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

ALYSON RUBIN and JENNIFER HICKEY, Plaintiffs, vs. CAPTAIN LEWIS YOUNG, individually and in his official capacity as Chief of the Capitol Police Division of the Georgia Department of Public Safety; OFFICER WICKER and JOHN DOE, individually and in their official capacity as Capitol Police Officers, Defendant.	Civil Action No.: _____ **JURY TRIAL DEMANDED**

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER / PRELIMINARY INJUNCTION

Plaintiffs urgently seek emergency relief, before 3:00pm on March 14, that would allow them to exercise their First Amendment rights in the public areas of Capitol Square property, which includes the State Capitol Building. Specifically, Plaintiffs wish to wear a pink button that expresses their opposition to HB 481, which bans abortions after 6 weeks of pregnancy. The pink button contains the

following language: "Don't Fuck With Us[,] Don't Fuck Without Us,"[1] followed by a logo of a prominent reproductive healthcare provider which, among other things, provides birth control and condoms. The first part of the message is intended to convey anger and urge lawmakers not to harm women by banning abortion. The second part of the message is a health advisory that, in a humorous but serious manner, reminds people not to have sexual intercourse without birth control or protection. Both Plaintiffs were forced by Capitol Police officers (police officers employed by the Capitol Police Division of the Georgia Department of Public Safety) to remove these buttons on March 7, 2019 while they were in the public areas of the State Capitol Building, pursuant to an unwritten policy against the display of "curse words" in the State Capitol Building, enacted on the basis that children might be present.

Plaintiff Hickey urgently seeks relief by 3:00 pm on March 14, when the next committee hearing on this bill will be scheduled, and she wants to wear this button while doing so. She also seeks relief through April 2, which is the last day

[1] The four-letter expletive is spelled out here to clarify that the actual word was on the button rather than an abbreviated version (i.e., "F**k"), and in line with Supreme Court cases that have spelled out the word rather than using substitute characters. Unless a cited case uses substitution letters, Plaintiffs will use the full word in this brief for the sake of clarity and consistency but mean no disrespect to this Court.

of the legislative session, and in future legislative sessions. Plaintiff Rubin wants to wear this button to express her opposition to the bill in the State Capitol Building on April 2.

Resolution of this case is straightforward. Nearly 50 years ago, the Supreme Court held in *Cohen v. California* that Jack Cohen had the First Amendment right to wear a jacket bearing the words, "Fuck the Draft," in a public courthouse, no matter how offensive the language was to bystanders, including children. 403 U.S. 15 (1971). *Cohen* essentially resolves this case.

FACTUAL BACKGROUND

The facts of this case are set forth in the three short declarations attached to this briefing, signed by both Plaintiffs and a witness, Aklima Khondoker. On March 7, 2019, Plaintiffs Alyson Rubin and Jennifer Hickey were in the public areas of the State Capitol Building to urge lawmakers to reject HB 481, a bill that bans abortions after 6 weeks of pregnancy. (Rubin Decl. ¶¶ 2-4; Hickey Decl. ¶¶ 2-3.) Plaintiffs and other women wore pink buttons that stated, "Don't Fuck With Us[,] Don't Fuck Without Us," followed by a logo of a prominent reproductive healthcare provider which provides contraception and condoms. (Rubin Decl. ¶ 5; Hickey Decl. ¶ 4.) The first part of the message is intended to convey anger and

urge lawmakers not to harm women by banning abortion. The second part of the message is a healthcare advisory intended to be a humorous twist that also reminds people not to have sexual intercourse without birth control or condoms. (*Id.*)

Plaintiffs and other activists were at the "rope lines," which is where legislators file into the legislative gallery, in the hopes of communicating their views directly to the representatives. However, many legislators often walk briskly through the rope lines without interacting with anyone. (Khondoker Decl. ¶ 2.)

There appeared to be an unwritten policy in place that prohibited people from wearing clothing or buttons with "curse words" on them due to the possibility of children being around. The witness, Ms. Khondoker, saw Defendant Wicker tell a woman to remove her button because she could not wear "curse words" due to "children" being around. (Khondoker Decl. ¶ 3.) Ms. Khondoker also spoke with another officer, Officer Killingsworth, who explained that people could not wear anything with "curse words" on them "because children are here." (*Id.* ¶ 4.) Plaintiff Rubin was told by Defendant Officer Wicker to remove the button. (Rubin Decl. ¶ 6.) Plaintiff Hickey was ordered by another Capitol Police officer to remove her button (she does not remember his name, so he is named as Defendant John Doe). (Hickey Decl. ¶ 3.)

