

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

THE GEORGIA ELECTRONIC  
LIFE SAFETY & SYSTEM  
ASSOCIATION, INC., SAFECOM  
SECURITY SOLUTIONS, INC., and  
A-COM SECURITY COMPANY,  
LLP,

Plaintiffs,

v.

THE CITY OF SANDY SPRINGS,  
GEORGIA, RUSSELL K. PAUL, in  
his individual and official capacity,  
JOHN MCDONOUGH, in his  
individual and official capacity,  
JOHN PAULSON, in his individual  
and official capacity, CHRIS  
BURNETT, in his individual and  
official capacity, TIBBY DEJULIO,  
in his individual and official capacity,  
ANDY BAUMAN, in his individual  
and official capacity, KEN  
DISHMAN, in his individual and  
official capacity, and GABRIEL  
STERLING (in his individual and  
official capacity),

Defendants.

CIVIL ACTION FILE  
NO. \_\_\_\_\_

---

**COMPLAINT FOR DAMAGES, INJUNCTIVE RELIEF,  
AND DECLARATORY RELIEF**

---

COME NOW, Plaintiffs The Georgia Electronic Life Safety & System Association, Inc., Safecom Security Solutions, Inc. and A-Com Security Company, LLLP, by and through the undersigned counsel, and hereby file this Complaint for Damages, Injunctive Relief, and Declaratory Relief against Defendants the City of Sandy Springs, Russell K. Paul (in both his individual and official capacity), John McDonough (in both his individual and official capacity), John Paulson (in both his individual and official capacity), Chris Burnett (in both his individual and official capacity), Tibby DeJulio (in both his individual and official capacity), Andy Bauman (in both his individual and official capacity), Ken Dishman (in both his individual and official capacity), and Gabriel Sterling (in both his individual and official capacity), showing this Honorable Court as follows:

### **I. JURISDICTION AND VENUE**

1. The Georgia Electronic Life Safety & System Association, Inc. (“**GELSSA**” or the “**Association**”) is a non-profit company incorporated in the State of Georgia. GELSSA is a professional trade association that represents the state-wide interests of companies that provide electronic security and fire safety services of various types to businesses and citizens throughout the State of Georgia, including the City of Sandy Springs, Georgia (“**alarm companies**”).

GELSSA is authorized to transact business in the State of Georgia and hereby submits to this Court's exercise of personal jurisdiction.

2. Safecom Security Solutions, Inc. ("**Safecom**") is a company incorporated in the State of Georgia, with its principal place of business located at 4582 Atwater Court, Suite 3, Buford, Georgia 30519. Safecom is a security alarm company and a member of GELSSA. Safecom has customers throughout the State of Georgia, including the City of Sandy Springs ("**Sandy Springs**" or the "**City**"), but it does not maintain an office or other physical location within Sandy Springs. Safecom is authorized to transact business in the State of Georgia and hereby submits to this Court's exercise of personal jurisdiction.

3. A-Com Security Company, LLLP ("**A-Com**") is a limited liability limited partnership formed in the State of Georgia, with its principal place of business located at 7521 Veterans Parkway, Columbus, Georgia 31909. A-Com is a security alarm company and a member of GELSSA. A-Com has customers throughout the State of Georgia, including Sandy Springs, but it does not maintain an office or other physical location within Sandy Springs. A-Com is authorized to transact business in the State of Georgia and hereby submits to this Court's exercise of personal jurisdiction.

4. Sandy Springs is a municipal corporation located in Fulton County, Georgia. Sandy Springs may be served with process through its Mayor, Russell K. Paul ("**Paul**") or other agent authorized by appointment to receive service of process.

5. Paul is a resident and citizen of the State of Georgia and currently serves as the Mayor of Sandy Springs. Paul may be served with process personally wherever he may be found throughout the State of Georgia.

6. John McDonough ("**McDonough**") is a resident and citizen of the State of Georgia and currently serves as the City Manager of Sandy Springs. McDonough may be served with process personally wherever he may be found throughout the State of Georgia.

7. John Paulson, Chris Burnett, Tibby DeJulio, Andy Bauman, Ken Dishman, and Gabriel Sterling (collectively, the "**City Council Defendants**") are residents and citizens of the State of Georgia and, at all times relevant to this action, served as members of the Sandy Springs City Council. The City Council Defendants may be served with process personally wherever they may be found throughout the State of Georgia.

8. Pursuant to 28 U.S.C. §§ 1331 and 1367, this Court has subject-matter jurisdiction over this action.

9. Pursuant to 28 U.S.C. § 1391, this Court is a proper venue.

10. Upon perfection of service of process, this Court will have personal jurisdiction over Defendants.

## **II. FACTS COMMON TO ALL COUNTS**

### **A. Background on the security alarm industry.**

11. Burglar alarm systems, installed and monitored by alarm companies that are members of GELSSA, are designed primarily to deter burglaries and other crimes from occurring, to detect actual and/or attempted unauthorized entries into and upon the protected premises, and to provide a means by which police may promptly be notified of the activation of the alarm system for security-related purposes.

12. Alarm systems have been installed in private residences, apartment complexes, churches, schools, commercial establishments and governmental buildings throughout the City.

13. Upon information and belief, between 10,000 and 11,000 alarm systems are installed in the City, and approximately 80% of City residents live, work, and/or conduct business in premises protected by alarm systems.

14. Residences and businesses equipped with monitored alarm systems are several times less likely to be burglarized than those lacking monitored alarm systems.

15. In general, burglar alarm systems work as follows. When the alarm for any reason is activated, a signal is electronically transmitted to an alarm company that is monitoring the system. Following established protocols, the alarm company—or an alarm monitoring service with which it has contracted—attempts to contact the alarm user to verify whether an alarm was caused by an unauthorized intrusion and whether a response from a public authority is needed. If the alarm company is unable to contact the alarm user or a designated representative and, accordingly, is unable to determine that a response from a public authority is not needed, the alarm company notifies the applicable law enforcement authority (in the City, the Department) of the activation of the alarm system.

16. Effective July 1, 2013, with the enactment of HB 59, the State of Georgia mandated "enhanced verification" by alarm companies before notification to law enforcement. "Enhanced verification" requires the alarm company—or an alarm monitoring service with which it has contracted—to verify an intrusion alarm by calling the site or alarm user, and if that is unsuccessful, calling a second

person to attempt to verify the alarm, before dispatching the police. See O.C.G.A. § 35-1-9.

17. Alarm systems monitored by members of GELSSA are monitored 24 hours per day, 7 days per week by central stations known as “communications centers,” similar in design to the call centers at most police departments.

18. Although alarm companies monitor the activation of alarm systems, they do not have any control over the activation of an alarm system at the alarm site. Alarm systems are owned and controlled by the alarm user, and alarm companies do not have any sort of master-servant or principal-agent relationship with alarm users. Accordingly, alarm companies are not in a position to be able to supervise, direct, or control their customers' actions.

19. Historically, when notification of an alarm activation in the City is received, alarm companies immediately undertake efforts to verify the activation by following established protocols, which are customized to the security needs of the alarm user. Such protocols may include telephone verification, multiple call verification or other means of verification, depending upon the situation or the property in question.

20. Beyond these established verification protocols, however, alarm companies do not have any other available means of ascertaining whether an alarm

activation was the result of criminal activity, whether successful or attempted, other emergency situations or alarm user error.

21. Plaintiffs' communications centers serving the City receive approximately 775 notifications of alarm activations in the City each year. Verification practices as described above result in nearly 90% of those activations being cancelled or aborted. Most commonly, a telephone call to the location where the alarm is located reveals that an emergency situation does not exist and/or that the activation resulted from user error.

22. On some occasions—only about 10% of the time—the applicable communications center is unable through established protocols to determine that an actual or attempted burglary or other crime is not in progress. If so, Plaintiffs contact the City of Sandy Springs Police Department and request dispatch of police officers to the site of the alarm.

23. Monitored alarm systems effectively deter and diminish burglaries, vandalism, and other crimes, thereby reducing property losses as well as the need for, and the cost of providing, police services. When police respond to an alarm and find no evidence of a crime or attempted crime, police have no way of knowing whether an attempted crime has been thwarted by the triggering of the alarm. Statistics indicate that properties with monitored alarm systems suffer



fewer burglaries and therefore strongly suggest that, in fact, in certain instances attempted crimes are thwarted by the triggering of alarms.

24. On occasion, alarm systems may be activated when criminal activity or an emergency situation does not in fact exist, resulting in what is commonly referred to as a “false alarm.” False alarms most frequently result from human error by alarm users.

25. Following the established protocols described above, communications centers are frequently able to determine that a reported alarm activation is a false alarm. However, they are not always able to so determine. First, not all alarm activations are false alarms; some of the alarm activations are true alarms. Second, if the alarm activation occurs at a residence or premise where no one is on site and/or no one can be reached by telephone, communications centers, despite their best efforts, may be unable to determine the reason for the alarm activation and, if it is a false alarm, cancel or abort the alarm.

26. Given that it takes some time for the police to respond to an alarm activation, and since burglars can be expected not linger at the site of an actual or attempted burglary, particularly when an alarm has been activated, by the time the police finally arrive, they often will be unable to determine whether the alarm was a true alarm or a false alarm. A burglar may leave no evidence of an attempted

burglary, and the responding police officers may accordingly classify an incident as a “false alarm” even when it was not.

27. Upon information and belief, false alarms are largely attributable to chronic abusers—that is, approximately 20% of alarm users generate more than 80% of false alarms in the City.

**B. The City enacts a new ordinance and resolution imposing fines against alarm companies for “false alarms” by alarm users.**

28. On July 18, 2017, the City, acting through the City Council Defendants, enacted Ordinance No. 2017-07-15 (the “**Ordinance**”) and Resolution No. 2017-07-99 (the “**Resolution**”), amending Division 2 of Article II of Chapter 18 of the Code of the City of Sandy Springs, Georgia (the “**Code**”). True and correct copies of the Ordinance and the Resolution are attached hereto as **Exhibit 1** and **Exhibit 2**, respectively. The Ordinance became effective on September 1, 2017, and the Resolution became effective on October 1, 2017 (collectively, the Ordinance and the Resolution shall hereinafter be referred to collectively as the “**Amendments**”).

29. The Ordinance "governs alarm systems intended to summon a public safety department and requires registration, assessment of fees for excessive false alarms, provides procedures for repeat offenders, [and] provides for the severability of the parts [t]hereof if declared invalid. . . ." See Ordinance, Sec. 18-

35(b). Notably, the Ordinance authorizes the imposition of a system of fines against “alarm companies” for what it defines as “excessive false alarms” by “alarm users.” See Ordinance, Secs. 18-41(a) & (b). Upon information and belief, Paul and McDonough are responsible for enforcing the Amendments and authorizing other persons, entities, officers, agents, and representatives to administer the Amendments on behalf of the City.

30. The Ordinance itself provides that its "purpose . . . is to encourage alarm owners and alarm companies to properly use and maintain the operational effectiveness of alarm systems in order to improve the reliability of alarm systems and reduce or eliminate false alarms." See Ordinance, Sec. 18-34(a). The Ordinance further states that the City "finds that excessive false alarms unduly burden the Sandy Springs police and fire-rescue departments and wastes limited public safety resources." See Ordinance, Sec. 18-34(a).

31. Under the Ordinance, an “alarm company” is defined as follows:

*Alarm company* means any individual, partnership, corporation or other entity engaging in the business of planning, installing, servicing, maintaining, repairing, replacing and/or monitoring alarm systems in the City of Sandy Springs. An alarm company shall include without limitation any office to which alarm systems are connected, where operators supervise the circuits on a continuous basis and where there is a subsequent relaying of such messages by a live voice to the city’s emergency communications center. Where an alarm company contracts another entity to perform services related to an alarm system, *alarm company* shall mean any entity contracting with the

alarm user. Where more than one entity contracts with the alarm user to provide services related to an alarm system, *alarm company* shall mean the entity approved by the alarm administrator and designated as the responsible party in such alarm system's registration with the city pursuant to Sec. 18-36 of this division.

See Ordinance, Sec. 18-35. ELSSA's members, including Safecom and A-Com, are "alarm companies" within the meaning of the Ordinance.

32. Under the Ordinance, "alarm user" is defined as follows:

*Alarm user* means any person, corporation, partnership, proprietorship, governmental or educational entity or any other entity owning or leasing an alarm system, or on whose premises an alarm system is maintained for the protection of such premises.

See Ordinance, Sec. 18-35.

