements in writing on July 16 and invited correction. No correction came.

18. On July 16, Petitioner asked the University to state in writing, item by item, which discovery it objected to and which it would provide, "before the University files any protective-order motion, and in any event by Monday, July 20." No item-by-item statement was ever provided, including in the motion itself.
19. Preservation was raised three times in writing. On July 13, Petitioner renewed his demand that the gathered documents, search outputs, and search records be preserved on every system where they reside, with automatic deletion suspended. On July 16, he asked the University to confirm preservation in writing, noting that the confirmation "costs the University nothing." On July 18, he asked the University to confirm preservation of specific repositories its own processing file had identified, including named Dropbox folders and U-drive locations.
20. The University has never provided any preservation confirmation.
21. On July 18, Petitioner opened the conferral this Court's Case Management Order requires (¶ 3: not less than twenty-five days before the August 24 conference, which is July 30), twelve days ahead of that deadline, and warned in writing: "If you insist on filing motions related to my discovery requests, that will delay matters further." The University did not respond to the conferral. On July 30, the conferral deadline itself, the University instead filed the two motions now before the Court, one of which seeks to dispense with the conference.
22. On July 24, Petitioner served deposition notices for August 3 and invited the University to present any protective-order motion "promptly so the Court can resolve it before

August 3." The University conferred by telephone that day (both motions' Certificates of Conferral so state), then filed six days later, on the Thursday before the Monday depositions, leaving a single business day, and requested that its motion be heard August 24.

### **III. Exhibit D Confirms the Petition and Defeats the Motion**

23. The Motion for Protective Order argues that Petitioner "seeks to accomplish through discovery what he is not entitled to under Chapter 119," including "the creation of a privilege log and sworn certifications." PO Mot. ¶¶ 4, 21. Stated without the citations, the University's objection is this: Petitioner asks to know what a public university withheld from a public records request, why it was withheld, and to have someone say so under oath.
24. Chapter 119 does not treat those as things a citizen is not entitled to. They are the statute's minimum.
25. Exhibit D refutes the premise in any event. The University has now created exactly the categorized accounting it said Petitioner had no right to request. The burden it calls undue is a burden it has already carried, voluntarily; by its own affidavit, the parsing that produced those determinations was complete before the May 4 production. Hines Aff. ¶¶ 7–8.
26. What Petitioner asks for is simple: what will the University not produce, what will it not even identify, and why. That is a reasonable question to put to any public agency. It should be an easy one to put to a public university's College of Journalism and its Brechner Freedom of Information Project, which is where these records live. And so that the University could never claim doubt about what compliance looks like, Petitioner put

that question on the record, in the forms the rules require, weeks and months before Exhibit D appeared:

- a. **The Petition, filed June 4**, sought the records themselves.
  - b. **Request to Produce No. 2**, served July 13, sought the gathered pages, or an identification of any withheld page sufficient for in camera review, tracking the University's own offer. The University's motion concedes this request's relevance; Exhibit D is its answer in substance, filed to the docket instead of produced to Petitioner.
  - c. **Interrogatory No. 3**, served July 13, sought the counts: total produced, total not produced, and the number withheld on each stated ground.
  - d. **The filed Reply of July 14** asked the Court to order production of the located pages with simultaneous lodging, preservation, a certified search, and an itemized identification of every withheld document. Filed Reply, WHEREFORE (a), (b), (d), (e).
27. The timing answers any suggestion that the July 30 disclosure was cooperation. The University answered those requests by calling them entitlements Petitioner did not have, then delivered a version of them sixteen days later, in its own format, on its own timing, as an exhibit to a motion asking that no one be allowed to test it. The months-long refusal was not inability. It was a litigation choice, and section 119.11(1) exists to protect requesters from precisely that choice.
28. Exhibit D also concedes the arithmetic. By the University's own account: 479 pages gathered; 53 pages produced on May 4, 2026, every one of them Petitioner's own correspondence returned to him; and 426 pages withheld until July 30. PO Mot. ¶ 24.

Four months after the request, the production stood at 53 pages out of 479, with every request for an accounting of the balance refused.

