IN THE COURT OF APPEALS FOR THE STATE OF GEORGIA

NO. A25A1072

JULIE MAUCK,

APPELLANT,

V.

ATHENS PRIDE, INC. d/b/a ATHENS PRIDE & QUEER COLLECTIVE, DANIELLE CARMELLA BONANNO, and FIONA BELL a/k/a FELIX BELL,

APPELLEES.

BRIEF OF APPELLANT

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I. INTRODUCTION

Appellant Julie Mauck ("Mauck") appeals two orders entered by the trial court. First, Mauck appeals the trial court's order granting Appellees' motion to strike the complaint pursuant to Georgia's anti-SLAPP statute, OCGA § 9-11-11.1. That order should be reversed because Mauck's three claims for relief – violation of Georgia's Uniform Deceptive Trade Practices Act, OCGA § 10-1-370 *et seq*. ("UDTPA"), tortious interference with a business relationship, and libel per quod – did not arise from any act "which could reasonably be construed as an act in furtherance of Appellees' right of petition or free speech under the Constitution of the United States or the Constitution of the State of Georgia in connection with an issue of public interest or concern." OCGA § 9-11-11.1(b)(1). Even if Appellees can satisfy that heightened standard, the trial court's order should be reversed because Mauck "has established that there is a probability that [she] will prevail on the claim[s]." *Id.*

This case requires the Court to examine the real-world consequences of "cancel culture" tactics that, in recent years, have been used to silence individuals from expressing their views by destroying their careers and professional reputations. Specifically, the Court must decide whether the anti-SLAPP statute protects defendants who *privately* contact a plaintiff's employer (or, as here, a principal with whom the plaintiff has a principal-agent relationship), as well as *privately* contact

the plaintiff's professional membership organization, to encourage disciplinary action and severing professional ties based on false statements about the plaintiff.

Second, Mauck appeals the trial court's order denying her motion to compel discovery responses and for sanctions, including for the entry of a default judgment, in connection with Appellees' refusal to respond to *any* discovery requests. The issue for the Court is whether the mere intention to file a motion to strike under the anti-SLAPP statute is sufficient grounds for a party to willfully ignore discovery deadlines under the Civil Practice Act.

II. STATEMENT OF JURISDICTION

This Court has jurisdiction to hear this appeal pursuant to OCGA §§ 5-6-34(a) and (d) and 50-13-20. This Court also has jurisdiction to hear this appeal because this case is not within the categories of cases reserved to the Supreme Court of Georgia under Article VI, Section VI, Paragraph III of the Georgia Constitution. *See* Ga. Const. Art. 6, § 6, ¶ III; OCGA § 15-3-3.1. A Notice of Appeal was timely filed on December 16, 2024. (V2-1); OCGA § 5-6-38.

III. ENUMERATION OF ERRORS

1. The trial court erred in granting Appellees' Motion to Strike or Dismiss Plaintiff's Complaint Pursuant to § 9-11-11.1; and

2. The trial court erred in denying Mauck's Motion to Compel Discovery

Responses and for Sanctions against Defendants and Rule 6.7 Expedited Motion that Specified Discovery, Motions, and Hearings Be Conducted.

IV. STATEMENT OF THE CASE

A. Material Facts Relevant to the Appeal

1. *The Parties*

Mauck works as a licensed real estate agent in Oconee County. (V3-322). In Georgia, licensed real estate agents must be contracted to work with a broker pursuant to OCGA § 10-6A-3. *Id.* By virtue of her voluntary membership with the National Association of REALTORS® ("NAR") through the Georgia Association of REALTORS® ("GAR"), she is also a REALTOR®. *Id.* Mauck is a private citizen who has never held public office. (V3-321). She has an interest in local issues, particularly children's issues. *Id.* She unsuccessfully ran for school board in Oconee County in 2022, and, during the events in question, she was the chairperson of the Oconee County chapter of Moms for Liberty, which advocates for parental rights. *Id.* In addition to her personal Facebook profile bearing her name, Mauck is the administrator of a profile called "Julie Mauck on Schools, Faith, and Freedom." (V4-33). She is also one of the administrators of a Facebook group called "Oconee County 411 (GA) Reboot!" (V3-321).

Appellee Athens Pride, Inc. d/b/a Athens Pride & Queer Collective ("Athens Pride") is a Georgia Domestic Nonprofit Corporation. (V2-60). Its mission statement

states it is "dedicated to the advancement of equity, affirmation, diversity, and wellness of queer populations in the greater Athens area by working with historically marginalized communities through outreach, social connection, education, and events." (V3-131). At the time of the events in question, the President of Athens Pride was Appellee Danielle Carmella Bonanno ("Bonanno"). (V3-130).

Appellee Fiona Bell a/k/a Felix Bell ("Bell") is an educator in Athens. (V3-27). Bell has "deep-rooted concerns related to children's access to literature" and "staunchly oppose[s] efforts to limit or restrict students' access to materials touching on matters of LGBTQ+ identity." (V3-27).

2. *July 10, 2023 Meeting at the Oconee County Public Library*

On July 10, 2023, Mauck attended a meeting of the Oconee County Public Library Board of Trustees ("Board") that was scheduled to consider whether to move a graphic novel called *Flamer* from the children's section of the library to the adult section due to its sexually explicit content. (V2-61,V3-322). BookLooks.org states that the book contains alternate sexualities, sexual activities, sexual nudity, profanity and derogatory terms, violence including self-harm, and controversial religious commentary. *Id.*

Dozens of Oconee County residents attended the meeting to advocate for the protection of children by restricting their access to sexually explicit books without parental consent. (V2-61,V3-322). Several activists from outside Oconee County

who associated themselves with the LGBTQ+ acronym, including Bell, attended the meeting to advocate *for* children's unfettered access to sexually explicit books. (V2-61,V3-323). At the meeting, Bell held up a poster with a sexual-innuendo message on the top half of the poster that stated, in rainbow colors, "JOY is ALL ages!" *Id.* On the bottom half of the poster, there was an upside-down pink triangle with the message "NEVER AGAIN," which is a reference to the mistreatment, torture, and execution of homosexuals by Nazi Germany. (V2-62,V3-323).