33. Under the Ordinance, "false alarm" is defined as follows:

*False alarm* means the activation of an alarm system to summon a public safety department that results in: (a) an inspection by a public safety department that indicates no fire, medical emergency, unauthorized entry, robbery, or other such crime was committed, occurred or attempted in or on the premises which would have activated a properly functioning alarm system; or (b) the cancellation of a request to summon a public safety department due to no emergency situation at the alarm site requiring response. Notwithstanding the foregoing, an alarm activated during an alarm system testing procedure shall not be considered a false alarm so long as the alarm company, or designee, is put on notice that the alarm system is being tested and no public safety department response is requested by the alarm company. False fire alarm means a false alarm to summon the fire department.

See Ordinance Sec. 18-35. On almost all occasions, when an alarm company cancels a request to summon a public safety department (as contemplated under Section 18-35(b)), the cancellation occurs within mere seconds of the alarm activation—prior to any actual dispatch of public safety department resources. Thus, under the Ordinance, a "false alarm" is defined broadly enough to include even those alarm activations that do not actually result in a response by a public safety department of City.

34. Under the terms of the Ordinance, the City designates one or more persons as “alarm administrators” to implement and administer, control and review false alarm reduction efforts and to administer the provisions of the Ordinance. See Ordinance Sec. 18-35.

35. Pursuant to Section 18-35 of the Ordinance, the City has designated a private entity known as “Cry Wolf Services” as the “alarm administrator” in charge of the City’s false alarm reduction program.

36. Accordingly, Cry Wolf Services has unilateral discretion when investigating an activated alarm and determining whether it qualifies as a “false alarm” under the Ordinance.

37. The Ordinance authorizes Cry Wolf Services to impose civil penalties against alarm companies “for each false alarm to summon the police [or fire]

department within any twenty-four month (24) period . . . in amounts established by resolution of city council.” See Ordinance Secs. 18-41(a)(1) & (b)(1).

38. Notably, such civil penalties may be assessed regardless of whether the alarm activation in question was caused by any act or omission within the scope of the alarm company's authority, supervision, or control.

39. Furthermore, the Ordinance also provides that “[p]ublic safety departments will not respond to an activated alarm system at an alarm site following the fourth false alarm . . . within any twenty-four (24) month period.” See Ordinance Sec. 18-41(c) (hereinafter, the "**Termination Provision**"). “Such suspension of alarm response shall be for a period of one (1) calendar year following the date the determination is made to suspend public safety department response to an alarm site pursuant to [the Termination Provision], provided there is no transfer of ownership of the alarm site.” See Ordinance Sec. 18-41(c).

40. As contemplated under Section 18-41 of the Ordinance, the Resolution imposes civil penalties against alarm companies as follows:

The City of Sandy Springs Mayor and City Council hereby authorize the imposition of the following fees in connection with excessive false alarms as provided in Sec. 18-41 of the Code. . . .

1. Penalties against the Alarm Company for False Alarms to Summon Police or Fire Department within any twenty-four (24) month period:

(a)	First False Alarm	\$25
(b)	Second and Third False Alarm	\$250 each
(c)	Fourth and over False Alarm	\$500

See Resolution 1.

41. Significantly, even after terminating dispatch services under the Termination Provision of the Ordinance, the City is authorized to continue imposing fines against alarm companies for false alarms under the civil penalty scheme of the Amendments.

42. The Ordinance contains an appeals provision, which provides that alarm companies may appeal assessments of civil penalties “by filing a written notice of appeal with the police chief or the fire chief, as applicable within ten days after the date of notification of the assessment of civil penalties or other enforcement decisions.” See Ordinance, Sec. 18-44(a). Failure to file such written notice within ten days results in a waiver of the right to appeal. See Ordinance, Sec. 18-44(a).

43. “The police chief and fire chief shall each respectively designate a hearing officer from the police department and the fire department to hear appeals related to their agency.” See Ordinance, Sec. 18-44(a). Such hearing officer is required to give written notice of her decision within five days of the appeal decision. See Ordinance, Sec. 18-44(a).

44. Ostensibly, such appeals are subject to a “preponderance of the evidence” standard of review. See Ordinance, Sec. 18-44(b).

45. Such appeals are also subject to a fee-shifting provision, which provides the following: “In the event the appeal is not upheld, the owner or alarm company shall also be responsible for any fee assessed to reimburse the city for any costs incurred by the hearing officer. . . .” See Ordinance, Sec. 18-44(d).

**C. Pursuant to the Amendments, the City begins imposing fines against various members of GELSSA, including, but not limited to, Safecom and A-Com.**

46. Since the Amendments became effective, members of GELSSA have been subjected to thousands of dollars in civil penalties for the actions of alarm users who have caused “false alarms” as determined by Cry Wolf Services.

47. For instance, as of the date of the filing of this action, Safecom has already been assessed \$4,075 in civil penalties for its alarm users’ alleged “false alarms.”

48. Similarly, A-Com has been assessed \$625 in civil penalties for its alarm users’ alleged “false alarms.”

49. If the above-described civil penalty provisions of the Amendments continue to be enforced, members of GELSSA, including Safecom and A-Com,



will continue to incur thousands of dollars more in civil penalties, all because of the alleged actions of its alarm users.

50. To date, the City has, on several occasions, threatened to terminate dispatch services to the customers of numerous alarm companies, including Safecom and A-Com.

**D. The City is not afforded sovereign immunity for purposes of this action.**

51. The actual purpose of the City's enactment and enforcement of the Amendments is to generate revenues.

52. By enacting and enforcing the Amendments, the City is conducting an activity for corporate advantage, gain, or emolument. The City therefore is engaging in a ministerial function for which sovereign immunity is not afforded.

53. Upon information and belief, the City also has purchased a policy of insurance that covers the occurrences and/or claims described herein. The City's sovereign immunity, if any, therefore is waived to the extents of the above-described insurance policy.

**III. COUNT 1: CLAIM FOR DECLARATORY AND INJUNCTIVE RELIEF FOR VIOLATIONS OF PLAINTIFFS' SUBSTANTIVE DUE PROCESS RIGHTS UNDER THE FOURTEENTH AMENDMENT OF U.S. CONSTITUTION (as to the City, Paul, and McDonough only).**

54. Plaintiffs hereby incorporate by reference the allegations contained in Paragraphs 1 through 53 as though fully set forth herein.

55. Municipalities have a general police power to enact ordinances substantially related to a legitimate government interest related to the public health, safety, or general welfare.

56. In order to pass constitutional muster under the Due Process Clause of the Fourteenth Amendment, however, the ordinance in question must realistically serve that legitimate public purpose and employ means that are reasonably necessary to achieve that purpose without unduly oppressing the individuals and entities regulated. Where the means adopted are irrelevant to the municipality's reasonable objective, or are otherwise arbitrary or capricious, the ordinance cannot withstand constitutional scrutiny under the Due Process Clause of the Fourteenth Amendment.

57. As drafted, the Amendments impose a system of civil penalties on alarm companies for the actions of other parties that are entirely beyond the alarm companies' control.

58. Section 18-35 of the Ordinance provides that an alarm activation can constitute a "false alarm" regardless of whether the alarm company caused the alarm activation in question or had any authority, supervision, or control over the acts or omissions that caused the alarm activation (*e.g.*, as in the case of alarm user error).

59. Statistically speaking, however, it is beyond debate the overwhelming majority of false alarms are caused by various forms of alarm user error, including improper arming on entry, improper arming on exit, lack of end user training (predominantly new employees of businesses), pets, weather, and equipment malfunction. Virtually none of these factors are within the control or knowledge of the alarm company. Upon information and belief, fewer than 5% of false alarms are actually attributable to any act or omission of an alarm company error (whether through technician error, system equipment failure, or otherwise).

60. Furthermore, alarm companies do not have any sort of master-servant or principal-agent relationship with alarm users, meaning that they are not in a position to able to supervise, direct, or control their customers' actions.

61. Despite the fact that alarm companies do not have a responsible relation with either the alarm user or act or omission causing the alarm activation, the Amendments nevertheless impose a draconian system of civil penalties on alarm companies for conduct not attributable to them.

62. Section 18-35 of the Ordinance also defines a "false alarm" to include even those alarm activations where the alarm company cancels a dispatch request prior to any actual dispatch of public safety department resources and before the City actually incurs any expenses or costs in responding to a false alarm. See

Ordinance, Sec. 18-35(b). Consequently, the Amendments authorize the imposition of civil penalties even where an alarm activation does not actually cause the City to incur any expenses or otherwise result in any diversion of available public safety department resources. The only conceivable purpose of continuing to impose fines under such circumstances is to generate additional revenues for the City—which does not in any way relate to a legitimate government interest in the public health, safety, or general welfare of the City.

63. Similarly, despite the fact that the Ordinance specifically contemplates the suspension of public safety department responses to activated alarms following a fourth false alarm at a particular alarm site (see Ordinance, Sec. 18-41(c)), the Amendments nevertheless continue to authorize the imposition of draconian civil penalties against alarm companies associated with subsequent "false alarms" at that site. The only conceivable purpose of continuing to impose fines under such circumstances is to generate additional revenues for the City—which does not in any way relate to a legitimate government interest in the public health, safety, or general welfare of the City.

64. Accordingly, the civil penalty provisions of the Amendments are unreasonable, irrational, arbitrary, capricious, and lack any real and substantial relationship to the Ordinance's stated purposes of (1) "encourage[ing] alarm

owners and alarm companies to properly use and maintain the operational effectiveness of alarm systems in order to improve the reliability of alarm systems and reduce or eliminate false alarms", (2) lessening the burden on the Sandy Springs public safety departments, and (3) avoiding the waste of "limited public safety resources." See Ordinance, Sec. 18-34(a).

65. To date, GELSSA's members, including Safecom and A-Com, have already incurred thousands of dollars in civil penalties based on "false alarms" caused solely by end-user error and in no way attributable to the actions of Plaintiffs.

66. Thus, the civil penalty provisions of the Amendments subject alarm companies to draconian civil penalties (i) for the actions of alarms users, (ii) where dispatch requests are cancelled before the City actually responds to an alarm activation, and (iii) after the suspension of public safety department services under the Termination Provision. The only purpose of imposing fines under such circumstances is to generate additional revenues for the City. As such, the civil penalty scheme under the Amendments is not substantially related to a legitimate government purpose, resulting in a violation of Plaintiffs substantive due process rights under the Fourteenth Amendment.

67. Accordingly, Plaintiffs seek a declaratory judgment from this Court that the Termination Provision and the City's civil penalty scheme under the Amendments are unconstitutional, and respectfully request that this Court permanently enjoin the enforcement of these unconstitutional provisions of the Amendments.

**IV. COUNT 2: CLAIM FOR DECLARATORY AND INJUNCTIVE RELIEF FOR VIOLATIONS OF PLAINTIFFS' PROCEDURAL DUE PROCESS RIGHTS UNDER FOURTEENTH AMENDMENT OF THE U.S. CONSTITUTION (as to the City, Paul, and McDonough only).**

68. Plaintiffs hereby incorporate by reference the allegations contained in Paragraphs 1 through 53 as though fully set forth herein.

69. Under the Due Process Clause of the Fourteenth Amendment, municipalities are prohibited from depriving any person or entity of life, liberty, or property without due process of law. Thus, a municipality violates a party's procedural due process rights under the Fourteenth Amendment where it fails to provide adequate procedures to remedy an otherwise procedurally flawed deprivation of a protected interest in property.

70. Because the imposition of a fine constitutes a deprivation of property, municipalities must provide adequate procedural safeguards against the unlawful imposition of the fine. After all, the right to be heard before being condemned to suffer grievous loss of any kind, even though it may not involve the stigma and

hardships of a criminal conviction, is a principle basic to our society. To satisfy procedural due process requirements, the party affected by the fine must be given notice and the opportunity to be heard at a meaningful time in a meaningful manner.

71. The City, through its officials Paul and McDonough, has implemented a policy, practice, or custom of utilizing a for-profit business, Cry Wolf Services, to administer and impose civil penalties against alarm companies under the Amendments. In practice, Cry Wolf Services has unilateral discretion when determining whether a "false alarm" has occurred at a particular alarm site and is then responsible for imposing civil penalties against the alarm companies pursuant to the civil penalty schedule set forth in the Resolution.

72. Upon information and belief, following an alarm activation, Cry Wolf Services does not actually conduct any investigation into whether an alarm was actually activated as a result of an unauthorized entry, attempted burglary, or other such unlawful act. Rather, Cry Wolf Services simply makes its decision based on information surrounding the circumstances of a police response, if any.