29. The accounting the University finally filed contradicts itself on its face. The contradictions are not scattered across months of correspondence. Every one of them was filed on the same day, July 30, under the same filing number, in the same document. (Page references below are to Exhibit D's internal pagination, which runs 1 through 479; Exhibit D occupies pages 32 through 510 of the filed PDF.)
30. The motion gives one set of boundaries. Paragraph 24 represents that category (2) comprises Exhibit D pages 54 through 302, and category (3) comprises pages 303 through 479.
31. The exhibit gives another. The per-page stamps on Exhibit D itself run "Category 2" through page 400, and "Category 3" begins only at page 401. Ninety-eight pages, 303 through 400, are therefore designated "non-responsive public records" by the exhibit's stamps and "not public records" by the motion's paragraph, eleven pages apart in the same filing.
32. Those are different legal categories with different consequences under Chapter 119: a non-responsive public record was at least acknowledged and offered in the University's May 8 email; a non-record was treated as never disclosable at all. For 98 pages, the University has taken both positions simultaneously.
33. The same kind of document sits on both sides of the line. SSRN subscription digests, automated mailings of the same publisher's series, appear stamped Category 2 in some locations and Category 3 in another. Whatever criteria distinguish a "non-responsive

public record" from a "non-record," they do not explain how routine subscription mailings of the same series fall on both sides.

34. One page carries no category stamp at all, and it is not a trivial page. Exhibit D page 302 (page 333 of the filed PDF) is a screenshot of a text-message application on a mobile device, showing a search for "hanson" and one result. The University's affidavit and Response describe email searches only. No University statement discloses that any text-message or personal-device search occurred, who ran it, on whose device, or why its output entered the gathered set as an uncategorized screenshot.
35. The count itself is padded. Thirty-nine of the "gathered pages," pages 401 through 439 and 440 through 478, are an exact, page-for-page second copy of a single mass email, counted twice. And footnote 4 represents that the records "include Bates designations for each category"; the exhibit's pages carry category stamps, and no page-level Bates numbering is visible on any page inspected.
36. The July 30 filing, in a single view:

|                           | <b>The motion represents (PO Mot.)</b>                 | <b>The exhibit itself shows (Ex. D)</b>                          |
|---------------------------|--------------------------------------------------------|------------------------------------------------------------------|
| Pages 303–400 (98 pages)  | Category (3): "not public records" (¶ 24)              | Stamped "Category 2": non-responsive public records              |
| SSRN subscription digests | —                                                      | Stamped Category 2 in some locations, Category 3 in another      |
| Page 302                  | Within the three categories ¶ 24 describes             | No category stamp; an unexplained text-message search screenshot |
| Pages 401–478             | 78 pages of gathered records                           | One mass email, duplicated page for page, counted twice          |
| Footnote 4                | Records "include Bates designations for each category" | No Bates number visible on any page inspected                    |

37. Every entry in that table comes from one document, filed by one party, on one day.

This is the categorization the University asks the Court to accept, untested, as the basis for ending the case. It cannot survive its own exhibit stamps. The person who applied them has not been identified, let alone examined.

38. Category (3) requires particular attention regardless of which boundary is correct. The University withheld these pages on the stated ground that they "were not public records." PO Mot. ¶ 11; see also PO Mot. ¶ 15; Hines Aff. ¶ 7 ("did not meet the definition of public records"). On July 30 it filed every one of them in the public court file, attached to a publicly docketed motion, with no motion to seal.
39. A document the University can place on a public docket is a document the University could always have produced to the requester. The "not a public record" designation was not a legal barrier to production. It functioned as a withholding label, applied without itemization, by persons the affidavit does not identify, using criteria the affidavit does not state, and applied so loosely that subscription mailings of the same series land in different categories on different pages.
40. There has always been a lawful procedure for a disputed record-status designation, and the University knows it: the document goes to the judge, and the court, not the agency, determines whether it is subject to disclosure. *Walton*, 634 So. 2d at 1061–62. Petitioner's filed Reply asked for exactly that: any page withheld under a claimed ground was to be identified and lodged for in camera inspection. Filed Reply, WHEREFORE (a). The University's own Response offered the gathered pages to the Court in its footnote 5.
41. The University then used neither route. It filed the disputed pages on the public docket instead. In the cross-motion below, Petitioner renews the request: to the extent the University maintains that any Exhibit D page is not a public record, that status should be determined by the Court, an examination the University's own motion invites. PO Mot. ¶ 25.