(V3-336).

In Mauck's personal capacity as a concerned citizen and mother, she spoke during the meeting to advocate for the library to move sexually explicit books out of the children's section. (V2-62,V3-323). Specifically, Mauck asked the Board to

consider the potential for harm to children and the inappropriateness of permitting children to access sexually explicit books without parental consent. *Id.* She asked the Board not to cave to pressure from activists from outside Oconee County identifying themselves as being associated with the LGBTQ+ acronym, especially considering that some people consider pedophilia to be a type of sexual orientation that is included within the "plus" of the LGBTQ+ acronym:

> LGBTQ is an acronym for sexual affiliations. Lesbian, gay, bisexual, transgender and queer and the plus is there to be all inclusive down to pedophiles.
>
> ***
>
> I also ask that you address that LGBTQ+ propaganda and décor that is pervasive in the youth sections and that books that are sexually explicit be appropriately labeled and moved to the adult section, and programming needs a parent review committee now.

(V2-62,400;V3-1,323;V7). After public comments concluded, the Board agreed with Mauck and voted to move *Flamer* from the children's section to the adult section. (V2-62,V3-323).

3. *Athens Pride/Bonanno's July 10, 2023 Email to Allen*

That night, Bonanno, as President of Athens Pride & Queer Collective, sent an email to Mauck's then-broker, Bob Allen ("Allen") of Greater Athens Properties, "regarding one of [Allen's] newer employees, Julie Mauck, and her recent discriminatory behavior towards the LGBTQ+ community." (V2-62,V3-324,V4-43). The email stated, "[I]t has come to our attention that Julie Mauck has a history

of being an anti-LGBTQ+ community member, being vocal about her discriminatory views, and engaging in harassment towards our community, including queer children and families." (V2-63,V3-324,V4-43). Mauck was also labeled an "anti-LGBTQ+ extremist." *Id.* Mauck denies being an anti-LGBTQ+ community member or extremist, and she denied engaging in harassment towards any community, including children and families who associate with the LGBTQ+ acronym. (V3-324).

The email then misrepresented Mauck's public comment at the library earlier that day with respect to the LGBTQ+ acronym and misrepresented that Mauck had violated NAR's Code of Ethics:

> Most recently, a video from a meeting at the Oconee County Library circulated, capturing Julie Mauck making derogatory comments *and specifically referring to LGBTQ+ individuals as pedophiles*. This behavior not only perpetuates harmful stereotypes but also directly violates the principles of equality and respect that our community upholds. *I would like to emphasize that this conduct is in clear violation of Article 10 of the NAR Code of Ethics, which prohibits discrimination based on sexual orientation or gender identity*.

(V2-63,V3-324,V4-43)(emphasis added). Mauck denies referring to all people who associate with the LGBTQ+ acronym as pedophiles (borne by the video recording of her public comment), and nothing she said at the library violated NAR's Code of Ethics. (V3-325,V7).

The email further requested that Allen investigate Mauck and take action against her with the threat that Athens Pride/Bonanno would otherwise report his business to NAR and GAR:

> I kindly request that you *conduct a thorough investigation into this matter and take appropriate action to address Julie Mauck's behavior*. This may include providing *sensitivity training, disciplinary action, or any other necessary measures* to prevent such incidents from occurring in the future. By doing so, Greater Athens Properties can reaffirm its commitment to being a safe and inclusive environment for all employees and community members.
>
> I trust that Greater Athens Properties shares our commitment to fostering a safe and inclusive community. *We sincerely hope that this matter can be resolved amicably and swiftly within your organization, without the need for further involvement from the Georgia Association of Realtors and the National Association of Realtors*. By taking appropriate action to address this issue promptly, we believe that Greater Athens Properties can demonstrate its dedication to upholding the principles of equality and respect for all individuals. Thank you once again for your attention to this pressing matter.

(V2-64,V3-325,V4-44)(emphasis added).

On July 11, 2023 and August 5, 2023, Allen received additional emails from Athens Pride/Bonanno. (V3-326,V-44).

4. *Bell's July 13, 2023 Email to Allen*

On July 13, 2023, Bell sent an email to Allen "about one of the Realtors with [Greater Athens Properties], Julie Mauck, and the values of your brokerage." (V2-65,V3-326,V4-45). The email misrepresented Mauck's public comment at the library with respect to the LGBTQ+ acronym, misrepresented as "censorship" Mauck's request to move *Flamer* from the children's section, and asserted that Mauck had been terminated from groups, including real estate firms, for making racist and anti-Semitic statements:

> Ms Mauck was present at the Oconee County Library on the afternoon of Monday, July 10th, where she made a public display of *calling the entire LGBTQ community "pedophiles,"* along with *calling for censorship of LGBTQ-related material*. This is after being *released from previous groups for anti-Chinese comments during the COVID pandemic, as well as from previous real estate firms for anti-Jewish/Nazi comments after the removal of a statue downtown*. Do these actions align with your values as a company?

Id.(emphasis added).

Mauck denies referring to all people who associate with the LGBTQ+ acronym as pedophiles, as well as calling for censorship of LGBTQ-related material. The video recording of her public comment bears that out. (V3-326,V7). Finally, Mauck denies ever being released from groups, including real estate firms, for making anti-Chinese or anti-Semitic statements. (V3-326).

The email further threatened that Bell would discourage people from doing business with Greater Athens Properties unless Allen immediately terminated Mauck:

> On June 7th, [Greater Athens Properties'] social media accounts posted, "We love you, Athens! [hearts emojis]" along with a Pride-focused graphic. It's hard for me to understand how these two statements can occur without contradiction. *I am unable to recommend this business to anyone, and in fact directly caution anyone against it, until the position of the business is known. I hope you will join us on the right side of history by ceasing work with Ms Mauck immediately*.

(V2-65,V3-326,V4-45)(emphasis added).

5. *Bell's July 13, 2023 Ethics Complaint to GAR*

About one month later, on August 11, 2023, Mauck remained a licensed real estate agent through Allen, and she was served a copy of an ethics complaint from GAR that had been submitted by Bell on July 13, 2023 (the same day Bell had emailed Allen). (V2-67,V3-327). In his role as Mauck's broker, Allen was served a copy of the ethics complaint on August 11, 2023, and he then formally ended his association with Mauck. (V2-67,V3-327,V4-46).