Plaintiffs removed those buttons in response to the orders. (Rubin Decl. ¶ 7; Hickey Decl. ¶ 5.) That night, HB 481 passed the House and is now before the Senate. (Rubin Decl. ¶ 10.) HB 481 is scheduled for a Senate committee hearing at 3:00pm on March 14, and Plaintiff Hickey would like to attend the hearing wearing the button at issue. (Hickey Decl. ¶¶ 9-10.) Plaintiff Hickey also wants to be able to wear this button while in the publicly accessible parts of Capitol Square property (as defined by O.C.G.A. § 50-2-28(a)) through April 2, the end of the legislative session, and in the future. (*Id.* ¶¶ 10-11.) Plaintiff Rubin wishes to wear this button in the State Capitol Building on April 2. (Rubin Decl. ¶ 11.) Defendant Captain Lewis Young, who is in charge of Capitol Police, *see* https://dps.georgia.gov/capitol-police-division, has jurisdiction over all of Capitol Square property. *See* O.C.G.A. § 35-2-122.

Counsel for Plaintiffs was unable to locate any written statute, regulation, guideline, or rule memorializing the apparent prohibition against "curse words" in the State Capitol Building. O.C.G.A. § 16-11-39(a)(4) prohibits individuals from "us[ing] vulgar or profane language in the presence of . . . a person under the age of 14 years which threatens an immediate breach of the peace," where "immediate breach of the peace" is defined elsewhere in the statute as "fighting words."

O.C.G.A. § 16-11-39(a)(3). But that statute only bans the use of profanity towards a child under the age of 14 when they rise to the level of "fighting words," and as discussed below, the buttons at issue do not rise to that level.

ARGUMENT

A temporary restraining order or preliminary injunction is warranted if the movant demonstrates: (1) a substantial likelihood of success on the merits; (2) irreparable harm in the absence of an injunction; (3) that the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party; and (4) that an injunction would not disserve the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Odebrecht Const., Inc. v. Sec'y, Florida Dep't of Transp.*, 715 F.3d 1268, 1273-74 (11th Cir. 2013). As discussed below, consideration of each of these four factors supports Plaintiffs' request for preliminary relief.

I. Plaintiffs Are Substantially Likely to Succeed on the Merits of Their First Amendment Claim

Plaintiffs are substantially likely to succeed in demonstrating that banning these pink buttons in public spaces violates the First Amendment. As discussed below: a) The First Amendment prohibits the government from banning the mere use of profanity in public spaces even when children are present; b) The language

on the buttons do not constitute fighting words; and c) The reference to responsible sexual intercourse comes nowhere close to obscenity.

A. The First Amendment prohibits the government from banning the mere use of profanity in public spaces, even where children are present

Nearly 50 years ago, the Supreme Court held in *Cohen v. California* that the First Amendment allowed Jack Cohen to wear a jacket, "Fuck the Draft," in a public courthouse. 403 U.S. 15 (1971). The Court held that "the State may not, consistently with the First and Fourteenth Amendments, make the simple public display here involved of this single four-letter expletive a criminal offense." *Id.* at 26. For the same reasons, Defendants cannot prohibit Plaintiffs from wearing a button in the publicly accessible areas of the State Capitol Building just because the button contains similarly provocative language.

The First Amendment inquiry typically starts with determining what kind of forum is at issue: a traditional public forum, a designated public forum, or a nonpublic forum, a doctrine that developed after *Cohen*. *See Minnesota Voters Alliance v. Mansky*, 138 S. Ct. 1876, 1885 (2018).[2] Traditional public fora are

[2] In *Barrett v. Walker Cnty. Sch. Dist.*, 872 F.3d 1209, 1224-25 (11th Cir. 2017), the Eleventh Circuit held that, based on developing Supreme Court law, there are four types of fora: traditional, designated, limited, and nonpublic. However, the

government properties that have historically been used as places of discussion and debate, like sidewalks and parks. *Id.* at 1885. Designated public fora are government properties that have not traditionally been sites for public debate but have been intentionally opened up for that purpose. *Id.* Restrictions on speech in both traditional public fora and designated public fora are subject to reasonable time, place, and manner restrictions, but restrictions based on content must satisfy strict scrutiny, and those based on viewpoint are prohibited. *Id.* In a nonpublic forum, the government has much more flexibility to craft rules limiting speech, *id.*, and its restrictions on speech must be viewpoint neutral and "reasonable in light of the purpose served by the forum," *Cornelius v. NAACP*, 473 U.S. 788, 806 (1985).