42. Category (2) requires attention of a different kind. Footnote 4 of the motion discloses that the category (2) pages "have been redacted pursuant to" FERPA, section 1006.52, and section 119.071(5)(b). These are the first exemptions the University has asserted in this case.
43. Measure that against the University's own prior statements. Its July 7 Response represented that all responsive records "were produced in their entirety." Its custodian wrote that "[n]o exempt information was withheld or redacted" and "no statutory exemptions were cited."
44. For four months, the University's position was: no exemptions, nothing withheld on privilege, nothing redacted. The first exemptions arrived in a motion footnote, applied to pages the requester was never told existed.
45. The manner of assertion violates the statute the University claims to honor. Section 119.07 requires an agency asserting an exemption to identify the exemption applied to each record and, on request, to state the basis in writing. § 119.07(1)(e)–(f), Fla. Stat.
46. Petitioner does not oppose the protection of student records or bank account numbers; the redactions may be proper in substance. But an unitemized footnote is not per-record identification, and the redactions do not match the stated exemptions in either direction: names and email addresses are blacked out that fit neither cited exemption, while personal information more sensitive than some of what was redacted appears unredacted in the public filing. Without the identification the statute requires, neither Petitioner nor the Court can know what was removed or on what authority.
47. Now examine what the University actually withheld until July 30. On its face, the withheld set consists of: email traffic concerning a different Hanson, an economist at

another university, invited to conferences by Professor Bambauer, including his travel receipts; an internal University human-resources thread about a Brechner Center employee; subscription newsletters delivered to a faculty mailbox; and two identical copies of one stranger's unsolicited mass email. None of it concerns Petitioner. The University will say this vindicates its search.

48. It does the opposite. The request sought records "related to myself and ongoing litigation for which I sought help from the Brechner Institute," in three defined categories that expressly included the University's internal communications. The search actually run covered two faculty mailboxes, email only, attachments excluded, with a single surname supplying 98.26 percent of every hit.
49. A search of that design can return only what those two mailboxes happened to hold that contained that word, and that is precisely what it returned. It cannot answer whether responsive internal communications exist anywhere else, because nothing else was searched: the University's internal records identify no other mailbox, no other custodian, and no non-email channel, although the unexplained screenshot at Exhibit D page 302 shows at least one text-message search occurred on a device no University statement identifies.
50. Even the transmittal correspondence the affidavit itself describes, Mr. Hines sending search parameters to Dr. Cuillier and Professor Bambauer and receiving records back, appears nowhere in the gathered set. Hines Aff. ¶¶ 5–6. The gathered set proves what the search covered. It cannot prove anything about what was never searched.
51. The motion's waiver narrative (PO Mot. ¶¶ 12–14) reads differently against its own exhibit. The motion says the University "specifically and clearly asked Petitioner"

whether he sought the category (2) documents. What the May 8 question disclosed was nothing: not that 426 pages had been gathered and withheld, not that categories existed, not any count.

52. At the May 4 production, the University had disclosed the existence of no other records at all. Petitioner's answer declined records about strangers, and the same letter restated his request for the University's internal communications, a restatement the University never answered. The motion's Exhibit B reproduces that exchange with the University's highlighting on Petitioner's "The answer is no"; the unhighlighted lines of the same letter are the restatement.
53. A question that conceals the existence, number, and nature of the records it concerns cannot generate a waiver of them, and the confusion the University's shifting accounts have produced on even the page count is itself a reason the custodian's examination must go forward.
54. Set out one at a time, the University's own statements and records create these inconsistencies:
  - a. **The affidavit swears** UFIT gathered "over 470 pages." Counsel confirmed 478 by telephone on July 15, memorialized in writing on July 16 and never corrected. Exhibit D presents 479.
  - b. **Of the 479**, thirty-nine pages are one mass email included twice, page for page. The sworn count includes the duplication.
  - c. **Ninety-eight pages** are "not public records" under the motion's category ranges and "Category 2" public records under the exhibit's own stamps (¶¶ 30–31 above).