Between August 12, 2023 and October 17, 2023, Mauck was unable to work and earn a livelihood as a real estate agent. (V2-67,V3-327). She also incurred attorney's fees associated with defending herself from the allegations in the ethics complaint. (V2-80,V3-327). On October 18, 2023, David Steele ("Steele") became Mauck's broker, and she was able to work again. (V2-67,V3-328).

In the ethics complaint, Bell made the same statement she made in her email to Allen: "Article 10 - Julie Mauck was present at the Oconee County Library, in Watkinsville, GA, on the afternoon of Monday, July 10th, where she made a public display of calling the entire LGBTQ community 'pedophiles,' along with calling for censorship of LGBTQ-related material." (V2-66,V3-328,353,V4-63).

On November 9, 2023, GAR convened a hearing panel to adjudicate the ethics complaint. (V2-67,V3-328). The hearing panel determined that, even though it was an "undisputed fact that the conduct at issue is not related to a real estate

transaction," Mauck had nonetheless violated Article 10 of NAR's Code of Ethics, which prohibits discrimination in real estate transactions. *Id.* On January 4, 2024, Mauck prevailed on appeal. (V2-67,V3-329). An appellate tribunal reversed and dismissed the ethics complaint "because the finding of facts does not support a possible violation of the Code of Ethics." *Id.*

6. *Athens Pride/Bonanno's January 16, 2024 Email to Steele*

On January 16, 2024, Steele was still Mauck's broker. (V2-70,V3-331,V4-77). That day, Bonanno, as President of Athens Pride and Queer Collective, sent an email to Steele stating, "it is important to bring to your attention a concerning incident involving one of your realtors, Julie Mauck." *Id.*

The email falsely suggested the GAR proceeding was ongoing, stating "There has been an ethics complaint filed against her with the Georgia Association of Realtors (GAR) for violating ethics standard 10-5 . . ." (V2-70,V3-331,V4-78). Next, it stated, "The complaint was prompted by her use of derogatory language, referring to the LGBTQ+ community as pedophiles." *Id.*

Athens Pride/Bonanno concluded the email by stating that they were going to take action, potentially against Steele:

> I wanted to bring this matter to your attention *as I begin to consider the appropriate course of action*. I believe it is crucial for realtors to conduct themselves professionally, irrespective of personal beliefs. I trust you recognize the gravity of this situation and the importance of accountability in such matters. *I appreciate your prompt attention to this matter and look forward to hearing from you soon*.

(V2-71,V3-332,V4-78)(emphasis added). On February 2, 2024, Steele received another email. (V2-72,V3-333,V4-79).

B. Relevant Proceedings Below

On October 15, 2024, the trial court conducted a motions hearing. (V5-1). At the conclusion, the court directed counsel to draft competing proposed orders and to submit them to the trial court's assistant in Word format by October 31, 2024. (V5-97).

On November 18, 2024, the trial court entered two orders. In its first order, the court denied Mauck's Motion to Compel Discovery Responses and for Sanctions Against Defendants and Mauck's Rule 6.7 Expedited Motion that Specified Discovery, Motions, and Hearings Be Conducted. (V2-56). In the motions, Mauck sought to compel discovery responses from Appellees, none of whom provided responses to *any* interrogatories and requests to produce documents. (V3-215). Instead, Appellees' attorneys served objections to *every* discovery request on the grounds that Appellees had already filed a motion to strike or dismiss under § 9-11-11.1, which was patently untrue, (V6-3), and that the trial court had not yet ruled on their motion to stay pre-answer discovery – tantamount to Appellees granting themselves a stay of discovery:

> [1] Defendant objects to this [Interrogatory or Request] as overbroad, unduly burdensome and premature in that it seeks a response to discovery served prior to the Court's ruling in Defendants' Motion to

> Strike pursuant to O.C.G.A. § 9-11-11.1, which has "the deleterious effect of forcing the targeted defendant to expend sums toward (perhaps unrelated) discovery before the plaintiff demonstrates in opposition to the anti-SLAPP motion that his or her claim has prima facie viability" contrary to the purposes of the anti-SLAPP statute. *Britts v. Superior Court*, 145 Cal. App. 4th 1112, 52 Cal. Rptr.3d 185 (2006).
>
> [2] Defendant further objects that Defendants' Rule 6.7 Expedited Motion to Stay Pre-Answer Discovery and Defendants' Pending Discovery Deadlines is pending before the Court, and the grant of such motion would protect Defendant from the present discovery. In the event that the anti-SLAPP motion is denied or the Court orders that discovery should continue, Defendant will meet and confer with Plaintiff and/or adhere to the Court's instruction regarding the timing of supplemental responses.

(V3-217).

Mauck's motion sought sanctions against Appellees, including that their pleading be stricken and for the entry of a default judgment, due to their repeated misrepresentations that a motion to strike or dismiss had already been filed and their disregard of the trial court's authority to rule on their pending motion to stay pre-answer discovery. (V3-223). The trial court provided no reasons for the denial of Mauck's motions other than "The Court has determined that this action is dismissed for the reasons stated in its accompanying order of November 18th, 2024." (V2-56).

In the trial court's second order, *i.e.,* the accompanying order of November 18th, 2024, the court granted Appellees' Motion to Strike or Dismiss Plaintiff's Complaint. (V2-4). The trial court held that (1) Mauck's claims had arisen from acts of Appellees which could reasonably be construed as acts in furtherance of conduct

in connection with an issue of public interest or concern, and (2) Mauck had not established a probability that she would prevail. *Id.* In a 52-page order that was taken verbatim from Appellees' attorneys' proposed order (except for a proposed paragraph imposing attorneys' fees), the trial court deviated from Georgia's precedents to hold that Appellees' emails to Mauck's brokers and submission of an ethics complaint to GAR were protected conduct. (V2-21). The trial court additionally adopted verbatim Appellees' recitation as to why Mauck had not established a probability that she would prevail. (V2-30).