The public interiors of the State Capitol Building are a designated public forum. The Eleventh Circuit has held that the interior rotunda of Georgia's State Capitol Building is a "designated public forum," because "[a]s a matter of course, Georgia grants private speakers equal and unimpeded access to the Rotunda," and "citizens may come and go, speak and listen, applaud and condemn, and preach and blaspheme as they please." *Chabad-Lubavitch of Georgia v. Miller*, 5 F.3d 1383, 1388 (11th Cir. 1993). Though that case involved the Rotunda, its reasoning

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Supreme Court subsequently decided *Mansky*, which outlines only three categories.

is equally applicable to all other publicly-accessible parts of the State Capitol Building, including the hallways and the "rope line" where members of the public can attempt to speak with lawmakers. Any member of the public may enter these areas to speak with lawmakers, monitor the legislative process, and debate the bills being considered with other members of the public.

Under the designated public forum framework, any ban on profanity is subject to strict scrutiny, because it is a content-based ban, in that it bans speech that contains curse words. *See, e.g.*, *Survivors Network of Those Abused by Priests, Inc. v. Joyce*, 779 F.3d 785, 790 (8th Cir. 2015) (ruling that ban on "profane discourse, rude or indecent behavior" was content-based, citing *Cohen*); *Planet Aid v. City of St. Johns*, 782 F.3d 318, 326 (6th Cir. 2015) ("A ban on profanity, for instance, is viewpoint-neutral, but content-based"); *Pomicter v. Luzerne Cnty. Convention Ctr. Auth.*, 322 F. Supp. 3d 558, 576 (M.D. Pa. 2018) (ban on "use of profanity" is content-based).

Although *Cohen* was decided before the formal forum framework was developed, its reasoning demonstrates that the ban on Plaintiffs' buttons cannot survive strict scrutiny. Given the First Amendment's broad protections of the passionate and even expletive-laden speech that is freely exchanged in the

marketplace of ideas, the government's purported interest in preventing children from hearing profanity in public spaces is not compelling. Nor is it legitimate or reasonable, even if a less exacting form of scrutiny were to apply.

As the Supreme Court established in *Cohen*, robust and passionate debate is essential to a free democracy, which is why the First Amendment must create the breathing room necessary for such speech to occur. As applied to Cohen's case, the Court recognized that while "Fuck the Draft" may result in "verbal tumult, discord, and even offensive utterance," those are "necessary side effects of the broader enduring values which the process of open debate permits us to achieve." *Cohen*, 403 U.S. at 24-25. "[A] principal 'function of free speech under our system of government is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger.'" *Texas v. Johnson*, 491 U.S. 397, 408-09 (1989) (citation omitted). Thus, the Supreme Court in *Cohen* refused to engage in value judgments about Mr. Cohen's mode of expression, observing, "[t]hat the air may at times seem filled with verbal cacophony is, in this sense not a sign of weakness but of strength. We cannot lose sight of the fact that, in what otherwise might seem a

trifling and annoying instance of individual distasteful abuse of a privilege, these fundamental societal values are truly implicated." *Id.* at 25.

The Supreme Court also firmly rejected the idea that the four-letter word at issue was somehow exempt from First Amendment protection simply because it is considered profanity. It observed that even if "the particular four-letter word being litigated here is perhaps more distasteful than most others of its genre, it is nevertheless often true that one man's vulgarity is another's lyric." *Cohen*, 403 U.S. at 25. And even though the same message against the military draft could have been expressed without use of the four-letter word, the Supreme Court recognized that "words are often chosen as much for their emotive as their cognitive force," and in fact "may often be the more important element of the overall message sought to be communicated." *Id.* at 26.