73. Alarm companies are not provided with any opportunity to be heard prior to receiving notice of the false alarm determination and related fine. At most, alarm companies are given a short, ten-day window to file a written notice

appealing Cry Wolf Service's unilateral decision, and the notice is then submitted to a "hearing officer" designated by the police chief or fire chief, as applicable. This ten-day window fails to provide alarm companies with a meaningful opportunity to gather any evidence in support of their appeals or to otherwise conduct a sufficient investigation into the circumstances causing the alarm activation.

74. Furthermore, despite the Ordinance contemplating the appointment of a "hearing officer," the City does not actually convene any sort of hearing at which alarm companies may present their appeal. In practice, the appeals process consists merely of the submission of a written notice of appeal, routinely followed by a written denial of the same. That is, following the submission of an appeal, the "hearing officer," as a matter of course, simply e-mails a short response denying the appeal without any rationale or findings of fact supporting the denial.

75. Under this appeals process, alarm companies nevertheless have the burden of proving by a preponderance of the evidence that an alarm activation was not properly deemed a "false alarm" by Cry Wolf Services. See Ordinance, Sec. 18-44(b).

76. Under Section 18-35 of the Ordinance, however, an alarm activation can constitute a "false alarm" regardless of whether the alarm company caused the



alarm activation in question or had any authority, supervision, or control over the acts or omissions that caused the alarm activation (*e.g.*, as in the case of alarm user error).

77. Thus, after filing an appeal, even if the alarm company can produce indisputable evidence that the "false alarm" was not caused by any act or omission of the alarm company, the assessment of civil penalties will nevertheless be upheld.

78. The Amendments contain no procedural safeguard for protecting alarm companies where they have no responsible relation with the alarm user or other person or entity responsible for the act or omission that caused the alarm activation deemed to be a false alarm.

79. Furthermore, the Ordinance defines a false alarm to include the "activation of an alarm system to summon a public safety department that results in . . . an inspection by a public safety department that indicates no fire, medical emergency, unauthorized entry, robbery, or other such crime was committed, occurred or attempted in or on the premises which would have activated a properly functioning alarm system. . . ." See Ordinance, Sec. 18-35. Hence, an alarm activation meets the definition of a "false alarm" if the public safety department

inspection fails to discover evidence of criminal activity or other emergency situation that caused the alarm activation.

80. Accordingly, even if the alarm companies are able to produce indisputable evidence on appeal that the alarm activation was actually caused by criminal activity or some other emergency situation, the alarm activation would nevertheless meet the definition of a "false alarm" under the Ordinance, and the civil penalties would be upheld.

81. The Amendments contain no procedural safeguard to protect alarm companies from civil penalties where an alarm activation was originally deemed to be a false alarm only as a result of erroneous investigation by public safety department responders.

82. The decision-making process by Cry Wolf Services, coupled with the meaningless appellate procedures, fail to provide adequate procedural safeguards against the unlawful and unconstitutional imposition of civil penalties against alarm companies.

83. Under this appellate process, innocent parties will repeatedly be fined under a system that sacrifices procedural fairness for the sake of administrative convenience and a desire to generate additional revenues for the City. As such, the

Amendments violate Plaintiffs' procedural due process rights under the Fourteenth Amendment.

84. Accordingly, Plaintiffs seek a declaratory judgment from this Court that the Termination Provision and the City's civil penalty scheme under the Amendments are unconstitutional, and respectfully request that this Court permanently enjoin the enforcement of these unconstitutional provisions of the Amendments.

**V. COUNT 3: CLAIM FOR DAMAGES, DECLARATORY RELIEF, AND INJUNCTIVE RELIEF FOR VIOLATIONS OF PLAINTIFFS' SUBSTANTIVE DUE PROCESS RIGHTS UNDER THE GEORGIA CONSTITUTION (as to the City, Paul, and McDonough only).**

85. Plaintiffs hereby incorporate by reference the allegations contained in Paragraphs 1 through 53 as though fully set forth herein.

86. As with the Due Process Clause of the Fourteenth Amendment, the Due Process Clause of the Georgia Constitution requires that a municipal ordinance realistically serve a legitimate public purpose and employ means that are reasonably necessary to achieve that purpose without unduly oppressing the individuals and entities regulated. Where the means adopted are irrelevant to the municipality's reasonable objective, or are otherwise arbitrary or capricious, the ordinance cannot withstand constitutional scrutiny under the Due Process Clause of the Georgia Constitution. See Ga. Const., Art. I, § I, ¶ I.

87. As drafted, the Amendments impose a system of civil penalties on alarm companies for the actions of other parties that are entirely beyond the alarm companies' control.

88. Section 18-35 of the Ordinance provides that an alarm activation can constitute a "false alarm" regardless of whether the alarm company caused the alarm activation in question or had any authority, supervision, or control over the acts or omissions that caused the alarm activation (*e.g.*, as in the case of alarm user error).

89. Statistically speaking, however, it is beyond debate the overwhelming majority of false alarms are caused by various forms of alarm user error, including improper arming on entry, improper arming on exit, lack of end user training (predominantly new employees of businesses), pets, weather, and equipment malfunction. Virtually none of these factors are within the control or knowledge of the alarm company. Upon information and belief, fewer than 5% of false alarms are actually attributable to any act or omission of an alarm company error (whether through technician error, system equipment failure, or otherwise).

90. Furthermore, alarm companies do not have any sort of master-servant or principal-agent relationship with alarm users, meaning that they are not in a position to able to supervise, direct, or control their customers' actions.

91. Despite the fact that alarm companies do not have a responsible relation with either the alarm user or act or omission causing the alarm activation, the Amendments nevertheless impose a draconian system of civil penalties on alarm companies for conduct not attributable to them.

92. Section 18-35 of the Ordinance also defines a "false alarm" to include even those alarm activations where the alarm company cancels a dispatch request prior to any actual dispatch of public safety department resources and before the City actually incurs any expenses or costs in responding to a false alarm. See Ordinance, Sec. 18-35(b). Consequently, the Amendments authorize the imposition of civil penalties even where an alarm activation does not actually cause the City to incur any expenses or otherwise result in any diversion of available public safety department resources. The only conceivable purpose of continuing to impose fines under such circumstances is to generate additional revenues for the City—which does not in any way relate to a legitimate government interest in the public health, safety, or general welfare of the City.

93. Similarly, despite the fact that the Ordinance specifically contemplates the suspension of public safety department responses to activated alarms following a fourth false alarm at a particular alarm site (see Ordinance, Sec. 18-41(c)), the Amendments nevertheless continue to authorize the imposition

of draconian civil penalties against alarm companies associated with subsequent "false alarms" at that site. The only conceivable purpose of continuing to impose fines under such circumstances is to generate additional revenues for the City—which does not in any way relate to a legitimate government interest in the public health, safety, or general welfare of the City.

94. Accordingly, the civil penalty provisions of the Amendments are unreasonable, irrational, arbitrary, capricious, and lack any real and substantial relationship to the Ordinance's stated purposes of (1) "encourage[ing] alarm owners and alarm companies to properly use and maintain the operational effectiveness of alarm systems in order to improve the reliability of alarm systems and reduce or eliminate false alarms", (2) lessening the burden on the Sandy Springs public safety departments, and (3) avoiding the waste of "limited public safety resources." See Ordinance, Sec. 18-34(a).

95. To date, GELSSA's members, including Safecom and A-Com, have already incurred thousands of dollars in civil penalties based on "false alarms" caused solely by end-user error and in no way attributable to the actions of Plaintiffs.

96. Thus, the civil penalty provisions of the Amendments subject alarm companies to draconian civil penalties (i) for the actions of alarms users, (ii) where

dispatch requests are cancelled before the City actually responds to an alarm activation, and (iii) after the suspension of public safety department services under the Termination Provision. The only purpose of imposing fines under such circumstances is to generate additional revenues for the City. As such, the civil penalty scheme under the Amendments is not substantially related to a legitimate government purpose, resulting in a violation of Plaintiffs substantive due process rights under the Georgia Constitution.

97. Accordingly, Defendants are liable to Plaintiffs for damages in such amount that will compensate Plaintiffs for all civil penalties wrongfully assessed against Plaintiffs under the Amendments.

98. Accordingly, Plaintiffs further seek a declaratory judgment from this Court that the Termination Provision and the City's civil penalty scheme under the Amendments are unconstitutional, and respectfully request that this Court permanently enjoin the enforcement of these unconstitutional provisions of the Amendments.

**VI. COUNT 4: CLAIM FOR DAMAGES, DECLARATORY RELIEF, AND INJUNCTIVE RELIEF FOR VIOLATIONS OF PLAINTIFFS' PROCEDURAL DUE PROCESS RIGHTS UNDER THE GEORGIA CONSTITUTION (as to the City, Paul, and McDonough only).**

99. Plaintiffs hereby incorporate by reference the allegations contained in Paragraphs 1 through 53 as though fully set forth herein.

100. As with the Due Process Clause of the Fourteenth Amendment, under the Due Process Clause of the Georgia Constitution, municipalities are prohibited from depriving any person or entity of life, liberty, or property without due process of law. Thus, a municipality violates a party's procedural due process rights under the Georgia Constitution where it fails to provide adequate procedures to remedy an otherwise procedurally flawed deprivation of a protected interest in property.

101. Because the imposition of a fine constitutes a deprivation of property, municipalities must provide adequate procedural safeguards against the unlawful imposition of the fine. After all, the right to be heard before being condemned to suffer grievous loss of any kind, even though it may not involve the stigma and hardships of a criminal conviction, is a principle basic to our society. To satisfy procedural due process requirements, the party affected by the fine must be given notice and the opportunity to be heard at a meaningful time in a meaningful manner.

102. The City, through its officials Paul and McDonough, has implemented a policy, practice, or custom of utilizing a for-profit business, Cry Wolf Services, to administer and impose civil penalties against alarm companies under the Amendments. In practice, Cry Wolf Services has unilateral discretion when determining whether a "false alarm" has occurred at a particular alarm site and is



then responsible for imposing civil penalties against the alarm companies pursuant to the civil penalty schedule set forth in the Resolution.

103. Upon information and belief, following an alarm activation, Cry Wolf Services does not actually conduct any investigation into whether an alarm was actually activated as a result of an unauthorized entry, attempted burglary, or other such unlawful act. Rather, Cry Wolf Services simply makes its decision based on information surrounding the circumstances of a police response, if any.

104. Alarm companies are not provided with any opportunity to be heard prior to receiving notice of the false alarm determination and related fine. At most, alarm companies are given a short, ten-day window to file a written notice appealing Cry Wolf Service's unilateral decision, and the notice is then submitted to a "hearing officer" designated by the police chief or fire chief, as applicable. This ten-day window fails to provide alarm companies with a meaningful opportunity to gather any evidence in support of their appeals or to otherwise conduct a sufficient investigation into the circumstances causing the alarm activation.

105. Furthermore, despite the Ordinance contemplating the appointment of a "hearing officer," the City does not actually convene any sort of hearing at which alarm companies may present their appeal. In practice, the appeals process

consists merely of the submission of a written notice of appeal, routinely followed by a written denial of the same. That is, following the submission of an appeal, the "hearing officer," as a matter of course, simply e-mails a short response denying the appeal without any rationale or findings of fact supporting the denial.

106. Under this appeals process, alarm companies nevertheless have the burden of proving by a preponderance of the evidence that an alarm activation was not properly deemed a "false alarm" by Cry Wolf Services. See Ordinance, Sec. 18-44(b).

107. Under Section 18-35 of the Ordinance, however, an alarm activation can constitute a "false alarm" regardless of whether the alarm company caused the alarm activation in question or had any authority, supervision, or control over the acts or omissions that caused the alarm activation (*e.g.*, as in the case of alarm user error).

108. Thus, after filing an appeal, even if the alarm company can produce indisputable evidence that the "false alarm" was not caused by any act or omission of the alarm company, the assessment of civil penalties will nevertheless be upheld.

109. The Amendments contain no procedural safeguard for protecting alarm companies where they have no responsible relation with the alarm user or

other person or entity responsible for the act or omission that caused the alarm activation deemed to be a false alarm.

110. Furthermore, the Ordinance defines a false alarm to include the "activation of an alarm system to summon a public safety department that results in . . . an inspection by a public safety department that indicates no fire, medical emergency, unauthorized entry, robbery, or other such crime was committed, occurred or attempted in or on the premises which would have activated a properly functioning alarm system. . . ." See Ordinance, Sec. 18-35. Hence, an alarm activation meets the definition of a "false alarm" if the public safety department inspection fails to discover evidence of criminal activity or other emergency situation that caused the alarm activation.