C. Preservation of Enumeration of Errors for Review

Mauck appealed the trial court's November 18, 2024 Order granting Appellees' Motion to Strike or Dismiss Plaintiff's Complaint, and she appealed the trial court's other November 18, 2024 Order insofar as it denied her Motion to Compel Discovery Responses and for Sanctions Against Defendants and her Rule 6.7 Expedited Motion That Specified Discovery, Motion, and Hearings Be Conducted. (V2-1).

V. ARGUMENT

A. The Trial Court Erred in Granting Appellees' Motion to Strike.

In its review of an anti-SLAPP motion to strike, the trial court must engage in a two-step analysis. First, the trial court determines whether the moving party "has made a threshold showing that the challenged claim is one arising from protected

activity." *Oskouei v. Matthews*, No. S24G0335, __ Ga. __, __(2)(a) (Feb. 18, 2025). The movant meets this burden by "demonstrating that the act underlying the challenged claim could *reasonably* be construed as fitting within one of the categories spelled out" in § 9-11-11.1(c)(1)-(4). *Wilkes & McHugh, P.A. v. LTC Consulting, L.P.*, 306 Ga. 252, 261 (2019)(emphasis added). Those categories include any written or oral statement made (1) "before a legislative, executive, or judicial proceeding, or any other official proceeding authorized by law"; (2) "in connection with an issue under consideration or review by a legislative, executive or judicial body, or any other official proceeding authorized by law"; (3) "in a place open to the public or a public forum in connection with an issue of public interest or concern"; or (4) "[a]ny other conduct in furtherance of the exercise of the constitutional right of petition or free speech in connection with a public issue or an issue of public concern." OCGA § 9-11-11.1(c)(1)-(4).

If the movant makes a threshold showing of protected activity, then the trial court must proceed to the second step of the analysis to determine whether the plaintiff "has established that there is a *probability* that the [plaintiff] will prevail on the claim. *Oskouei*, __ Ga. at __(2)(a)(emphasis added). To meet this burden, "the plaintiff must demonstrate that the complaint is both legally sufficient and supported by a sufficient prima facie showing of facts to sustain a favorable judgment if the evidence submitted by the plaintiff is credited." *Id.* at n.4. Only a claim that satisfies

both prongs of the anti-SLAPP statute is subject to being stricken. *Joshua David Mellberg, LLC v. Impact Partnership*, 355 Ga. App. 691, 693 (2020).

Mauck's claims are premised on (1) Athens Pride/Bonanno's violation of UDTPA in connection with emails to Allen and Steele; (2) Bell's tortious interference with a business relationship regarding an email to Allen and ethics complaint submitted to GAR; and (3) Bell's libel per quod regarding the ethics complaint.

1. *Standard of Review*

This Court reviews "a trial court's ruling on an anti-SLAPP motion to strike de novo, viewing the pleadings and affidavits submitted by the parties in the light most favorable to the plaintiff (as the non-moving party)." *Giraldi v. Bowen*, No. A24A1464, __ Ga. App. __, __ (Feb. 13, 2025).

2. *Athens Pride/Bonanno's Emails to Allen and Steele*

Athens Pride/Bonanno sent repeated emails to Mauck's brokers: Allen – July 10, 2023, July 11, 2023, and August 5, 2023; Steele – January 16, 2024 and February 2, 2024. Mauck alleges that Athens Pride/Bonanno engaged in deceptive trade practices: In the course of their business, they disparaged Mauck's goods, services, or business "by false or misleading misrepresentation of fact" and/or they engaged in other conduct "which similarly creates a likelihood of confusion or misunderstanding." OCGA § 10-1-372(a)(8) and (12).

In the July 10, 2023 email, Athens Pride/Bonanno made false and deceptive statements about Mauck to her then-broker and requested that he investigate and take disciplinary action or else they would involve NAR and GAR. Specifically, Athens Pride/Bonanno expressed "deep concern regarding . . . Mauck, and her recent discriminatory behavior towards the LGBTQ+ community." They stated Mauck had a history of being an "anti-LGBTQ+ community member" and "extremist," was vocal about her "discriminatory views," and harassed "our [LGBTQ+] community, including queer children and families."

As to the meeting at the library on July 10, 2023, Athens Pride/Bonanno stated there was a video "capturing Mrs. Mauck making derogatory comments and specifically referring to LGBTQ+ individuals as pedophiles." They asserted that such behavior "not only perpetuates harmful stereotypes but also directly violates principles of equality and respect that our community upholds" and, even more, is "in clear violation of Article 10 of the NAR Code of Ethics, which prohibits discrimination based on sexual or gender identity."

Athens Pride/Bonanno requested that Allen "conduct a thorough investigation into this matter and take appropriate action to address Julie Mauck's behavior," including "sensitivity training, disciplinary action, or any other necessary measures to prevent such incidents from occurring in the future." They told Allen that, by

taking these actions, his company can "reaffirm its commitment to being a safe and inclusive environment for all employees and community members."

Athens Pride/Bonanno concluded the email by threatening to take action against Allen with NAR and GAR, stating "We sincerely hope that this matter can be resolved swiftly within your organization, without the need for further involvement from the Georgia Association of Realtors and the National Association of Realtors." They further stated that "[b]y taking appropriate action to address this issue promptly, we believe that Greater Athens Properties can demonstrate its dedication to upholding the principles of equality and respect for all individuals."

In the January 16, 2024 email, Athens Pride/Bonanno made false and deceptive statements about Mauck to her new broker and, as they did with Allen, requested that Steele hold her accountable. Specifically, Athens Pride/Bonanno expressed that there was a "concerning incident" involving Mauck during which she used "derogatory language, referring to the LGBTQ+ community as pedophiles." The email revealed that it referred to Mauck's public comment at the library because it stated that Mauck's conduct is the subject of an ethics complaint submitted to GAR, falsely suggesting that it was still pending. Athens Pride/Bonanno also stated that Mauck referred to Bonanno as a "transvestite" in a social media post, which Athens Pride/Bonanno claimed was a "known slur with a derogatory meaning,

especially when applied to a woman of trans experience," and that Mauck made unspecified "further attacks on [Athens Pride] and the LGBTQ+ community."