SSRN subscription digests of the same series are stamped Category 2 in some locations and Category 3 in another (§ 33).

- d. **The University's internal processing file**, produced under a separate records request, shows raw batches totaling roughly 1,000 pages, including a 621-page UFIT batch dated April 24 that no outward University statement has ever accounted for.
  - e. **On the morning of May 4**, UFIT reported that its search tool had "stalled before completing the search of Professor Bambauer's mailbox" and that 17 messages "should have been included previously." The University closed the request and produced that afternoon. The affidavit presents May 4 as a clean completion and delivery.
  - f. **On May 7**, three days after the request was closed as complete, UFIT delivered an 88-page keyword extraction to the University's records staff. Petitioner has received no further production in response to the request at issue since the 53 pages of May 4.
  - g. **An uncategorized screenshot** of a text-message search sits in the gathered set, from a device search no University statement discloses (§ 34).
55. None of these is Petitioner's inference. Every item comes from the University's own filings, the University's own exhibit, or the University's own internal records. They are the University's records contradicting the University's affidavit, and they are questions for testimony, not for an affidavit the Court is asked to accept unexamined. The need for the discovery is at this point self-evident: it follows directly from the inconsistencies and failures the University's own filings have demonstrated.

#### **IV. The Motion for Protective Order Should Be Denied**

##### **A. The University shows no good cause under Rule 1.280(d)**

56. Rule 1.280(d) requires good cause, shown by the movant, for an order protecting a party from "annoyance, embarrassment, oppression, or undue burden or expense." The motion offers no affidavit of burden, no estimate of cost, and no item-by-item objection to any interrogatory, request, or topic. It asserts the conclusion. That is insufficient as a matter of law.
57. An unsworn, conclusory claim that discovery is burdensome, "not supported by record evidence, such as an affidavit detailing the basis" for the claimed burden, cannot support relief from discovery. *Topp Telecom, Inc. v. Atkins*, 763 So. 2d 1197, 1199 (Fla. 4th DCA 2000). And a blanket order against all discovery is not available in any event: the court must "consider individually each of the interrogatories" and enter "such order only as is necessary to protect" the movant. *Deltona Corp. v. Bailey*, 336 So. 2d 1163, 1169–70 (Fla. 1976).
58. The discovery at issue is eight interrogatories, ten requests for admission, eight requests to produce, and the two noticed depositions, in a case the University itself insists must be resolved immediately. The University filed 510 pages in support of these motions. The contention that answering eight interrogatories is an undue burden does not survive its own filing.
59. The motion's "full-scale civil discovery" framing (PO Mot. ¶ 9) argues against a request no one made, and its own rule citations defeat its premise. The motion cites Rule 1.280(a)(2) and Rule 1.200(a)(13) to show that mandamus actions are exempt from mandatory initial disclosures and case management procedures. Those citations prove

that the rulemakers know how to carve writ proceedings out of specific discovery obligations, and that they have never carved such proceedings out of discovery itself. The scope rule confirms it: Rule 1.280 permits discovery of any nonprivileged matter relevant to a claim or defense and proportional to the needs of the case, and information need not be admissible in evidence to be discoverable. Every proportionality factor runs in Petitioner's favor: the issues are of public importance, and the University alone possesses every piece of the information sought.

60. What Petitioner served is the narrow subset addressed to the two viable issues, served on July 13, the day before his filed Reply proposed an accelerated schedule built around it. A party racing to complete discovery in thirty days is not the party delaying the hearing.
61. And the University's answer to all but one of these narrow items is: none. The single item it accommodates, Request to Produce No. 2, it answered by filing the pages to the docket rather than producing them. A party whose position is that essentially no question may be asked, of anyone, in any form, has supplied the best evidence that the questions are necessary.
62. The University was asked, in writing, to state its objections item by item by July 20, before filing any motion. It never did, and the motion still does not. A protective order that identifies no specific burden as to any specific request is a stay of discovery by another name.

**B. The motion asks the Court to decide the merits inside a discovery motion**

63. Paragraph 25 asks the Court to "examine the attached documents in light of the record before the Court to determine the crucial threshold issue." Stripped down, the request is: take the University's word for it. Its word on a search it will not describe. Its word on

categories its own exhibit stamps contradict. Its word on a count it has given three different ways. And its word that nothing else exists, delivered by a witness no one may question.