If use of the four-letter word to express a strong political opinion against the military draft was entitled to constitutional protection in *Cohen*, then use of the same four-letter word to express a strong political opinion against an abortion ban and to communicate a health advisory should be protected here. And if Mr. Cohen was permitted to wear that language in as sensitive of a location as a courthouse, Plaintiffs should all the more be permitted to wear these buttons in the State

Capitol Building, the very seat of democracy where it is especially important to protect constituents' right to petition their representatives.

Defendants might argue, consistent with the statements made by multiple Capitol Police officers, that they have an interest in protecting children from offensive language in public spaces. But this is a non-starter, since "children [were] present in the corridor" where Cohen wore his jacket. *Cohen*, 403 U.S. at 17. More to the point, "the mere presumed presence of unwitting listeners or viewers does not serve automatically to justify curtailing all speech capable of giving offense." *Id.* at 21. Regulation is only justified when "substantial privacy interests are being invaded in an essentially intolerable manner," *id.*, and while "one has a more substantial claim to a recognizable privacy interest when walking through a courthouse corridor than, for example, strolling through Central Park," *id.*, that privacy expectation does not rise to the level where the government is free to ban profanity in that space, *id.*

This is in contrast to, for instance, prohibitions on profanity in public broadcasting, which is pervasive and uniquely able to intrude into the sanctity of the home, where parents have no advance notice that their children will be suddenly exposed to profanity. *See FCC v. Pacifica Foundation*, 438 U.S. 726,

748-50 (1978) (narrowly holding that government could ban profanity in public broadcasting because of its unique ability to invade privacy). But in public spaces, such as the courthouse at issue in *Cohen* and in the public parts of the State Capitol Building, "we are often captives outside the sanctuary of the home and subject to objectionable speech." *Cohen*, 403 U.S. at 21. Anyone offended by the speech "could effectively avoid further bombardment of their sensibilities simply by averting their eyes." *Id.*

For these reasons, prohibiting Plaintiffs from wearing the buttons at issue in a public space simply because children may be around is neither a compelling nor a legitimate justification for the prohibition. In light of *Cohen*, Plaintiffs are substantially likely to succeed on the merits.

B. Mere use of the four-letter word does not constitute "fighting words"

Defendants might argue that the words at issue are not protected by the First Amendment at all because they allegedly constitute "fighting words," which are "personally abusive epithets which, when addressed to the ordinary citizen, are, as a matter of common knowledge, inherently likely to provoke violent reaction" and are unprotected by the First Amendment. *Cohen*, 403 U.S. at 20 (citing *Champlinsky v. New Hampshire*, 315 U.S. 568 (1942)). (And as noted above,

O.C.G.A. § 16-11-39(a)(4) bans the use of profanity in front of children under 14 but only when they constitute fighting words.) However, even if it is "'conceivable that some listeners might [be] moved to retaliate upon hearing [] disrespectful words,'" the mere "'possible tendency of [] words to provoke violent retaliation'" does not automatically constitute fighting words. *Holloman ex rel. Holloman v. Harland*, 370 F.3d 1252, 1275-76 (11th Cir. 2004) (quoting *Street v. New York*, 394 U.S. 576, 592 (1969)). Furthermore, words do not constitute fighting words when they are not "clearly" "directed to the person of the hearer," *Cohen*, 403 U.S. at 20 (citation and quotation marks omitted), because there is no one being targeted for incitement. And words do not constitute fighting words even if it *does* cause a violent reaction, if that reaction is based on mere disagreement with the message, even passionate disagreement with the message, *see Holloman*, 370 F.3d at 1275, and it is undeniable that abortion invokes intense passion on all sides. Otherwise, we "sacrifice freedom upon the alter of order, and allow the scope of our liberty to be dictated by the inclinations of the unlawful mob." *Id.*

Applying these principles to Mr. Cohen's jacket, the Supreme Court ruled that the mere use of the four-letter word did not constitute fighting words because it was not directed at anyone in particular, and thus "[n]o individual actually or

likely to be present could reasonably have regarded the words on appellant's jacket as a direct personal insult." *Cohen*, 403 U.S. at 20.

Similarly here, the language on the pink buttons do not constitute fighting words, for multiple independent reasons.