The email concluded by stating that Athens Pride/Bonanno were "consider[ing] the appropriate course of action," and they hoped Steele "recognized the gravity of this situation and the importance of accountability in such matters." They requested that Steele take action against Mauck and then respond, stating "I appreciate your prompt attention to this matter and look forward to hearing from you soon."

The trial court did not properly apply § 9-11-11.1 in determining that Athens Pride/Bonanno's emails could *reasonably* be construed as "any other conduct in furtherance of the exercise of the constitutional right of petition or free speech in connection with a public issue or issue of public concern." OCGA § 9-11-11.1(c)(4). When determining whether an issue is an "issue of public concern," the courts of California[1] have considered "whether the subject of the speech or activity was a person or entity in the public eye or could affect large numbers of people beyond the direct participants; and whether the activity occurred in the context of an ongoing controversy, dispute or discussion, or affected a community in a manner similar to

[1] "In 2016, the General Assembly revised OCGA § 9-11-11.1 to substantially track California's anti-SLAPP procedure. Thus, in interpreting our new OCGA § 9-11-11.1, we may look to California case law for guidance, especially decisions that employ the same kind of statutory analysis that we generally use." *Giraldi*, __ Ga. App. at __(1)(b) n.1.

that of a governmental entity." *Lane Dermatology v. Smith*, 360 Ga. App. 370, 378-79 (2) (2021)(quoting *FilmOn.com Inc. v. DoubleVerify Inc.*, 7 Cal.5th 133, 145-146 (II)(A) (2019)).

And when determining whether the challenged speech was made "in connection" with such an issue of public concern, California courts generally follow a two-step analysis: "First, [they] ask what public issue or issue of public interest the speech in question implicates—a question [they] answer by looking to the content of the speech. Second, [they] ask what functional relationship exists between the speech and the public conversation about some matter of public interest." *Id.* at 379(quoting *FilmOn.com Inc.*, 7 Cal.5th at 149-50 (III)(A)). Importantly, "it is not enough that the statement refer to a subject of widespread public interest; the statement must in some manner itself contribute to the public debate." *Id.*(quoting *FilmOn.com Inc.*, 7 Cal.5th at 150 (III)(A)).

Using these principles, it is not *reasonable* to construe Athens Pride/Bonanno's emails as containing statements made "in connection with an issue of public interest of concern" under § 9-11-11.1(c)(4). To begin, while Mauck ran unsuccessfully for local school board in 2022 and was, at the time of the events in question, the president of the Oconee County chapter of Moms for Liberty, which is an *informal*, grassroots group that advocates for parents' rights in the schools and other areas, those things do not make her a person "in the public eye" for purposes

of application of the anti-SLAPP statute. They only make her an involved and loving mother. Nor does the fact that she has Facebook profiles and is the administrator of a Facebook group make her a person "in the public eye." Membership in advocacy organizations and community groups, and activity on social media platforms like Facebook, are now common, everyday occurrences. Even if Mauck was known in Oconee County as an effective activist for parents' rights by virtue of news articles about parents' rights issues or otherwise, she was not a person "in the public eye." *See Lane Dermatology*, 360 Ga. App. at 379 (2)("Although Smith is apparently a well-regarded physician's assistant among her patients, there is no evidence that she is an individual who is particularly within the public eye or the subject of an ongoing media campaign.").

In addition, the emails did not contain statements about Mauck that "could affect large numbers of people beyond the direct participants." Instead, the statements about Mauck affected only Mauck. And the statements threatening to involve NAR and GAR affected only Mauck, Allen, and Steele. Thus, the statements did not affect large numbers of people beyond the direct participants. *Id.*("Crucially, Lane Dermatology has not presented any evidence that SCS's nameplate, or the issue of Smith's employment generally, affects more than the parties and a small group of the parties' customers."). This significantly differs from *Rosser v. Clyatt*, 348 Ga. App. 40, 44 (2)(b) (2018) (physical precedent only) (cited in *Lane Dermatology*, 360

Ga. App. at 379 (2)) where "statements concerning elections for the board of directors of Grady EMC were made in connection with an issue of public concern because the elections had become a topic of considerable public debate due to Grady's status as a major employer in the community and because the elections would affect thousands of members and employees."

Moreover, it cannot be said that Athens Pride/Bonanno's statements "occurred in the context of an ongoing controversy, dispute or discussion, or affected a community in a manner similar to that of a governmental entity." The focus of the statements was unmistakably to terminate, or at least negatively affect, Mauck's livelihood as a real estate agent, and, if Allen and Steele did not acquiesce to the demands, then to terminate or negatively affect their livelihoods, as well. Those are private interests or concerns. *See Giraldi*, __ Ga. App. at __(1)(b)("[W]hen evaluating the criteria set forth under OCGA § 9-11-11.1(c)(4), '[t]he focus of the speaker's conduct should be the public interest, [but] it may encompass activity between private people.'")(quoting *Hecimovich v. Encinal School Parent Teacher Org.*, 203 Cal.App.4th 450, 465 (2012)). This significantly differs from the issue of public interest or concern recognized in *Giraldi* where "the focus of Giraldi's Facebook message was to alert another client of the tattoo studio to an issue of public interest within the meaning of the anti-SLAPP law—that is, the potential for

customers of the tattoo studio to receive a staph infection and concern for the safety of its other customers." *Id*.

Here, the statements were part of a private, not public, interest or concern that Athens Pride/Bonanno acted upon in furtherance of Athens Pride's private work of "reaching out to local businesses when [Athens Pride] becomes aware of acts by those businesses or their representatives (including but not limited to employees, business associates, or affiliates) which [Athens Pride] believes are harmful, discriminatory, prejudicial, or disparaging to the LGBTQ+ community." (V3-131). There is no record of an ongoing controversy, dispute, or discussion in the community regarding Mauck or her livelihood as a real estate agent. Thus, Athens Pride/Bonanno's statements were not made as a contribution to any public debate. *See Lane Dermatology*, 360 Ga. App. at 380 (2)("[T]he sign was made simply to provide information about Smith's employment status; it was not created to 'encourage participation' in any particular debate about her status.").