111. Accordingly, even if the alarm companies are able to produce indisputable evidence on appeal that the alarm activation was actually caused by criminal activity or some other emergency situation, the alarm activation would nevertheless meet the definition of a "false alarm" under the Ordinance, and the civil penalties would be upheld.

112. The Amendments contain no procedural safeguard to protect alarm companies from civil penalties where an alarm activation was originally deemed to

be a false alarm only as a result of erroneous investigation by public safety department responders.

113. The decision-making process by Cry Wolf Services, coupled with the meaningless appellate procedures, fail to provide adequate procedural safeguards against the unlawful and unconstitutional imposition of civil penalties against alarm companies.

114. Under this appellate process, innocent parties will repeatedly be fined under a system that sacrifices procedural fairness for the sake of administrative convenience and a desire to generate additional revenues for the City. As such, the Amendments violate Plaintiffs' procedural due process rights under the Georgia Constitution.

115. Accordingly, Defendants are liable to Plaintiffs for damages in such amount that will compensate Plaintiffs for all civil penalties wrongfully assessed against Plaintiffs under the Amendments.

116. Plaintiffs further seek a declaratory judgment from this Court that the Termination Provision and the City's civil penalty scheme under the Amendments are unconstitutional, and respectfully request that this Court permanently enjoin the enforcement of these unconstitutional provisions of the Amendments.

**VII. COUNT 5: CLAIM FOR DAMAGES, DECLARATORY RELIEF, AND INJUNCTIVE RELIEF FOR EXCEEDING THE MUNICIPAL TAX POWER UNDER THE GEORGIA CONSTITUTION (as to the City, Paul, and McDonough only).**

117. Plaintiffs hereby incorporate by reference the allegations contained in Paragraphs 1 through 53 as though fully set forth herein.

118. Under the Georgia Constitution, "[m]unicipal governing authorities may be authorized by local law to levy and collect taxes and fees in the corporate limits of the municipalities." Ga. Const., Art. 9, § 4, ¶ I.

119. Under the City Charter for Sandy Springs, the City has the power to "[t]o levy and to provide for the collection of regulatory fees and taxes on privileges, occupations, trades and professions as authorized by Title 48 of the O.C.G.A., or other such applicable laws as are or may hereafter be enacted. . . ." See Sandy Springs City Charter, Art. I, Section 1.03.

120. Under O.C.G.A. § 48-13-6, municipalities are only authorized "to provide by local ordinance or resolution for the levy, assessment, and collection of occupation tax on those businesses and practitioners of professions and occupations which have one or more locations or offices within the corporate limits and to provide for the punishment of violation of such a local ordinance or resolution." O.C.G.A. § 48-13-96(b) (emphasis added).

121. The Ordinance states that the City "finds that excessive false alarms unduly burden the Sandy Springs police and fire-rescue departments and wastes limited public safety resources." See Ordinance, Sec. 18-34(a).

122. Though the ostensible purpose of the civil penalty scheme under the Amendments is to promote the City's interest in allocating limited safety resources in responding to false alarms (see Ordinance, Sec. 18-34(a)), the actual purpose is to generate revenues for the City.

123. For instance, despite the City's gross exaggerations to the contrary, the actual economic cost of a public safety department's response to a false alarm is far less than the amount of fines the City collects for those false alarms under the Amendments.

124. This is especially the case when the City—despite suspending dispatch services to an alarm site—nevertheless continues to impose fines on an alarm company for false alarms occurring at that alarm site.

125. To date, the City has, on several occasions, threatened to terminate dispatch services to the customers of numerous alarm companies, including Safecom and A-Com.

126. Because the actual purpose of the civil penalty scheme is to generate revenues for the City, the fines collected thereunder actually qualifies as a "tax" under Georgia law.

127. Though the City has limited taxing powers, it is not authorized under the Georgia Constitution, Title 48 of the O.C.G.A., or the Sandy Springs City Charter to impose taxes on businesses that do not maintain at least one office or physical location within the City limits. See O.C.G.A. § 48-13-96(b).

128. Neither Safecom nor A-Com maintain an office, location, or other physical presence within the corporate limits of Sandy Springs. Despite this fact, the City has assessed taxes against both Safecom and A-Com through the civil penalty scheme under the Amendments. In doing so, by the City has exceeded its limited taxing authority under the Georgia Constitution.

129. As such, the civil penalty scheme under the Amendments is unconstitutional, at least as applied to Safecom, A-Com, and other GELSSA members that do not maintain an office or other physical location with the City limits.

130. Accordingly, Defendants are liable to Plaintiffs for damages in such amount that will compensate Plaintiffs for all ultra vires taxes assessed against Plaintiffs under the Amendments.

131. Plaintiffs further seek a declaratory judgment from this Court that the City's civil penalty scheme under the Amendments is unconstitutional under the Georgia Constitution, and respectfully request that this Court permanently enjoin the enforcement of these unconstitutional provisions of the Amendments.

**VIII. COUNT 6: CLAIM FOR DAMAGES, DECLARATORY RELIEF, AND INJUNCTIVE RELIEF FOR VIOLATIONS OF O.C.G.A. § 35-1-9(c) (as to the City, Paul, and McDonough only).**

132. Plaintiffs hereby incorporate by reference the allegations contained in Paragraphs 1 through 53 as though fully set forth herein.

133. O.C.G.A. § 35-1-9(b) provides that "[e]xcept as provided in [O.C.G.A. § 35-1-9(c)] . . . , an alarm monitoring company shall utilize a system providing for alarm verification of all alarm signals."

134. The term "alarm verification" is defined, in pertinent part, as follows:

a reasonable attempt by an alarm monitoring company to contact the alarm site or alarm user, by telephone or other electronic means, to determine whether a burglar alarm signal is valid prior to requesting law enforcement to be dispatched to the location and, where the initial attempted contact cannot be made, a second reasonable attempt to make such contact utilizing a different telephone number or electronic address or number.

O.C.G.A. § 35-1-9(a)(2).

135. In turn, O.C.G.A. § 35-1-9(c) provides that "[a]larm verification ***shall not be required*** in the case of a fire alarm or a panic or robbery-in-progress alarm



or in cases where a crime-in-progress has been verified to be true by video or audible means." O.C.G.A. § 35-1-9(c) (emphasis added).

136. Upon information and belief, the City has, in practice, been assessing civil penalties against alarm companies for failing to implement "enhanced verification" protocols in response to the activation of fire alarms.

137. This practice directly conflicts with the statutory mandate under O.C.G.A. § 35-1-9(c) and is therefore preempted under Georgia state law.

138. Accordingly, the City's practice of imposing fines against alarm companies for failing to implement enhanced verification protocols in response to fire alarms (as well any other types of alarms enumerated under O.C.G.A. § 35-1-9(c)) is in violation of Georgia law.

139. Accordingly, Defendants are liable to Plaintiffs for damages in such amount that will compensate Plaintiffs for all civil penalties wrongfully assessed against Plaintiffs in violation of O.C.G.A. § 35-1-9(c).

140. Furthermore, Plaintiffs seek a declaratory judgment from this Court that the City's practice of requiring enhanced verification for fire alarms (as well any other types of alarms enumerated under O.C.G.A. § 35-1-9(c)) violates—and is preempted by—O.C.G.A. § 35-1-9(c), and respectfully request that this Court permanently enjoin Defendants from enforcing these unlawful requirements.

**IX. COUNT 7: CLAIM FOR DAMAGES, DECLARATORY RELIEF, AND INJUNCTIVE RELIEF UNDER O.C.G.A. § 36-33-4 (as to Paul, McDonough, and the City Council Defendants only).**

141. Plaintiffs hereby incorporate by reference the allegations contained in Paragraphs 1 through 53 and 117 through 140, as though fully set forth herein.

142. Under the Georgia Constitution, "[m]unicipal governing authorities may be authorized by local law to levy and collect taxes and fees in the corporate limits of the municipalities." Ga. Const., Art. 9, § 4, ¶ I.

143. Under the City Charter for Sandy Springs, the City has the power to "[t]o levy and to provide for the collection of regulatory fees and taxes on privileges, occupations, trades and professions as authorized by Title 48 of the O.C.G.A., or other such applicable laws as are or may hereafter be enacted. . . ." See Sandy Springs City Charter, Art. I, Section 1.03.

144. Under O.C.G.A. § 48-13-6, municipalities are only authorized "to provide by local ordinance or resolution for the levy, assessment, and collection of occupation tax on those businesses and practitioners of professions and occupations which have one or more locations or offices within the corporate limits and to provide for the punishment of violation of such a local ordinance or resolution." O.C.G.A. § 48-13-96(b) (emphasis added).

145. The Ordinance states that the City "finds that excessive false alarms unduly burden the Sandy Springs police and fire-rescue departments and wastes limited public safety resources." See Ordinance, Sec. 18-34(a).

146. Though the ostensible purpose of the civil penalty scheme under the Amendments is to promote the City's interest in allocating limited safety resources in responding to false alarms (see Ordinance, Sec. 18-34(a)), the actual purpose is to generate revenues for the City.

147. For instance, despite the City's gross exaggerations to the contrary, the actual economic cost of a public safety department's response to a false alarm is far less than the amount of fines the City collects for those false alarms under the Amendments.

148. This is especially the case when the City—despite suspending dispatch services to an alarm site—nevertheless continues to impose fines on an alarm company for false alarms occurring at that alarm site.

149. To date, the City has, on several occasions, threatened to terminate dispatch services to the customers of numerous alarm companies, including Safecom and A-Com.

150. Because the actual purpose of the civil penalty scheme is to generate revenues for the City, the fines collected thereunder actually qualifies as a "tax" under Georgia law.

151. Though the City has limited taxing powers, it is not authorized under the Georgia Constitution, Title 48 of the O.C.G.A., or the Sandy Springs City Charter to impose taxes on businesses that do not maintain at least one office or physical location within the City limits. See O.C.G.A. § 48-13-96(b).

152. Neither Safecom nor A-Com maintain an office, location, or other physical presence within the corporate limits of Sandy Springs. Despite this fact, the City has assessed taxes against both Safecom and A-Com through the civil penalty scheme under the Amendments. In doing so, by the City has exceeded its limited taxing authority under the Georgia Constitution.

153. As such, the civil penalty scheme under the Amendments is unconstitutional, at least as applied to Safecom, A-Com, and other GELSSA members that do not maintain an office or other physical location with the City limits.

154. Paul, McDonough, and the City Council Defendants have also violated O.C.G.A. § 35-1-9(c) by requiring enhanced verification for fire alarms

and assessing civil penalties against alarm companies for failure to comply with such requirements.

155. Through their enactment of the Amendments, the City Council Defendants have engaged in official acts oppressively, maliciously, corruptly, and without authority of law.

156. Through their enforcement of the civil penalty scheme under the Amendments, Paul and McDonough have engaged in official acts oppressively, maliciously, corruptly, and without authority of law.

157. In doing so, Paul, McDonough, and the City Council Defendants have proximately caused Plaintiffs to sustain damages in the amount of all civil penalties imposed under the Amendments in connection with alleged false alarms.

158. Accordingly, Paul, McDonough, and the City Council Defendants are personally liable to Plaintiffs for all such damages, pursuant to O.C.G.A. § 36-33-4.

159. Plaintiffs further seek a declaratory judgment from this Court that the City's civil penalty scheme under the Amendments is unconstitutional under the Georgia Constitution and in violation of O.C.G.A. § 35-1-9(c), and respectfully request that this Court permanently enjoin the enforcement of these unlawful provisions of the Amendments.

**X. COUNT 8: CLAIM FOR DAMAGES, DECLARATORY RELIEF, AND INJUNCTIVE RELIEF UNDER 42 U.S.C. § 1983 FOR VIOLATIONS OF THE FOURTEENTH AMENDMENT OF THE U.S. CONSTITUTION (as to the City, Paul, and McDonough only).**

160. Plaintiffs hereby incorporate by reference the allegations contained in Paragraphs 1 through 84, as though fully set forth herein.

161. In pertinent part, 42 U.S.C. § 1983 provides as follows: “Every person who, under color of any . . . ordinance . . . of any State . . ., subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution . . . shall be liable to the party injured in an action at law, suit in equity, or other proper proceedings for redress. . . .”

162. The City has, by and through its policies, practices and customs, caused Defendants to be deprived of their substantive and procedural due process rights under the Fourteenth Amendment.

163. Paul and McDonough, while acting under color of state law, have caused Defendants to be deprived of their substantive and procedural due process rights under the Fourteenth Amendment.

164. Accordingly, Defendants are liable to Plaintiffs under § 1983 for damages in such amount that will compensate Plaintiffs for all civil penalties wrongfully assessed against Plaintiffs under the Amendments.