64. The University's conduct since March is the reason its word requires testing. Its motion's answer is to forbid the test.
65. Section 119.11(1) requires an immediate hearing. It does not authorize a paper adjudication in which the agency files its own evidence and forbids questions about it. *Walton v. Dugger*, 634 So. 2d 1059, 1061–62 (Fla. 1993) (where exemptions are claimed or doubt exists, "the proper procedure is to furnish the document to the trial judge for an in camera inspection," resolved by the court, not the withholding party).
66. The motion's own logic confirms that the requested freeze is not a postponement of discovery but its elimination. The protective order would run "until the Court determines the threshold issue." PO Mot. ¶ 2. And in the University's next sentence: "If the Court finds that the University has complied with Chapter 119, then further discovery is unnecessary." *Id.*
67. Under that structure, the only circumstance in which Petitioner would ever take discovery is one in which the case has already been decided without it. A protective order whose terms guarantee that the testing of the evidence can never precede the ruling it would test is not case management. It is a request to decide the case on the movant's affidavit, permanently untested.
68. The motion asserts that "the Court must first adjudicate the University's compliance with Chapter 119 on an accelerated basis before Petitioner engages in discovery." PO Mot. ¶ 5. No cited case holds that, and the University's own lead authority commands the opposite.

69. In *Morris v. City of Miami*, the requester noticed the deposition of the city's records custodian to test whether everything had been produced; the trial court refused to compel it, calling the deposition a "fishing expedition," and entered judgment without deciding compliance. The Third DCA reversed and remanded for the compliance adjudication.
70. The sentence the University quotes has a second half the motion omits: "If, indeed, the City has complied, then further discovery is obviously unnecessary... If the City has not complied, then the trial court must exercise its discretion in determining whether the requested or other discovery is warranted." 402 So. 3d 424 (Fla. 3d DCA 2024). *Morris* reversed precisely the disposition the University asks this Court to enter: a compliance determination reached while the custodian deposition is blocked.
71. And in *News-Press Publishing Co. v. Gadd*, even the party resisting a deposition asked only that its scope be confined to the two viable issues, record status and statutory exemption, and the court agreed those are the only viable issues in a records action. 388 So. 2d 276, 278 (Fla. 2d DCA 1980). Petitioner's discovery is addressed to exactly those two issues: what was searched, what was gathered, what was withheld, and on what claimed basis.

**C. The University's burden argument inverts the framework it concedes**

72. The motion argues Petitioner bears the burden of proving non-compliance, citing *Executive Office of Governor v. Florida Center for Government Accountability*, 408 So. 3d 839 (Fla. 1st DCA 2025). The case does not carry that weight. Its burden holding addresses the four elements of a requester's prima facie case for delay, drawn from *Grapski v. City of Alachua*, 31 So. 3d 193, 196 (Fla. 1st DCA 2010).

73. It says nothing about who must justify an agency's withholding or redaction of located records; on that subject, the trial court in that very case placed the burden on the agency, and that ruling was not appealed and stands. And the First DCA reached its burden determination only after the circuit court held a full evidentiary hearing with evidence from both sides, which is the process the University's motion seeks to prevent.
74. The settled rule for what the University has now done, withholding and redacting located records, is that "[t]he governmental agency claiming the benefit of these exemptions has the burden of proving its entitlement to them." *Christy v. Palm Beach Cnty. Sheriff's Office*, 698 So. 2d 1365, 1367 (Fla. 4th DCA 1997). The University's own authority agrees on the frame: the two viable issues are "whether the documents sought are public records and, if so, whether there are any statutory exceptions to public inspection of such documents." *Gadd*, 388 So. 2d at 278.
75. Both issues are now squarely presented by the University's own July 30 filing: it designated gathered pages as non-records, and it asserted exemptions over others. The University cannot claim the benefit of a burden that belongs to the requester's prima facie case while its own filing puts agency-burden issues at the center of the dispute.
76. *Jones v. Miami Herald Media Co.* is not to the contrary: *Jones* construes the scope of the section 119.07(1)(e) identification duty, record by record rather than redaction by redaction; it says nothing about the availability of discovery in an enforcement action, and Petitioner's requests track the very duty *Jones* confirms, a duty the University has performed for no record. 198 So. 3d 1143, 1145–46 (Fla. 1st DCA 2016).
77. The *Grapski* elements, in any event, are satisfied and largely undisputed on the University's own filings: a specific request (March 26, 2026); receipt (portal confirmation