In *Britt v. Dwyer*, Nos. A24A1726, A24A1727, __ Ga. App. __ (Mar. 14, 2025), this Court vacated a trial court's order granting an anti-SLAPP motion under similar circumstances. In *Britt*, as here, the statements in question were *privately* communicated in order to cause disciplinary action to be taken against the plaintiff, who was a children's cheerleading and dance coach. Noting that the defendants' "defamatory conduct was directed at and communicated solely with *private*

individuals and entities," *id.* at __(4)(emphasis in original), the Court held that the dismissal was unwarranted under § 9-11-11.1. Since Athens Pride/Bonanno's statements did not even implicate an issue of public concern – like children's safety in *Britt* or public health in *Giraldi* – the trial court's order should be reversed, not just vacated.

The trial court erred in recognizing "a broader public issue related to the perpetuation of stereotypes that stigmatize those of LGBTQ+ identities as being inclusive of or else interchangeable with pedophiles." (V2-26). The record lacks any evidence of the existence of such stereotypes, and, since Mauck did not utter such things, Athens Pride/Bonanno's statements are not "in connection" with any broad public issue related such stereotypes. *See Lane Dermatology*, 360 Ga. App. at 380 (2)("Smith argues that the nameplate and the information therein was connected to a broader public issue of ensuring that customers receive correct information about their medical providers, which, she argues, is a substantial issue of public concern. Smith has not shown, however, how the specific issue of having her name on SCS's nameplate was made 'in connection with' a broader public debate about medical information beyond the customers of Lane Dermatology and SCS.").

And even if this Court determines that Athens Pride/Bonanno's statements constituted protected activity, the record demonstrates that Mauck "has established that there is a *probability* that [she] will prevail on the claim[s]." OCGA § 9-11-

11.1(b)(1)(emphasis added). The UDTPA provides that "[a] person likely to be damaged by a deceptive trade practice of another may be granted an injunction against it under the principles of equity and on terms that the court considers reasonable." OCGA § 10-1-373(a). Moreover, "[p]roof of monetary damage, loss of profits, *or intent to deceive* is not required." *Id.*(emphasis added). Where the defendants have "willfully engaged in the trade practice knowing it to be deceptive," the court, in its discretion, may award attorney's fees to the plaintiff in addition to an award of costs. OCGA § 10-1-373(b). "[T]o state a claim and to establish standing under the UDTPA, the plaintiffs must allege that they are likely to be damaged in the future by an unfair trade practice." *Collins v. Athens Orthopedic Clinic*, 356 Ga. App. 776, 779-80 (2020).

The July 10, 2023 and January 16, 2024 emails, with their false and misleading statements, demonstrate a probability, at the very least, that Mauck will be able to show that, in the course of their business, Athens Pride/Bonanno disparaged Mauck's goods, services, or business "by false or misleading misrepresentation of fact" and/or they engaged in other conduct "which similarly creates a likelihood of confusion or misunderstanding." OCGA § 10-1-372(a)(8) and (12). First, the statements cast aspersions about Mauck's ability to conduct herself as a real estate agent. And second, they created a likelihood of confusion or misunderstanding about Mauck, including with respect to the false assertions of

extremist and harassing behavior toward families and children who associate with the LGBTQ+ acronym, the false and misleading assertions that Mauck characterized all individuals who associate with that acronym as pedophiles, and the false assertions that Mauck violated NAR's Code of Ethics.

Athens Pride/Bonanno's statements were not privileged statements made "in good faith in the performance of a public duty," "in good faith in the performance of a legal or moral private duty," or "with a good faith intent on the part of the speaker to protect his or her interest in a matter in which it is concerned." OCGA § 51-5-7(1)-(3); *see Mathis v. Cannon*, 276 Ga. 16, 20-21 (2) (2002)(a defamation cause of action requires an unprivileged communication to a third party). Their statements are a far cry from the privileged statements at issue in *Giraldi*, for example, where statements made to a county health department and to an individual were held to be privileged because the statements alerted them to "the potential for customers of the tattoo studio to receive a staph infection and concern for the safety of its [] customers." *Giraldi*, __ Ga. App. at __(1)(b).

While Bonanno stated that the statements were based upon Bonanno's "personal interpretation of [Mauck's] conduct – including but not limited to that such conduct was anti-LGBTQ+, discriminatory, and harassing in nature" and that Bonanno "believed, and still believe[s], in the accuracy of my statements and opinions," (V3-139), such self-serving averments do not overcome undisputed facts

in the record. Mauck, who need only establish that there is a *probability* she will prevail, has made a "sufficient prima facie showing of facts," -- *i.e.,* a denial of (and the absence of any evidence of) harassment of families and children that associate with the LGBTQ+ acronym, the existence of the actual video of what she said at the library, the inapplicability of Article 10 of NAR's Code of Ethics, and GAR's dismissal of the ethics proceeding prior to the statements made to Steele -- "to sustain a favorable judgment if the evidence submitted by [her] is credited." *Oskouei,* __ Ga. at __(2)(a) n.4. Even more, the statements are not privileged because they were "used merely as a cloak for venting private malice and not bona fide in promotion of the object for which the privilege is granted." OCGA § 51-5-9. This is so because Athens Pride's and Bonanno's statements were made with ill will toward Mauck or with an intent to injure her by terminating, or at least negatively affecting, Mauck's livelihood as a real estate agent. *Oskouei*, __ Ga. at __(4).

Importantly, in examining whether Mauck has established a sufficient prima facie showing of facts to satisfy the second step of the anti-SLAPP statute, it is not within the province of this Court to weigh the evidence to determine whether it is more probable than not that Mauck will prevail on her claims. *Oskouei*, __ Ga. at __(2)(a) n.4 ("For purposes of this inquiry, the trial court considers the pleadings and evidentiary submissions of both [parties]; though the court does not weigh the credibility or comparative probative strength of competing evidence, it should grant

the motion if, as a matter of law, the defendant's evidence supporting the motion defeats the plaintiff's attempt to establish evidentiary support for the claim. In making this assessment[,] it is the court's responsibility to accept as true the evidence favorable to the plaintiff. In this regard, the merits of the plaintiff's claim are evaluated using a summary-judgment-like procedure at an early stage of the litigation.").