165. Furthermore, Plaintiffs seek a declaratory judgment from this Court that the Termination Provision and the City's civil penalty scheme under the Amendments are unconstitutional, and respectfully request that this Court permanently enjoin Defendants' enforcement of these unconstitutional provisions of the Amendments.

**XI. COUNT 9: CLAIM FOR PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF (as to the City, Paul, and McDonough only).**

166. Plaintiffs hereby incorporate by reference the allegations contained in Paragraphs 1 through 165 as though fully set forth herein.

167. The cumulative effects of the civil penalties under the Amendments will make it cost-prohibitive for alarm companies, such as Safecom and A-Com, to continue conducting business and servicing their customers in the Sandy Springs community—despite the fact that they have already committed to long-term alarm services contracts with many of those customers.

168. To compound this problem, Sandy Springs officials have, on numerous occasions, threatened to terminate public safety department dispatch services to the customers of alarm companies, including Safecom, A-Com, and other GELSSA members, for nonpayment of civil penalties—regardless of whether any alleged false alarms are attributable to those customers' alarm sites.

169. Ironically, though the Amendment's ostensible purpose is to promote the public health, safety, or general welfare of the City, this policy would clearly place the affected customers at grave risk of injury or other harm—both to their persons and property.

170. This policy, therefore, presents alarm companies with a Hobson's choice of either paying burdensome, unconstitutional fines or risking the safety and welfare of their customers.

171. In effect, the Amendments, coupled with the City's policy of terminating dispatch services for nonpayment of civil penalties, presents an imminent and substantial threat to alarm companies' ability to continue conducting business and servicing their customers in the Sandy Springs community.

172. As a result, Plaintiffs would be irreparably damaged and suffer irreparable and imminent injury, for which there is and would be no adequate remedy at law, if Defendants were to continue enforcement of the above-described policy, and if this Court were not to enjoin such conduct on the part of Defendants.

173. The injury Plaintiffs would suffer if the Court were not to enjoin such conduct on the part of Defendants significantly outweighs the injury, if any, that Defendants would experience if the Court were to enjoin such conduct on their part.



174. In light of the foregoing allegations, there is a substantial likelihood that Plaintiffs will prevail upon the merits of their claims at trial, and the granting of a preliminary injunction prohibiting Defendants from enforcing the above-described policy would not disserve any public interest.

175. Accordingly, this Court should issue a preliminary injunction prohibiting enforcement of the City's policy of terminating public safety department dispatch services to the customers of alarm companies for nonpayment of civil penalties, until such time as a trial on the merits of the present case has been fully adjudicated.

176. Accordingly, the Court should also issue a permanent injunction prohibiting enforcement of the City's policy of terminating public safety department dispatch services to the customers of alarm companies for nonpayment of civil penalties, upon Plaintiffs prevailing upon the merits of their claims as set forth in this Complaint.

**XII. COUNT 10: CLAIM FOR ATTORNEY'S FEES AND OTHER LITIGATION EXPENSES (as to all Defendants).**

177. Plaintiffs hereby incorporate by reference the allegations contained in Paragraphs 1 through 176 as though fully set forth herein.

178. In pertinent part, 42 U.S.C. § 1988(b) provides the following: “In any action or proceeding to enforce a provision of [42 U.S.C. § 1983] . . . , the court, in

its discretion, may allow the prevailing party . . . a reasonable attorney's fee as part of the costs. . . .”

179. In awarding attorney's fees under § 1988(b), the Court may also “include expert fees as part of the attorney's fee.” 42 U.S.C. § 1988(c).

180. Pursuant to § 1988, Defendants are liable to Plaintiffs for reasonable attorney's fees, including expert fees, as part of the costs in this action.

181. Furthermore, Defendants have acted in bad faith, have been stubbornly litigious, and have caused Plaintiffs unnecessary trouble and expense. Consequently, Defendants are liable to Plaintiffs for all expenses of litigation, including attorney's fees, pursuant to O.C.G.A. § 13-6-11.

WHEREFORE, Plaintiffs demand judgment against Defendants and pray for the following relief:

- a) For a trial by jury;
- b) For a declaratory judgment that the Amendments are unconstitutional under U.S. Constitution;
- c) For a declaratory judgment that the Amendments are unconstitutional under the Georgia Constitution;
- d) For preliminary injunctive relief enjoining enforcement of the Termination Provision and the civil penalty provisions of the

Amendments, as well as the City's policy of terminating dispatch services to customers of alarm companies for nonpayment of civil penalties;

- e) For injunctive relief permanently enjoining enforcement of the Termination Provision and the civil penalty provisions of the Amendments, as well as the City's policy of terminating dispatch services to customers of alarm companies for nonpayment of civil penalties;
- f) For compensatory damages in amount of all fines assessed against Defendants under the Amendments;
- g) For all expenses of litigation including reasonable attorney fees, reasonable expert fees, and all costs of Court;
- h) For post-judgment interest at the maximum rate allowable by law; and
- i) For such other and further legal or equitable relief that this Court deems just and proper under the circumstances.

Respectfully submitted this 12<sup>th</sup> day of March, 2018.

**HALL BOOTH SMITH, P.C.**

*/s/ Russell A. Britt*

WILLIAM BRADLEY CARVER

Georgia Bar No. 115529

RUSSELL BRITT

Georgia Bar No. 473664

JEFFREY R. DANIEL

Georgia Bar No. 949075

*Counsel for Plaintiffs*

191 Peachtree Street, N.E.

Suite 2900

Atlanta, GA 30303-1775

Tel: 404-954-5000

Fax: 404-954-5020

ORDINANCE NO. 2017-07-15

STATE OF GEORGIA  
COUNTY OF FULTON

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF SANDY SPRINGS, GEORGIA TO AMEND CHAPTER 18 (EMERGENCY MANAGEMENT AND EMERGENCY SERVICES) OF THE CODE OF THE CITY OF SANDY SPRINGS, GEORGIA; TO DELETE, MODIFY AND ADD PROVISIONS PERTAINING TO THE REGULATION OF ALARM SYSTEMS AND RELATED PROVISIONS GOVERNING FALSE ALARMS; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, the Mayor and Council of the City of Sandy Springs ("City Council") are charged with the protection of the public health, safety, and welfare of the citizens of the City of Sandy Springs; and

WHEREAS, the City Council has determined that it is appropriate from time to time to modify the Code of Ordinances of the City of Sandy Springs (the "Code") to further protect the public health, safety, and welfare of the citizens of Sandy Springs; and

BE IT ORDAINED by the Mayor and City Council of the City of Sandy Springs, Georgia that the City's Code of Ordinances is amended as follows:

**SECTION I:** Division 2 of Article II of Chapter 18 relating to Alarm Systems is hereby amended by changing the requirements for alarm systems, alarm users and alarm companies, by adding enforcement provisions, and for other purposes, and will read as follows:

**Sec. 18-34. - Purpose and intent.**

(a) The purpose of this division is to encourage alarm owners and alarm companies to properly use and maintain the operational effectiveness of alarm systems in order to improve the reliability of alarm systems and reduce or eliminate false alarms. The City of Sandy Springs finds that excessive false alarms unduly burden the Sandy Springs police and fire-rescue departments and wastes limited public safety resources.

(b) This division governs alarm systems intended to summon a public safety department and requires registration, assessment of fees for excessive false alarms, provides procedures for repeat offenders, provides for the severability of the parts hereof if declared invalid, and provides an effective date.

**Sec. 18-35. - Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them below, except where the context clearly indicates a different meaning:

*Adopted code(s)* means the code adopted by the city and, in the absence of an adopted code, the National Fire Protection Association National Fire Alarm Code 72 (NFPA 72) and the National Fire Protection Association Life Safety Code 101 (NFPA 101).

*Alarm activation report* means a document issued by the enforcement official indicating that the activation was deemed to be the result of either a valid incident or a false alarm.

*Alarm administrator* means a person or persons designated by the city to administer, control and review false alarm reduction efforts and to administer the provisions of this division.

*Alarm company* means any individual, partnership, corporation or other entity engaging in the business of planning, installing, servicing, maintaining, repairing, replacing and/or monitoring alarm systems in the



**ORDINANCE NO. 2017-07-15**

City of Sandy Springs. An alarm company shall include without limitation any office to which alarm systems are connected, where operators supervise the circuits on a continuous basis and where there is a subsequent relaying of such messages by a live voice to the city's emergency communications center. Where an alarm company contracts with another entity to perform services related to an alarm system, *alarm company* shall mean any entity contracting with the alarm user. Where more than one entity contracts with the alarm user to provide services related to an alarm system, *alarm company* shall mean the entity approved by the alarm administrator and designated as the responsible party in such alarm system's registration with the city pursuant to Sec. 18-36 of this division.

*Alarm initiating device* means a device that is designed to either manually or automatically respond to smoke, fire, or activation of a fire suppression system.

*Alarm permit* means a permit issued by the city to allow the installation, operation and/or monitoring of an alarm system within the city.

*Alarm signal* means a detectable signal, whether audible, visual, and/or silent, generated by an alarm system, to which a public safety department is requested to respond.

*Alarm Site* means a single premises or location served by an alarm system or systems. Each tenancy, if served by a separate alarm system in a multitenant building or complex, shall be considered a separate alarm site.

*Alarm system* means any single device or assembly of equipment designed to signal the occurrence of a fire, illegal or unauthorized entry or other activity requiring immediate attention and to which a public safety department will be requested to respond, but does not include alarms installed in motor vehicles, domestic violence alarms, or alarms designed to elicit a medical response. Alarm system also includes a system or portion of a combination system consisting of components and circuits arranged to monitor and/or exterior annunciate the status of an alarm signal or supervisory signal-initiating devices and to initiate the appropriate response to those alarm signals.

*Alarm user* means any person, corporation, partnership, proprietorship, governmental or educational entity or any other entity owning or leasing an alarm system, or on whose premises an alarm system is maintained for the protection of such premises.

*Automatic voice dialer* means any electrical, electronic, mechanical, or other device capable of being programmed to send a prerecorded voice message, when activated, over a telephone line, radio or other communication system, to the emergency communications system requesting public safety department dispatch.

*Cancellation* means the process by which a response is terminated when the alarm company notifies the emergency communications center that there is not an existing situation at the alarm site requiring public safety department response after an alarm dispatch request.

*City* means the City of Sandy Springs, Georgia.

*City council* means the governing body of the city consisting of the mayor and members of council.

*Duress Alarm* means a silent alarm signal which is generated when an alarm user enters a designated code into the alarm system keypad different from the regular arm and disarm code and designed to alert the alarm company that the alarm user is being forced to turn the alarm system off against the user's will.

*Emergency communications center* means the ChatComm Emergency Communications (911) Center.

ORDINANCE NO. 2017-07-15

*Enforcement official* means the fire chief or the police chief, or their respective designated representatives.

*False alarm* means the activation of an alarm system to summon a public safety department that results in: (a) an inspection by a public safety department that indicates no fire, medical emergency, unauthorized entry, robbery, or other such crime was committed, occurred or attempted in or on the premises which would have activated a properly functioning alarm system; or (b) the cancellation of a request to summon a public safety department due to no emergency situation at the alarm site requiring response. Notwithstanding the foregoing, an alarm activated during an alarm system testing procedure shall not be considered a false alarm so long as the alarm company, or designee, is put on notice that the alarm system is being tested and no public safety department response is requested by the alarm company. False fire alarm means a false alarm to summon the fire department.

*Fee* means the assessment of a monetary charge payable to the city authorized pursuant to this division, to defray the expenses of responding to a false alarm.

*Fire chief* means the fire chief of the City of Sandy Springs, Georgia.

*Fire department* means the City of Sandy Springs fire-rescue department.

*Fire watch* means a person or persons approved by the fire department enforcement official who is assigned to the premises for the purpose of protecting the occupants from fire or similar emergencies. A fire watch may involve at least some special action beyond normal staffing, such as assigning an additional security guard(s) to walk the premises, who has been specially trained in fire prevention and in the use of fire extinguishers, in notifying the fire department, in sounding the fire alarm system located on the premises.

*Holdup alarm* means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress.

*Intrusion alarm* means an alarm system signaling an entry or attempted entry into the area protected by the system.

*KNOX Rapid Entry System* or *KNOX System* means a secure access program that provides immediate entry for emergency responders into buildings and other secured property. The KNOX System utilizes three devices: KNOX boxes, KNOX key switches and KNOX padlocks. The KNOX box is a small, wall-mounted safe that holds building keys for emergency responders to retrieve for access in emergency situations. A KNOX key switch allows electric override to power operated gates and doors. A KNOX padlock allows access to non-power operated gates and doors.