W018463-032626, Hines Aff. ¶ 4); the records exist (479 gathered pages, per Exhibit D); and improper refusal to produce them in a timely manner (53 pages produced in the four months after the request, with the balance withheld until it appeared as a motion exhibit on July 30). The dispute is about justification, and justification is the agency's burden. *Christy*, 698 So. 2d at 1367.

**D. The affidavit invocation defeats the deposition shield**

78. The motion stakes everything on the Hines affidavit, calling it "competent substantial evidence" under the summary-judgment standard of Rule 1.510(c)(4). PO Mot. ¶ 16. A party that offers an affidavit as dispositive evidence invites examination of the affiant.

79. The University's own authority proves the point:

In *Martinez v. Lebron*, the affidavit qualified as competent substantial evidence precisely because it had been contested, weighed against opposing evidence, and tested in an adversarial hearing. 284 So. 3d 1146, 1149 (Fla. 5th DCA 2019). The University asks this Court for the opposite: acceptance of an untested affidavit, while the testing is forbidden.

80. And the affidavit invites more questions than it answers. It is eight paragraphs. It names no search term, no mailbox or system searched, and no criteria for the non-record designations.

81. Its affiant, by its own text, did not run the searches. Its account of May 4 omits the search failure the University's own records document.

82. The deposition of Mr. Hines is not a fishing expedition. It is the ordinary testing of the only evidence the University has offered on the only issue the University says matters.

83. The motion offers no separate reason to shield Professor Bambauer. The University's own affidavit names her as one of the two custodians whose mailboxes were searched and as a person who sent records to the custodian in response to the request. Hines Aff. ¶¶ 5–6.

Her subpoena confines the examination to a narrow, defined subject: the handling of request W018463-032626.

84. That is a deposition confined to the two viable issues, which is the deposition *Gadd* itself contemplated. And hers is the mailbox the University's IT unit reported its search tool "stalled before completing" on the morning of production.
85. She is not a bystander to the compliance question. She is one of the two places the University looked.
86. The motion calls this evidence "unrebutted." PO Mot. ¶ 17. It is not unrebutted; it is contradicted, by the University's own records: the processing file's documentation of the May 4 search failure against the affidavit's clean-completion account; counsel's oral confirmation of 478 pages against the sworn "over 470" against Exhibit D's 479; and the exhibit's own category stamps against the motion's stated ranges. Nor does the motion ever say what "position" the affidavit establishes: it names no search term, no count, and no criterion. What the affidavit actually is, is untested. That is the condition the protective order is designed to make permanent.
87. The motion's remaining authorities are transplants from other doctrines. *Rios v. McDermott, Will & Emery* affirmed the dismissal with prejudice of a fifth amended legal-malpractice complaint that failed to plead ultimate facts; its one sentence about discovery addresses a plaintiff who could not state a claim. 613 So. 2d 544, 545 (Fla. 3d DCA 1993). The Petition here stated a claim, drew an order to show cause, and was answered on the merits.
88. *Callwood v. Callwood* applied the competent-substantial-evidence standard of appellate review to a factual finding made after trial in a dissolution case; there is no post-hearing

finding here to review, because the University's motions are designed to prevent the hearing that would produce one. 221 So. 3d 1198, 1202 (Fla. 4th DCA 2017). The factual disputes now in the record were created by the University's filings, not by Petitioner's inferences.

89. The sum of the University's positions deserves plain statement. On the University's theory, a records requester has no right to know whether the agency produced everything it located. No right to learn how many pages were withheld, or on what grounds. No right to the terms, custodians, or systems of the search. No right to an itemized statement of a single redaction. And no right to ask the agency's own sworn witness one question about any of it.
90. Chapter 119 and Article I, section 24 of the Florida Constitution exist because public agencies once claimed exactly these prerogatives. The motions ask the Court to restore them.