Moreover, Mauck established that she is likely to be damaged in the future by further deceptive trade practices of Athens Pride/Bonanno. The fact that they sent *repeated* emails and sent them to *both* her then-current broker and her new broker – and did so over the course of *seven months* between July 2023 and February 2024 – demonstrates that Athens Pride/Bonanno will continue their wrongful conduct and that Mauck's ability to earn a livelihood will continue to be harmed.

3. *Bell's Email to Allen and Ethics Complaint to GAR*

On July 13, 2023, Bell emailed Allen and submitted an ethics complaint to GAR. Mauck alleges that the statements within the email and ethics complaint are evidence of tortious interference with a business relationship with Allen and that the ethics complaint, alone, the receipt of which by Allen on August 11, 2023 led him to carry out his previously stated intention to terminate his affiliation with Mauck, is evidence of libel per quod.

In the email to Allen, Bell made false and deceptive statements about Mauck and threatened that Bell would caution people from doing business with Greater Athens Properties unless Allen immediately terminated Mauck. Specifically, Bell accused Mauck of "calling the entire LGBTQ community 'pedophiles,' along with calling for censorship of LGBTQ-related material." Even more, Bell stated that Mauck had been "released from previous groups for anti-Chinese comments during the COVID pandemic, as well as from previous real estate firms for anti-Jewish/Nazi comments after the removal of a statue downtown." Bell concluded the email with a threat that Bell would work to discourage people from working with Greater Athens Properties unless Allen immediately terminated Mauck: "I am unable to recommend this business to anyone, and in fact directly caution anyone against it, until the position of the business is known. I hope you will join us on the right side of history by ceasing work with Ms Mauck immediately."

In the ethics complaint, Bell repeated verbatim from the email what Mauck said at the library. In response to the prompt "An alleged violation of Article(s) of the Code of Ethics as supported by Standard of Practice(s) (if any)," Bell responded in relevant part: "Julie Mauck . . . made a public display of calling the entire LGBTQ community 'pedophiles,' along with calling for censorship of LGBTQ-related material."

The trial court did not properly apply § 9-11-11.1 in determining that Bell's email and ethics complaint could *reasonably* be construed as "any other conduct in furtherance of the exercise of the constitutional right of petition or free speech in connection with a public issue or issue of public concern." OCGA § 9-11-11.1(c)(4). To begin, for the reasons described above in connection with Athens Pride/Bonanno's emails, Mauck was not a person "in the public eye," and the statements about Mauck were not ones that "could affect large numbers of people beyond the direct participants." Moreover, as stated above, it also cannot be said that Bell's statements "occurred in the context of an ongoing controversy, dispute or discussion, or affected a community in a manner similar to that of a governmental entity." The focus of the statements was unmistakably to terminate, or at least negatively affect, Mauck's livelihood as a real estate agent. With respect to Bell's email, if Allen did not acquiesce to Bell's demands, then an additional focus was to terminate or negatively affect his livelihood.

The statements were thus part of a private, not public, interest or concern that Bell acted upon in furtherance of Bell's personal self-described objective, which has "deep-rooted concerns related to children's access to literature," to "staunchly oppose efforts to limit or restrict students' access to materials touching on matters of LGBTQ+ identity." Indeed, Bell "routinely comment[s] on or critique[s] social choices (or the lack thereof) by local entities – including businesses, schools, and

other organizations – that [Bell] consider[s] to be detrimental to the local community and its LGBTQ+ members." (V3-28). There was no ongoing controversy, dispute, or discussion in the community regarding Mauck or her livelihood as a real estate agent. Thus, Bell's statements were not made as a contribution to any public debate, and they were "directed at and communicated solely with *private* individuals and entities." *Britt*, __ Ga. App. at __(4)(emphasis in original). Furthermore, since GAR is a professional membership organization and not the state licensing board for real estate agents, any discipline administered by GAR would not have even precluded Mauck from continuing to work as a licensed real estate agent.

The trial court also did not properly apply § 9-11-11.1 in determining that the ethics complaint submission could *reasonably* be construed under paragraphs (c)(1) and (2) as "[a]ny written or oral statement or writing or petition made before a legislative, executive, or judicial proceeding, or any other official proceeding authorized by law" or "[a]ny written or oral statement or writing or petition made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law." The trial court mischaracterized GAR's ethics proceeding as an "arbitration" and then concluded that an arbitration is an "official proceeding." (V2-23).

GAR is a private company that operates as a professional membership organization for real estate agents in Georgia. Thus, it is not a governmental body,

and its ethics proceedings are not governmental or official proceedings "authorized by law." *See Giraldi*, __ Ga. App. at __(1)(a)("Although these descriptions [in paragraphs (c)(1) and (2)] are broad, they do require that the statement in question be "made in relation to some official proceeding."). The trial court's reliance upon *RCO Legal, P.S., Inc. v. Johnson,* 347 Ga. App. 661 (2018), was misplaced, and GAR's ethics proceedings bear no resemblance to the county health department report recently upheld as an "official proceeding authorized by law" in *Giraldi*. *See Giraldi*, __ Ga. App. at __(1)(a) ("Reports to the Health Department constitute an 'official proceeding authorized by law' as contemplated by OCGA § 9-11-11.1(c)(1)-(2).").

Even if this Court determines that Bell's statements constituted protected activity, the record demonstrates that Mauck "has established that there is a *probability* that [she] will prevail on the claim[s]." OCGA § 9-11-11.1(b)(1)(emphasis added). To recover for tortious interference with a business relationship, a plaintiff must prove: (1) the defendant acted improperly and without privilege; (2) the defendant acted purposely and with malice with the intent to injure; (3) the defendant induced a third party or parties not to enter into or continue a business relationship with the plaintiff; and (4) the defendant caused the plaintiff financial injury. *Healthy-IT, LLC v. Agrawal*, 343 Ga. App. 660, 670 (2017). A defamation claim consists of: "'(1) a false and defamatory statement concerning the

plaintiff; (2) an unprivileged communication to a third party; (3) fault by the defendant amounting at least to negligence; and (4) special harm or the actionability of the statement irrespective of special harm.'" *Smith v. Stewart*, 291 Ga. App. 86, 91-92 (2008)(quoting *Mathis,* 276 Ga. at 20-21).