First, as in *Cohen*, the language does not identify any particular person and thus can hardly be considered a "direct personal insult." *See also Hess v. Indiana*, 414 U.S. 105 (1973) (yelling "We'll take the fucking street later" towards a crowd at antiwar demonstration where sheriff was attempting to clear the street, were not fighting words because they were not directed at anyone in particular); *Merenda v. Tabor*, 506 Fed. Appx. 862, 864-66, 2013 WL 396122 (11th Cir. Feb. 1, 2013) (passively uttering the words "You're a fucking asshole" during an arrest did not constitute fighting words). This is especially the case where, as here, the language of the button takes a humorous turn and reminds people to practice responsible sex. *Cf. Chaplinsky*, 315 U.S. at 573 (approving of notion that "The English language has a number of words and expressions which by general consent are 'fighting words' when said without a disarming smile.").

Second, to the extent that the words on the buttons could be reasonably construed as being directed towards legislators generally, the interaction between

constituents and legislators on the rope lines is so fleeting if not non-existent that it is unreasonable to expect lawmakers to react violently to these buttons, especially when lawmakers who disagree with the message can simply avert their eyes. *See, e.g.*, *Sandul v. Larion*, 119 F.3d 1250, 1255-56 (6th Cir. 1997) (yelling "f--k you" and extending middle finger to a group of abortion protestors while driving by did not constitute fighting words given the fleeting interaction).

Third, First Amendment protections are especially heightened when it comes to speech directed at public officials. *See New York Times Co. v. Sullivan*, 376 U.S. 254, 269 (1964) (recognizing our "profound national commitment to the principle that debate on public issues shall be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials."). "Criticism of the government is at the very center of the constitutionally protected area of free discussion." *Rosenblatt v. Baer*, 383 U.S. 75, 85 (1966). In this backdrop, lawmakers can reasonably be expected to exercise a higher degree of restraint, and to be less likely to respond violently to even the most caustic of criticism, no matter how profanity-laced. *Cf., e.g.*, *City of Houston v. Hill*, 482 U.S. 451, 462 (1987) ("a properly trained officer may reasonably be expected to exercise a higher degree of restraint than the average

citizen, and thus be less likely to respond belligerently to fighting words" (citations and quotations omitted)).

Lastly, the mere passive use of the four-letter expletive, even when directed to someone personally, does not constitute fighting words likely to incite a reasonable person to violence. *See, e.g.*, *Merenda v. Tabor*, 506 Fed. Appx. 862, 866, 2013 WL 396122 (11th Cir. Feb. 1, 2013) (discussing use of the four-letter word and noting that "[m]erely insulting an officer is not enough."); *United States v. Poocha*, 259 F.3d 1077, 1082 (9th Cir. 2001) (yelling "fuck you" or "that's fucked" at federal park ranger did not constitute fighting words). Though some Georgia state court cases have found that the use of the four-letter word could constitute fighting words, all of those cases involved individuals who directed that word *repeatedly* at a specific person coupled with other hostile behavior. *See Merenda*, 506 Fed. Appx. at 865-65 (noting cases where four-letter word was found to constitute fighting words but observing that the offending words "were used in heated face-to-face confrontations where the speaker showered police officers with abuse"). Silently wearing pink buttons with language undirected at anyone in particular, while standing on a rope line where no legislator is required to interact with anyone, does not come close to that level.

For these reasons, the language on the pink buttons at issue do not constitute fighting words.

C. The exhortation to responsible sexual intercourse comes nowhere close to obscenity

Lastly, Defendants might suggest that the use of the four-letter word constitutes obscenity, which is not protected by the First Amendment. Under *Miller v. California*, 413 U.S. 15 (1973), expression is considered obscene if it satisfies *all three* criteria: (1) the expression, "taken as a whole, appeal[s] to the prurient interest in sex"; (2) the expression "portray[s] sexual conduct in a patently offensive way;" and (3) the expression, "taken as a whole, do[es] not have serious literary artistic, political, or scientific value." *Id.* at 24.

With respect to the first part of the message, "Don't Fuck With Us," that message is not obscene because it does not invoke sex, but is instead a crude way of saying, "Don't mess with us." For that reason, the Supreme Court in *Cohen* rejected the argument that "Fuck the Draft" was obscene, because obscenity requires at a minimum that the expression "be, in some significant way, erotic." *Cohen*, 403 U.S. at 20. Just as a "vulgar allusion to the Selective Service System" cannot plausibly "conjure up such psychic stimulation in anyone," *id.* at 20, a vulgar demand not to mess with women is nowhere near erotic.