*Monitored system* means an alarm system which is monitored by a remote monitoring facility which receives signals from the alarm system and notifies emergency response forces.

*Owner* means any person who owns the premises in which an alarm system is installed or the person or persons who lease, operate, occupy or manage the premises.

*Panic alarm* means an audible alarm system signal generated by the manual activation of a device intended to signal a life threatening or emergency situation requiring law enforcement response.

*Permit year* means a 12-month period beginning on the day and month on which an alarm permit is issued.

*Police chief* means the chief of police of the City of Sandy Springs, Georgia.

**ORDINANCE NO. 2017-07-15**

*Police department* means the City of Sandy Springs police department.

*Premises* means any building, structure or combination of buildings, and structures which serve as dwelling units such as single-family, multi-family or any other area within a building, structure or combination thereof which is used for any purpose, wherein an alarm system is installed.

*Private guard responder* means a private guard company, an alarm company's guard, an alarm user, or a person or entity appointed by an alarm user to be responsible to confirm that an attempted or actual crime, fire or other emergency has occurred at an alarm site.

*Public safety department(s)* means the Sandy Springs police department and the Sandy Springs fire department individually or collectively, as the context indicates.

*Qualified alarm technician* means any person who inspects, installs, repairs or performs maintenance on alarm systems and has successfully completed training consistent with alarm industry standards. A qualified fire alarm technician shall additionally be: a) factory trained and certified; b) National Institute of Certification in Engineering Technologies (NICET) Fire Alarm Level II certified; or c) licensed or certified by a state or local authority.

*Report of service/repair* means appropriate documentation in a format acceptable to the enforcement official that verifies proper repairs or maintenance have been performed by both the alarm company and the owner.

*Serve* shall mean hand-delivery of written notification by a representative of the city to the owner or authorized representative who responded to the premises. In the event the owner or authorized representative fails to respond to the premises within 30 minutes, serve shall mean placing the form or other matter in the United States mail, postage prepaid, addressed to the owner or authorized representative and/or placing a copy of an alarm activation report affixed to the main entrance door of the premises.

*SIA Control Panel Standard CP-01* means the American National Standard Institute (ANSI) approved Security Industry Association (SIA) CP-01 Control Panel Standard, as may be updated from time to time, that details recommended design features for alarm system control panels and their associated arming and disarming devices to reduce false alarms. Control panels built and tested to this standard by nationally recognized testing organizations, will be marked to state: "Design evaluated in accordance with SIA CP-01 Control Panel Standard Features for false alarm reduction."

*Verify* means:

1. Visual or audible confirmation of an attempted or actual crime, fire or other emergency situation at the alarm site; or
2. Where an alarm is not monitored by visual surveillance, an attempt by the monitoring company, or its representative, to contact the alarm site and/or alarm user by telephone and/or other electronic means, whether or not actual contact with a person is made, to attempt to determine whether an alarm signal is valid before requesting public safety department dispatch. For the purpose of this division, telephone verification shall require at a minimum that a second call be made to a different number if the first attempt fails to reach an alarm user who can properly identify himself/herself to attempt to determine whether an alarm signal is valid before requesting public safety department dispatch. If neither attempt successfully reaches the alarm site or an alarm user who can properly identify himself/herself and determine whether an alarm signal is valid, then the alarm shall be considered verified for the purposes of this division.



**ORDINANCE NO. 2017-07-15**

**Sec. 18-36. - Alarm permits.**

- (a) Permit required. Effective September 1, 2017, no alarm system shall be used unless the alarm company first obtains a permit for such alarm system from the city. Each alarm system shall be assigned a unique number, and the alarm company shall provide the alarm permit number to the emergency communications center to facilitate public safety department dispatch.
- (b) Registration. Each alarm company has the duty to obtain and complete an alarm permit registration application on a form provided by the city in accordance with adopted codes. The registration form shall include the following information:
  - (1) The name(s), address of the premises, mailing address (if different from the address of the premises), business, cellular and home telephone number of the owner, lessee, operator, manager or person in possession of the premises wherein the alarm system is installed;
  - (2) The name, address and telephone number of a minimum of two persons who can be notified in the event of the activation of the alarm system, who shall be capable of responding to the premises within 30 minutes, and who are authorized to enter the premises to ascertain the status thereof;
  - (3) The name, address and telephone number of the alarm company which has contracted to service and/or monitor the alarm system and a valid permit number issued by the city pursuant to Sec. 18-39(b) of this division; Alarm companies not registered with the alarm administrator but attempting an alarm system permit registration shall not be issued an alarm permit number.
  - (4) The date the registration is signed or the alarm system is placed in operation for any reason;
  - (5) The type of alarm system being registered, including whether the system is monitored through video surveillance;
  - (6) The name, address, nature of relationship and services of all other entities providing services to the alarm site in connection with the alarm system, including without limitation contracted monitoring services; and
  - (7) Any other documentation that is required by adopted codes.
- (c) Non-transferability; new registration required. Alarm permits are not transferable. Upon transfer of the possession of premises at which an alarm system is maintained, the alarm company shall register for an alarm permit for any new alarm user before putting the alarm into operation.
- (d) Reporting updated information. When information required on the alarm permit registration application changes, the alarm company shall provide correct information to the city within 154 days of the change. If an alarm company becomes noncompliant with the requirements of this division, including without limitation changes in information or any failure to pay fines pursuant to Section 18-41(e), such permit or registration may be revoked or deemed invalid until the alarm company comes into compliance.
- (e) Multiple alarm systems. If an alarm user has one or more alarm systems protecting two or more separate structures having different addresses and/or tenants, a separate alarm permit shall be required for each structure and/or tenant.
- (f) Failure to register. All alarms and alarm companies in the city are required to be registered with the city and issued a permit number, and alarm companies must provide a valid permit number for each alarm when requesting police or fire dispatch in response to said alarm. Failure to provide a valid permit number for an alarm shall be a violation of this ordinance subject to enforcement by the city.

**Sec. 18-37. - Duties of the alarm user/owner.**

**ORDINANCE NO. 2017-07-15**

An alarm user or owner shall be required to:

(a) Maintain the premises and the alarm system in a method that will reduce or eliminate false alarms;

(b) Respond or cause a representative to respond to the alarm system's location within 30 minutes upon notification of the need to deactivate a malfunctioning alarm system, to provide right of entry to the premises, or to provide alternative security for the premises;

(c) Ensure that an alarm system is not manually activated by the alarm user or any other person for any reason other than an occurrence of an event that the alarm system was intended to report;

(d) KNOX Rapid Entry System:

1. All new and existing commercial occupancies having an automatic fire alarm system shall have an approved KNOX System installed in a location approved by the fire department.
2. The KNOX System box shall contain all keys, fobs, reader cards, etc. for all locked areas of the building as required by the fire department. "Keys" shall include but not be limited to, all areas of the building, automatic fire alarm systems, pull station resetting tools, all elevators and elevator machine rooms, sprinkler systems riser rooms, and gated areas with keypad access, including the front gate and any interior gate/areas, including pools and common areas. "Keys" shall not include keys to individual multifamily rental units.
3. All commercial properties within the city with power operated vehicle or pedestrian access gates shall have an approved KNOX key switch system for access by public safety personnel. All commercial properties with non-power operated vehicle or pedestrian access gates shall be equipped with a KNOX padlock.
4. All building owners and managers shall notify the fire department immediately of changes of locks and/or keys, fobs, reader cards, etc., for building access to allow for the placement of new keys in the KNOX System box.

**Sec. 18-38. - Fire alarm system certification.**

All newly installed or recertified commercial fire alarm systems shall be approved by the fire department enforcement official. The certification shall indicate that the fire alarm system is in compliance with adopted codes. The certification shall be signed by a qualified fire alarm technician.

**Sec. 18-39. - Duties of an alarm company.**

An alarm company shall be required to:

- (a) Obtain and maintain required state and local license(s) and/or permits;
- (b) Register with the alarm administrator its name, address, contact phone number, name and address of its registered agent in Georgia, and a statement certified by the alarm company acknowledging venue and jurisdiction in Georgia state court and Sandy Springs municipal court for violations under this ordinance. Failure to provide all of the required information shall result in denial of registration. Alarm companies not registered with the alarm administrator attempting alarm permit registration pursuant to Sec. 18-36(a) shall not be issued an alarm permit number.
- (c) Reporting updated information. When any information required for alarm company registration under this Section 18-39 changes, the alarm company shall provide correct information to the alarm administrator within 14 days of the change. If changes in information cause an alarm company to become noncompliant with the registration requirements herein, such registration

**ORDINANCE NO. 2017-07-15**

may be revoked or deemed invalid by the City until such time as the alarm company comes into compliance.

- (d) Register with the alarm administrator any alarm system prior to the alarm system being put into operation;
- (e) Provide the owner with notice of the existence of this division, a copy of the alarm system operation instructions in accordance with adopted codes, and the manufacturer's instructions.
- (f) Maintain current contact information, including alarm user permit numbers. At the time of filing an alarm report with the city to facilitate dispatch, all alarm companies shall provide the emergency communications center with the name of the alarm company's representative requesting police or fire dispatch, a valid permit number for the alarm company and for the alarm user, and a telephone number for contacting the alarm company representatives and obtaining the information required under subsection (g) of this Section 18-39, or its successor;
- (g) Alarm companies that request police or fire response to alarm signals shall maintain a record of all calls to the emergency communications center stating the date and time of the call, location of the alarm and the name, address and phone number of the alarm user. The records shall indicate the name and number of any person called in an attempt to verify an intrusion alarm, the time such calls were placed, and shall indicate the cause of the alarm, if known. This record shall be current and shall be made available to the emergency communications center at the time emergency dispatch is requested and to the city's designated representative at any time during normal business hours;
- (h) Alarm companies shall use control panels meeting SIA Control Panel Standard CP-01 on all new installations;
- (i) Prior to activation of the alarm system, the alarm company must provide verbal and written instructions explaining the proper operation of the alarm system to the alarm user and provide written information on how to obtain service from the alarm company;
- (j) An alarm company performing monitoring services for an intrusion alarm system shall verify that an intrusion alarm signal is valid before requesting dispatch. Any intrusion alarm not verified by the alarm company prior to requesting dispatch will not be eligible for response by the police department.
- (k) All newly installed or recertified commercial alarm systems shall be approved by the alarm administrator. The certification shall indicate that the alarm system is in compliance with adopted codes. The certification shall be signed by a qualified alarm technician;
- (l) An alarm company shall communicate a cancellation to the emergency communications center as soon as possible following a determination that response is unnecessary.
- (m) It is the responsibility of the alarm company and its technician to prevent false alarms during installation, system repairs, or system service. Proper notification shall be made to the alarm company that the system is in a test mode to avoid dispatching public safety departments in response.
- (n) Upon registration with the city, alarm companies must provide the alarm administrator a listing of each alarm site in the city using an alarm system furnished and/or monitored by said alarm company. Alarm companies are responsible for supplying the alarm administrator with any changes of its list of alarm users within fourteen (14) days of such change. Failure to timely notify the alarm administrator of additions, deletions or changes to the alarm company's list of alarm users shall be a violation of this ordinance and subject to penalties established by resolution of council.

**ORDINANCE NO. 2017-07-15**

**Sec. 18-40. - Prohibited acts.**

- (a) It shall be unlawful to activate an alarm system for the purpose of summoning a public safety department when no fire, medical emergency, burglary, robbery, or other crime dangerous to life or property is being committed or attempted on the premises, or otherwise to cause a false alarm.
- (b) It shall be unlawful to install, maintain, or use an audible alarm system which can sound continually for more than ten minutes.
- (c) It shall be unlawful to install, maintain, or use an automatic voice dialer that reports, or causes to be reported, any recorded message to the emergency communications center or the police department.
- (d) It shall be unlawful for any person to install or use an alarm system or device that emits or produces real or simulated smoke, fog, vapor or any like substance that obscures vision. Use of this device shall result in no emergency response.
- (e) Alarm companies shall not install a device for activating a panic or holdup alarm that has a single action, non-recessed button. Any panic or holdup alarm that utilizes a single action, non-recessed activation button existing at the time of this ordinance shall have up to September 1, 2022 to conform to the provisions of this ordinance.