**E. A motion is not an order, and the rules' deadlines stand**

91. The University's discovery responses fall due August 12, 2026, thirty days after July 13 service. Under Rule 1.370(a), each request for admission is admitted unless answered or objected to within that period. A pending motion for protective order does not suspend these deadlines absent an order.
92. Footnote 6 of the motion, reserving "the right to object," is not a response. Petitioner does not ask the Court to trap the University into admissions; he asks the Court to deny the motion promptly, or alternatively to order responses on a date certain, so that the deadlines the rules set are either honored or expressly modified, not ignored.

**V. The Motion to Dispense Should Be Denied as Framed**

93. The University is correct that Rule 1.200(a)(13) exempts actions under Rule 1.630 from mandatory case management procedures. If the motion sought only relief from Rule 1.200 paperwork in favor of an accelerated schedule, Petitioner would join it.
94. But the motion's actual effect is the opposite of acceleration. It asks the Court to take it up at the August 24 conference (Dispense Mot. ¶ 3), the same conference it moves to dispense with, while the companion motion freezes discovery in the interim. The only scheduled event in this "immediate" proceeding would be stripped of its function, and nothing would replace it for three and a half weeks. The Case Management Order already empowers the Court to "limit, schedule, order, or expedite discovery" at the conference. That is the wrong power to dispense with, at the wrong moment, in a statutory priority case.
95. Petitioner therefore does not oppose relief from Rule 1.200's forms and deadlines, provided the Court simultaneously sets the expedited evidentiary schedule requested below. Dispensing with case management in favor of nothing is not what section 119.11(1) contemplates.

#### **VI. Cross-Motion: Proposed Expedited Schedule**

96. Petitioner respectfully requests that the Court enter an order:
- a. **Denying** the Motion for Protective Order;
  - b. **Directing** that the depositions of John Hines and a UFIT designee under Rule 1.310(b)(6), both requested of the University in writing on July 13, proceed on or before August 14, 2026, with the deposition of Professor Bambauer to proceed as noticed or renoticed, and granting leave, to the extent leave is required, for the deposition of Dr. David Cuillier, whose deposition dates Petitioner requested on

July 13 and whose earlier subpoena could not be served despite documented diligent attempts;

- c. **Confirming** that responses to the July 13 written discovery are due August 12, 2026;
- d. **Directing** the University to produce Exhibit D category (3) to Petitioner as a Chapter 119 production; and, as to category (2), directing the University to identify the exemption applied to each record and state its basis in writing, as section 119.07(1)(e)–(f) requires, and to certify that no category (2) page relates to Petitioner or his matters;
- e. To the extent the University maintains that any Exhibit D page is not a public record, **determining** that page's status under Chapter 119 upon the examination the University's own motion invites (PO Mot. ¶ 25; *Walton*, 634 So. 2d at 1061–62);
- f. **Directing** the University to certify its search in writing: the terms run, custodians and systems searched, date ranges, and the disposition of the April 24 batch, the 17 recovered messages, and the 88-page extraction, or to state under oath why it will not;
- g. **Ordering** preservation of all gathered documents, search outputs, search records, and request-processing files, written confirmation having been requested three times without response;
- h. **Setting** the section 119.11(1) evidentiary hearing for the first available date on or after August 28, 2026, allowing for preparation of the deposition transcripts;

- i. **Denying** the Motion to Dispense as framed, while granting relief from Rule 1.200's procedural requirements upon entry of the expedited schedule above;
- j. **Awarding** Petitioner the reasonable expenses that opposing the Motion for Protective Order has required, as Rules 1.280(d) and 1.380(a)(4) provide where a discovery motion is made without substantial justification, and determining at the evidentiary hearing Petitioner's entitlement to fees and costs under sections 119.11 and 119.12 for the University's unlawful refusal of access; and
- k. **Granting** such other relief as the Court deems proper.

#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on July 31, 2026, the foregoing was filed with the Florida Courts E-Filing Portal, which will serve a Notice of Electronic Filing on James W. Kirkconnell, Esq., jameswk@ufl.edu, counsel for Respondents.

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