On July 13, 2023, Bell acted improperly and without privilege by sending an email to Allen and submitting an ethics complaint to GAR in which Bell falsely and maliciously stated that Mauck "made a public display of calling the entire LGBTQ community 'pedophiles,' along with calling for censorship of LGBTQ-related material." In the email to Allen, Bell also falsely and maliciously stated that Mauck was "released from previous groups for anti-Chinese comments during the COVID pandemic, as well as from previous real estate firms for anti- Jewish/Nazi comments after the removal of a statue downtown." Bell was neither a party nor a third-party beneficiary to any contract between Allen and Mauck. (V2-390). Thus, Bell was a stranger to the business relationship between Allen and Mauck. *Id.*

Bell's statements were not privileged statements made "in good faith in the performance of a public duty," "in good faith in the performance of a legal or moral private duty," or "with a good faith intent on the part of the speaker to protect his or her interest in a matter in which it is concerned." OCGA § 51-5-7(1)-(3). Bell stated that the statements to Allen were based upon Bell's "personal interpretation of [Mauck's] comments at the hearing [sic] and of [Mauck's] prior conduct as relayed

to me by others" and that Bell "believed, and still believe[s], in the accuracy of all statements and opinions expressed" in Bell's email to Allen and the ethics complaint, including that unnamed "others" informed Bell that Mauck had made anti-Chinese and anti-Jewish/Nazi comments. (V3-33). However, such self-serving averments do not overcome undisputed facts in the record. Mauck, who need only establish that there is a *probability* she will prevail, has made a "sufficient prima facie showing of facts," -- *i.e.,* a denial of (and the absence of any evidence of) having made anti-Chinese or anti-Semitic comments and the existence of the actual video of what she said at the library -- "to sustain a favorable judgment if the evidence submitted by [her] is credited." *Oskouei,* __ Ga. at __(2)(a) n.4. Even more, the statements are not privileged because they were "used merely as a cloak for venting private malice and not bona fide in promotion of the object for which the privilege is granted." OCGA § 51-5-9. This is so because Bell's statements were made with ill will toward Mauck or with an intent to injure her by terminating, or at least negatively affecting, Mauck's livelihood as a real estate agent. *Oskouei,* __ Ga. at __(4).

As a direct result of the email sent to Allen and the submission of the ethics complaint to GAR, Bell induced Allen into discontinuing a business relationship with Mauck. Indeed, on August 11, 2023, after being served with the ethics complaint, Allen removed Mauck's association with his broker license, leaving Mauck without a broker and therefore unable to work as a real estate agent. The

conduct and actions of Bell directly and proximately caused Mauck to lose money from her livelihood and to suffer damages in hiring an attorney to represent her in GAR's ethics proceedings.

B. The Trial Court Erred in Failing to Strike Appellees' Pleading and Enter a Default Judgment.

1. *Standard of Review*

"[R]ulings on motions to strike and for entry of default judgment are reviewed by this Court using an abuse of discretion standard." *Benton v. Tillery*, No. A24A1408, __ Ga. App. __, __ (Feb. 3, 2025).

2. *The Mere Intention to File a Motion to Strike Under the Anti-SLAPP Statute is Insufficient Grounds to Make Repeated Misrepresentations and Willfully Ignore Discovery Deadlines.*

Appellees purposely did not file their motion to strike on or before the deadline for discovery responses as part of a strategic decision to take the maximum amount of time to respond to Mauck's complaint and also not provide responses to discovery requests. But on the date of the discovery deadline, discovery was not yet stayed by operation of law under § 9-11-11.1(d), and Appellees were thus required by §§ 9-11-26, 9-11-33, and 9-11-34 to respond to the discovery requests. Their willful failure to respond to *any* of the requests, opting instead to object to *all* the requests, should have subjected them to sanctions under § 9-11-37(b)(2)(A-C) and (d), including a default judgment. Even more, the objections repeatedly misrepresented that a motion to strike had already been filed and that the parties

were awaiting the trial court's ruling: "Defendant objects to this [Interrogatory or Request] as overbroad, unduly burdensome and premature in that it seeks a response to discovery served *prior to the Court's ruling in Defendants' Motion to Strike pursuant to O.C.G.A. § 9-11-11.1*." (V2-161 through V2-367)(emphasis added). *See Cooper v. Pollard*, 370 Ga. App. 550, 554 (3)(a) (2023)(council members willfully defied the court's orders compelling discovery); *Potts v. Clowdis*, 360 Ga. App. 581, 584 (2021)(defendant willfully misrepresented that certain documents were under seal).

Furthermore, the pendency of Appellees' motion to stay pre-answer discovery did not justify their objections to respond on that ground. *See Edsal Mfg. Co., Inc. v. JS Prod., Inc.*, No. 2:23-cv-00972-RFB-NJK, 2023 WL 7702695, at *3 (D. Nev. Nov. 15, 2023)("[F]iling a motion to stay the case or motion to stay discovery does not, in and of itself, relieve Defendant from engaging in discovery."). Appellees had not filed a motion for a protective order under § 9-11-26(c), and the trial court had not entered one.

This the 20th day of March, 2025.

This submission does not exceed the word count limit imposed by Rule 24.

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IN THE COURT OF APPEALS
STATE OF GEORGIA

JULIE MAUCK, Appellant, v. ATHENS PRIDE, INC. d/b/a ATHENS PRIDE & QUEER COLLECTIVE, DANIELLE CARMELLA BONANNO, and FIONA BELL a/k/a FELIX BELL, Appellees.	)	NO. A25A1072

CERTIFICATE OF SERVICE

This is to certify that I have this day filed and served the above and foregoing BRIEF OF APPELLANT to the Georgia Court of Appeals pursuant to the EFAST system and by sending a copy of same via electronic mail to all parties to the email addresses listed below, pursuant to the agreement of the parties to accept service via email:

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