**Sec. 18-41. - Enforcement of provisions.**

- (a) Excessive false alarms to summon police department.
  - 1. It is hereby found and determined that any false alarms to summon the police department is excessive, constitutes a public nuisance, and shall be unlawful. Civil penalties for each false alarm to summon the police department within any twenty four month (24) period may be assessed against an alarm company in amounts established by resolution of city council.
  - 2. Activation of an intrusion alarm which is determined to be false but which is visually or audibly verified by an alarm company shall be deemed falsely verified and shall result in a violation of this ordinance by the alarm company in an amount to be established by resolution of the city council.
  - 3. Failure by an alarm company to verify an intrusion alarm before requesting police dispatch shall be a violation of this ordinance and subject to penalties established by resolution of council and state law.
  - 4. Only those locations registered with the city and serviced by a registered alarm company will be eligible to receive police services in response to an activated alarm. Audible alarms from unregistered locations are subject to violation of the city noise ordinance.
- (b) Excessive false alarms to summon the fire department.
  - (1) It is hereby found and determined that any false alarm to summon the fire department is excessive, constitutes a public nuisance and shall be unlawful. Civil penalties for each false alarm to summon the fire department within any twenty four (24) month period may be assessed against an alarm company in amounts established by resolution of city council.
  - (2) Only those locations registered with the city and serviced by a registered alarm company will be eligible to receive fire services in response to an activated fire alarm.
- (c) Public safety departments will not respond to an activated alarm system at an alarm site following the fourth false alarm (registered or unregistered) within any twenty four (24) month period. Such suspension of alarm response shall be for a period of one (1) calendar year following the date the determination is made to suspend public safety department response to an alarm site pursuant to this

## ORDINANCE NO. 2017-07-15

subsection (c), provided there is no transfer of ownership of the alarm site. Suspension of public safety department response to an alarm site pursuant to this subsection (c) may be appealed pursuant to Sec. 18-44 of this Division. Notwithstanding the foregoing, the police or fire chief or their respective designee may at their discretion identify those critical or high risk locations not subject to automatic suspension for false alarms when such suspension would be detrimental to the safety of the public.

- (d) Other civil penalties. Violations of other provisions of this division shall be enforced through the assessment of civil penalty(ies) in amounts established by resolution of city council.
- (e) Payment of civil penalties. Civil penalties shall be paid within 30 days from the date of the invoice from the city.
- (f) Except for alarms at a wholesale or retail firearms business, intrusion alarm response shall be dispatched by the police department only after an attempted or actual crime has been verified by the alarm company, alarm user or private guard responder, pursuant to this division. This subsection (f) shall not apply to fire, holdup, duress or panic alarm response.
- (g) Noncriminal (civil) violation. A violation of any of the provisions of this division shall be civil in nature and shall not constitute a misdemeanor or infraction.
- (h) Fire watch. The fire department enforcement official has the authority to order a fire watch in accordance with adopted codes, due to repetitive false fire alarms, until corrective action is taken, for any of the following reasons:
  - (1) Failure to meet all requirements or pay the fees provided for in this division within 15 days after notice is mailed;
  - (2) Occurrence of a fourth false fire alarm at a premises pursuant to section 18-41(c) of this division; or
  - (3) The failure of a person notified pursuant to section 18-37(c) of this division to appear within 30 minutes of notification occurs four or more times within a twenty four (24) month period.
- (i) Notice to disconnect or deactivate fire alarm system. Written notices to disconnect or deactivate a fire alarm system where applicable law does not require an alarm be operative shall be mailed by certified mail, return receipt requested to the alarm user and alarm company, and shall specify the date on which the alarm company shall be required to disconnect or deactivate the fire alarm system. This date shall be at least 15 days after the notice is mailed to the alarm user and the alarm company. The alarm user and/or alarm company may appeal the order of the fire department enforcement official pursuant to section 18-44.
  - (1) Each building affected because the alarm signal from the fire alarm system has been disconnected or deactivated shall be required to establish a fire watch until the fire alarm system has been returned to service. The fire watch shall meet the requirements set forth by the fire department. Duties of the fire watch may include notifying the fire department and building occupants of an emergency, preventing a fire from occurring, or extinguishing small fires.
  - (2) The owner is responsible for paying all costs associated with establishing a fire watch.
- (j) The fire department enforcement official shall have the authority to direct the owner or the alarm company to silence an activated fire alarm system, and have the alarm company take corrective action taken and thereafter reset it.
- (k) Any false information provided to the alarm administrator or the emergency communications center by any alarm user, alarm company or private guard responder is a violation of this code, and may be subject to additional civil or criminal penalties under state law.

**ORDINANCE NO. 2017-07-15**

- (l) Apartment Building Alarm Systems. If an alarm system installed, or caused to be installed, to service any tenant in an apartment building is monitored by an alarm company, the alarm company shall provide to the alarm administrator the name of a representative of the apartment building owner or property manager who can grant access to the rental unit by police or fire department officials responding to an alarm dispatch.

**Sec. 18-42. - Reconnection of fire alarm systems.**

- (a) A fire alarm system may be reactivated upon a finding by the fire department enforcement official that the alarm user and/or the alarm company have taken corrective action to remedy the cause of the false fire alarms at the premises.
- (b) The fire department enforcement official shall have the right to inspect the fire alarm system and test it prior to approving a new order to reconnect or reactivate the alarm system.
- (c) The fire department enforcement official shall not approve a new order to reconnect or reactivate a fire alarm system if the alarm company has failed to pay any fee pursuant to this division.

**Sec. 18-43. - Reserved.**

**Sec. 18-44. - Appeals.**

- (a) Appeals process. Assessments of civil penalties and other enforcement decisions made under this division may be appealed by filing a written notice of appeal with the police chief or the fire chief, as applicable, within ten days after the date of notification of the assessment of civil penalties or other enforcement decisions. The written notice of appeal shall contain the cause for the appeal and any other pertinent information relevant to the case. The failure to give notice of appeal within this time period shall constitute a waiver of the right to contest the assessment of penalties or other enforcement decisions. The police chief and fire chief shall each respectively designate a hearing officer from the police department and the fire department to hear appeals related to their agency. The respective hearing officer shall render a decision within five business days and give written notification of his/her decision. The hearing officer's decision may be appealed to the respective chief by filing a written notice of appeal within ten days of the decision of the hearing officer. The respective chief shall have the final decision in this matter. The hearing officer's decision and the decision of the respective chief are subject to review by the courts having jurisdiction by proceedings in the nature of writ of certiorari.
- (b) Appeal standard. The hearing officer shall review an appeal from the assessment of civil penalties or other enforcement decisions using a preponderance of the evidence standard. Notwithstanding a determination that the preponderance of the evidence supports the assessment of civil penalties or other enforcement decision, the hearing officer shall have the discretion to dismiss or reduce civil penalties or reverse any other enforcement decision where warranted.
- (c) Appeal of order to disconnect or deactivate. An alarm user or alarm company to whom a notice to disconnect or deactivate a fire alarm system was mailed pursuant to section 18-41(i) shall be entitled to appeal the order to the fire department hearing officer. An appeal must be in writing, stating the reasons why the order to disconnect or deactivate should be withdrawn. The appeals shall be made within 15 days after notice to disconnect is mailed to the owner. The fire department hearing officer or his designee shall review the facts and circumstances and shall determine whether the owner has shown good cause why the order should be withdrawn. If the hearing officer affirms the order to disconnect or deactivate a fire alarm system, the owner shall have 15 days after the written decision is mailed to the owner to comply with the order. The appeal of an order to disconnect or deactivate shall suspend the effective date of the order until the appeal has been acted upon by the hearing officer.

**ORDINANCE NO. 2017-07-15**

- (d) Responsibility for fees/costs. In the event the appeal is not upheld, the owner or alarm company shall also be responsible for any fee assessed to reimburse the city for any costs incurred by the hearing officer in enforcing this division.

**Sec. 18-45. - Confidentiality, immunity and severability.**

- (a) Confidentiality. To the extent allowed by law, information contained and gathered through the alarm system registration process will be held in confidence by the city.
- (b) Governmental immunity. Alarm registration is not intended to, nor will it, create a contract, duty or obligation, either express or implied, of response. Any and all liability and consequential damages resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained. By applying for an alarm system registration, the alarm user acknowledges that the police department and fire department response may be influenced by factors such as: the availability of responding units, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels and prior response history.
- (c) Severability. The provisions of this division are severable. If a court determines that a word, phrase, clause, sentence, paragraph, subsection, section, or other provision is invalid or that the application of any part of the provision to any person or circumstance is invalid, the remaining provisions and the application of those provisions to other persons or circumstances are not affected by that decision.

**SECTION II:** Those alarm companies not in conformity with the provisions of this ordinance at the time of its adoption shall have no later than September 1, 2017 to conform to the requirements thereof.

**SECTION III:** It is the intention of the City Council and it is hereby ordained by the authority of the City Council that the provisions of this Ordinance shall become and be made a part of The Code of the City of Sandy Springs, Georgia, and the codifier is authorized to make the specified deletions, insertions, additions, and to insert headings, article numbers and section numbers as and where appropriate.

**SECTION IV:** All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

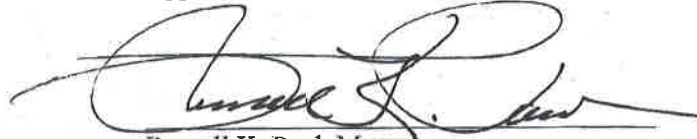
**SECTION V:** If any section, subsection, provisions, or clause of any part of this Ordinance shall be declared invalid or unconstitutional, or, if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent of the City Council that this Ordinance would have been adopted in its current form without the invalid or unconstitutional provision contained therein.

**SECTION VI:** This Ordinance shall become effective on September 1, 2017.

**ORDINANCE NO. 2017-07-15**

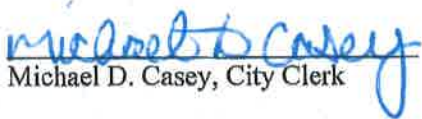
**APPROVED AND ADOPTED** this the 18<sup>th</sup> day of July, 2017.

Approved:



Russell K. Paul, Mayor

Attest:



Michael D. Casey, City Clerk

(Seal)





RESOLUTION NO. 2017-07-99

STATE OF GEORGIA  
COUNTY FULTON

A RESOLUTION ESTABLISHING FEES FOR VIOLATIONS OF CHAPTER 18, "EMERGENCY MANAGEMENT AND EMERGENCY SERVICES," ARTICLE II, "ALARM SYSTEMS," AS PROVIDED FOR BY SEC. 18-41(d), "ENFORCEMENT OF PROVISIONS," OF THE CODE OF ORDINANCES OF THE CITY OF SANDY SPRINGS

WHEREAS, pursuant to Chapter 18, Article II, Sec. 18-34, et seq. ("Ordinance") of the Code of Ordinances of the City of Sandy Springs, Georgia ("Code"), civil penalties may be assessed against an alarm company for each false alarm to summon public safety departments in Sandy Springs ("City") and for other violations of the Ordinance; and

WHEREAS, it is important to enforce the Ordinance through civil penalties in order recoup the costs to the City for emergency response to false alarms that could have been prevented; and

WHEREAS, in 2016 emergency response to false fire and police alarms cost the City approximately \$775,939; and

WHEREAS, last year there were 974 false fire alarms, costing the City \$657,450 at approximately \$675 per dispatch; and

WHEREAS, last year there were 9,292 false police alarm calls, costing the department roughly 4,424 man hours totaling approximately \$117,943; and

WHEREAS, the Ordinance provides that violations shall be enforced through the assessment of civil penalties in amounts to be established by resolution of City Council.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SANDY SPRINGS, GEORGIA, AND IT IS RESOLVED BY THE AUTHORITY OF SAID CITY COUNCIL AS FOLLOWS:**

The City of Sandy Springs Mayor and City Council hereby authorize the imposition of the following fees in connection with excessive false alarms as provided in Sec. 18-41 of the Code, failure of an alarm company to verify an intrusion alarm as provided in Sec. 18-39(j), failure of an alarm company to register as provided in Sec. 18-39(b), failure of an alarm company to notify the City prior to putting an alarm in operation as provided in Sec. 18-39(d), failure of an alarm company to provide a valid permit number to emergency dispatchers as provided in Sec. 18-39(f), failure of an alarm company to maintain or make available records as provided in Sec. 18-39(g), failure of an alarm company to timely notify the alarm administrator of changes in its alarm user database as required in Sec.18-39(n), and installation of a single action non recessed button for duress alarms as prohibited in Sec. 18-40(e).

1. Penalties against the Alarm Company for False Alarms to Summon Police or Fire Department within any twenty four (24) month period:

- |     |                              |            |
|-----|------------------------------|------------|
| (a) | First False Alarm            | \$25       |
| (b) | Second and Third False Alarm | \$250 each |
| (c) | Fourth and over False Alarm  | \$500      |



**RESOLUTION NO. 2017-07-99**

2. Penalties for violations of other provisions of the Ordinance pursuant to Sec. 18-41(d), "Enforcement of Provisions":

- (a) Failure of an alarm company to verify an intrusion alarm \$500 each occurrence
- (b) Failure of an alarm company to register and/or provide the City with a list of all current alarms in operation within the corporate limits of the city \$500 each occurrence
- (c) Failure of an alarm company to notify the City prior to putting an alarm in operation \$100 each occurrence
- (d) Failure of an alarm company to provide a valid permit number to emergency dispatchers \$100 each occurrence
- (e) Failure of an alarm company to maintain or make available records \$100 each occurrence
- (f) Failure to timely notify the alarm administrator of changes to the alarm company's list of alarm users \$100 each occurrence
- (g) Installation of a single action non-recessed button for holdup or panic alarms \$100 each occurrence

**BE IT FURTHER RESOLVED**, this Resolution shall become effective on October 1, 2017.

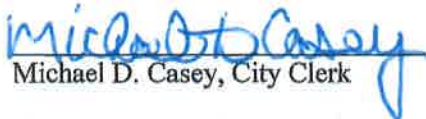
**RESOLVED** this the 18<sup>th</sup> day of July, 2017.

Approved:



Russell K. Paul, Mayor

Attest:



Michael D. Casey, City Clerk

(Seal)



JS44 (Rev. 6/2017 NDGA)

**CIVIL COVER SHEET**

The JS44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

**I. (a) PLAINTIFF(S)**

THE GEORGIA ELECTRONIC LIFE SAFETY & SYSTEM ASSOCIATION, INC., SAFECOM SECURITY SOLUTIONS, INC., and A-COM SECURITY COMPANY, LLLP

**DEFENDANT(S)**

THE CITY OF SANDY SPRINGS, GEORGIA, RUSSELL K. PAUL, JOHN MCDONOUGH, JOHN PAULSON, CHRIS BURNETT, TIBBY DEJULIO, ANDY BAUMAN, KEN DISHMAN, and GABRIEL STERLING

**(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF** Gwinnett  
(EXCEPT IN U.S. PLAINTIFF CASES)

**COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT** Fulton  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

**(c) ATTORNEYS** (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)

Hall Booth Smith, P.C.  
191 Peachtree Street, N.E., Suite 2900  
Atlanta, GA 30303-1775, Tel: 404-954-5000  
bcarver@hallboothsmith.com;  
rbritt@hallboothsmith.com; jdaniel@hallboothsmith.com

**ATTORNEYS** (IF KNOWN)

**II. BASIS OF JURISDICTION**

(PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. GOVERNMENT PLAINTIFF
- 3 FEDERAL QUESTION (U.S. GOVERNMENT NOT A PARTY)
- 2 U.S. GOVERNMENT DEFENDANT
- 4 DIVERSITY (INDICATE CITIZENSHIP OF PARTIES IN ITEM III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES**

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)  
(FOR DIVERSITY CASES ONLY)

- |   |                            |   |                            |
|---|----------------------------|---|----------------------------|
| PLF                                     | DEF                        | PLF   | DEF                        |
| <input type="checkbox"/> 1              | <input type="checkbox"/> 1 | <input type="checkbox"/> 4                                    | <input type="checkbox"/> 4 |
| CITIZEN OF THIS STATE                   |                            | INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE     |                            |
| <input type="checkbox"/> 2              | <input type="checkbox"/> 2 | <input type="checkbox"/> 5                                    | <input type="checkbox"/> 5 |
| CITIZEN OF ANOTHER STATE                |                            | INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE |                            |
| <input type="checkbox"/> 3              | <input type="checkbox"/> 3 | <input type="checkbox"/> 6                                    | <input type="checkbox"/> 6 |
| CITIZEN OR SUBJECT OF A FOREIGN COUNTRY |                            | FOREIGN NATION  |                            |

**IV. ORIGIN** (PLACE AN "X" IN ONE BOX ONLY)

- 1 ORIGINAL PROCEEDING
- 2 REMOVED FROM STATE COURT
- 3 REMANDED FROM APPELLATE COURT
- 4 REINSTATED OR REOPENED
- 5 TRANSFERRED FROM ANOTHER DISTRICT (Specify District)
- 6 MULTIDISTRICT LITIGATION - TRANSFER
- 7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT
- 8 MULTIDISTRICT LITIGATION - DIRECT FILE

**V. CAUSE OF ACTION**

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Plaintiffs assert claims for (1) due process violations under both the 14th Amendment of the U.S. Constitution and Art. I of the Ga. Constitution, (2) exceeding the municipal tax power under Article IX of the Ga. Constitution, and (3) imposing fines and taxes in violation of state law. Plaintiffs seek damages, declaratory relief, injunctive relief and/or attorney's fees, under the U.S. and Ga. Constitutions, 42 U.S.C. §§ 1983 and/or O.C.G.A. §§ 13-6-1, 35-1-9, and/or 36-33-4.

**(IF COMPLEX, CHECK REASON BELOW)**

- 1. Unusually large number of parties.
- 2. Unusually large number of claims or defenses.
- 3. Factual issues are exceptionally complex
- 4. Greater than normal volume of evidence.
- 5. Extended discovery period is needed.
- 6. Problems locating or preserving evidence
- 7. Pending parallel investigations or actions by government.
- 8. Multiple use of experts.
- 9. Need for discovery outside United States boundaries.
- 10. Existence of highly technical issues and proof.

**CONTINUED ON REVERSE**

**FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_ AMOUNT \$ \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ MAG. JUDGE (IFP) \_\_\_\_\_  
 JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_ NATURE OF SUIT \_\_\_\_\_ CAUSE OF ACTION \_\_\_\_\_  
 (Referral)

**VI. NATURE OF SUIT** (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT - "0" MONTHS DISCOVERY TRACK

- 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- 152 RECOVERY OF DEFAULTED STUDENT LOANS (Excl. Veterans)
- 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS

CONTRACT - "4" MONTHS DISCOVERY TRACK

- 110 INSURANCE
- 120 MARINE
- 130 MILLER ACT
- 140 NEGOTIABLE INSTRUMENT
- 151 MEDICARE ACT
- 160 STOCKHOLDERS' SUITS
- 190 OTHER CONTRACT
- 195 CONTRACT PRODUCT LIABILITY
- 196 FRANCHISE

REAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 210 LAND CONDEMNATION
- 220 FORECLOSURE
- 230 RENT LEASE & EJECTMENT
- 240 TORTS TO LAND
- 245 TORT PRODUCT LIABILITY
- 290 ALL OTHER REAL PROPERTY

TORTS - PERSONAL INJURY - "4" MONTHS DISCOVERY TRACK

- 310 AIRPLANE
- 315 AIRPLANE PRODUCT LIABILITY
- 320 ASSAULT, LIBEL & SLANDER
- 330 FEDERAL EMPLOYERS' LIABILITY
- 340 MARINE
- 345 MARINE PRODUCT LIABILITY
- 350 MOTOR VEHICLE
- 355 MOTOR VEHICLE PRODUCT LIABILITY
- 360 OTHER PERSONAL INJURY
- 362 PERSONAL INJURY - MEDICAL MALPRACTICE
- 365 PERSONAL INJURY - PRODUCT LIABILITY
- 367 PERSONAL INJURY - HEALTH CARE/ PHARMACEUTICAL PRODUCT LIABILITY
- 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 370 OTHER FRAUD
- 371 TRUTH IN LENDING
- 380 OTHER PERSONAL PROPERTY DAMAGE
- 385 PROPERTY DAMAGE PRODUCT LIABILITY

BANKRUPTCY - "0" MONTHS DISCOVERY TRACK

- 422 APPEAL 28 USC 158
- 423 WITHDRAWAL 28 USC 157

CIVIL RIGHTS - "4" MONTHS DISCOVERY TRACK

- 440 OTHER CIVIL RIGHTS
- 441 VOTING
- 442 EMPLOYMENT
- 443 HOUSING/ ACCOMMODATIONS
- 445 AMERICANS with DISABILITIES - Employment
- 446 AMERICANS with DISABILITIES - Other
- 448 EDUCATION

IMMIGRATION - "0" MONTHS DISCOVERY TRACK

- 462 NATURALIZATION APPLICATION
- 465 OTHER IMMIGRATION ACTIONS

PRISONER PETITIONS - "0" MONTHS DISCOVERY TRACK

- 463 HABEAS CORPUS- Alien Detainee
- 510 MOTIONS TO VACATE SENTENCE
- 530 HABEAS CORPUS
- 535 HABEAS CORPUS DEATH PENALTY
- 540 MANDAMUS & OTHER
- 550 CIVIL RIGHTS - Filed Pro se
- 555 PRISON CONDITION(S) - Filed Pro se
- 560 CIVIL DETAINEE: CONDITIONS OF CONFINEMENT

PRISONER PETITIONS - "4" MONTHS DISCOVERY TRACK

- 550 CIVIL RIGHTS - Filed by Counsel
- 555 PRISON CONDITION(S) - Filed by Counsel

FORFEITURE/PENALTY - "4" MONTHS DISCOVERY TRACK

- 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
- 690 OTHER

LABOR - "4" MONTHS DISCOVERY TRACK

- 710 FAIR LABOR STANDARDS ACT
- 720 LABOR/MGMT. RELATIONS
- 740 RAILWAY LABOR ACT
- 751 FAMILY and MEDICAL LEAVE ACT
- 790 OTHER LABOR LITIGATION
- 791 EML. RET. INC. SECURITY ACT

PROPERTY RIGHTS - "4" MONTHS DISCOVERY TRACK

- 820 COPYRIGHTS
- 840 TRADEMARK

PROPERTY RIGHTS - "8" MONTHS DISCOVERY TRACK

- 830 PATENT
- 835 PATENT-ABBREVIATED NEW DRUG APPLICATIONS (ANDA) - a/k/a Hatch-Waxman cases

SOCIAL SECURITY - "0" MONTHS DISCOVERY TRACK

- 861 HIA (1395f)
- 862 BLACK LUNG (923)
- 863 DIWC (405(g))
- 863 DIWW (405(g))
- 864 SSID TITLE XVI
- 865 RSI (405(g))

FEDERAL TAX SUITS - "4" MONTHS DISCOVERY TRACK

- 870 TAXES (U.S. Plaintiff or Defendant)
- 871 IRS - THIRD PARTY 26 USC 7609

OTHER STATUTES - "4" MONTHS DISCOVERY TRACK

- 375 FALSE CLAIMS ACT
- 376 Qui Tam 31 USC 3729(a)
- 400 STATE REAPPORTIONMENT
- 430 BANKS AND BANKING
- 450 COMMERCE/ACC RATES/ETC.
- 460 DEPORTATION
- 470 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
- 480 CONSUMER CREDIT
- 490 CABLE/SATELLITE TV
- 890 OTHER STATUTORY ACTIONS
- 891 AGRICULTURAL ACTS
- 893 ENVIRONMENTAL MATTERS
- 895 FREEDOM OF INFORMATION ACT
- 899 ADMINISTRATIVE PROCEDURES ACT / REVIEW OR APPEAL OF AGENCY DECISION
- 950 CONSTITUTIONALITY OF STATE STATUTES

OTHER STATUTES - "8" MONTHS DISCOVERY TRACK

- 410 ANTI TRUST
- 850 SECURITIES / COMMODITIES / EXCHANGE

OTHER STATUTES - "0" MONTHS DISCOVERY TRACK

- 896 ARBITRATION  
(Confirm / Vacate / Order / Modify)

**\* PLEASE NOTE DISCOVERY TRACK FOR EACH CASE TYPE. SEE LOCAL RULE 26.3**

**VII. REQUESTED IN COMPLAINT:**

- CHECK IF CLASS ACTION UNDER F.R.Civ.P. 23 DEMAND \$ \_\_\_\_\_
- JURY DEMAND  YES  NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)

**VIII. RELATED/REFILED CASE(S) IF ANY**  
JUDGE \_\_\_\_\_ DOCKET NO. \_\_\_\_\_

CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)

- 1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 2. SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 4. APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE.
- 5. REPETITIVE CASES FILED BY PRO SE LITIGANTS.
- 6. COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S)):

- 7. EITHER SAME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO. \_\_\_\_\_, WHICH WAS DISMISSED. This case  IS  IS NOT (check one box) SUBSTANTIALLY THE SAME CASE.

*Paul Britz*  
SIGNATURE OF ATTORNEY OF RECORD

3/12/18  
DATE