The second part of the message, which constitutes a humorous but serious health advisory warning people not to have sexual intercourse without birth control or protection ("Don't Fuck Without Us," followed by the logo of a birth control provider), does technically reference sexual intercourse. But that language does not satisfy all three criteria of the *Miller* test.

First, an admonition not to have sex without birth control has an educational purpose. It does not appeal to any prurient interest in sex; instead, it *discourages* a form of sex, namely, the irresponsible kind. "[S]ex and obscenity are not synonymous," and the mere reference or portrayal of sex, e.g., "in art, literature and scientific works," is not obscene. *Roth v. United States*, 354 U.S. 476, 487 (1957). Indeed, sex "is one of the vital problems of human interest and public concern," and the First Amendment "embraces at the least the liberty to discuss publicly and truthfully all matters of public concern without previous restraint or fear of subsequent punishment." *Id.* at 487 (citation omitted). People having unprotected sex or sex without birth control is a matter of serious public concern, as it leads to sexually transmitted diseases and unwanted pregnancies.

Second, the button does not "portray sexual conduct in a patently offensive way," because it is not at all offensive to encourage people to have sex responsibly. Otherwise, all sex education classes would be banned as obscene.

Third, the language of the button has "serious" "political" and "scientific" value: it is expressing in heated terms Plaintiffs' strenuous political opposition to a bill that bans most abortions, and it conveys the scientific message that unprotected sex without birth control leads to sexually transmitted diseases and unwanted pregnancies.

Thus, the language on the buttons at issue are not obscene.

* * *

Cohen establishes that the desire to protect children in public places from being exposed to offensive language, however well-intentioned, is not a legitimate justification for banning all profanity in public spaces under the First Amendment. At a minimum, it does not justify banning the specific buttons at issue when worn in publicly-accessible areas of the Capitol Square property. Nor does the language on the buttons fall into any other unprotected category of speech. Thus, Plaintiffs are substantially likely to succeed on their First Amendment claim.

II. The Remaining Factors Weigh in Favor of a Temporary Restraining Order or Preliminary Injunction

The remaining factors this Court must consider also weigh in favor of granting a temporary restraining order. It is well-established that the suppression of speech constitutes irreparable injury. *See Barrett v. Walker Cnty. Sch. Dist.*, 872 F.3d 1209, 1229 (11th Cir. 2017). As for weighing the balance of hardships, it is not at all clear how Defendants will suffer if people are allowed to quietly wear the pink buttons at issue. At most, the provocative language will spark robust debate, which is the core of what the First Amendment protects, and all officers are sworn to uphold and defend the Constitution. The fact that Plaintiffs had no advance notice that such a policy was in place, given that it appears nowhere in any statute, regulation, or any written guidelines as far as Plaintiffs are aware, further weighs in favor of an immediate injunction. Finally, an injunction allowing Plaintiffs to exercise their First Amendment rights in the same way that Jack Cohen did nearly 50 years ago does not disserve the public interest. *See Suntrust Bank v. Houghton Mifflin Co.*, 268 F.3d 1257, 1276 (11th Cir. 2001) ("[T]he public interest is always served in promoting First Amendment values.").

CONCLUSION

Nearly 50 years ago, the Supreme Court held that Jack Cohen had a First Amendment right to wear a jacket saying "Fuck the Draft" in a public courthouse, even with children present. For the same reasons, this Court should enter an injunction permitting the wearing buttons saying "Don't Fuck With Us[,] Don't Fuck Without Us," in the publicly-accessible areas of the Capitol Square grounds.

Respectfully submitted,
this 12th of March, 2019

/s/ Sean J. Young_____

Sean J. Young (Ga. Bar No. 790399)
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CERTIFICATION OF COMPLIANCE

The undersigned, in accordance with L.R. 7.1 and 5.1 hereby certifies that the typefont used herein is 14-Point Times New Roman.

This 12th day of March, 2019

s/ Sean J. Young_____

Sean J. Young
Ga. Bar No. 790399

CERTIFICATE OF SERVICE

I hereby certify that on the night of March 12, 2019, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system. When the incident transpired on March 7, 2019, I immediately telephoned Tina Piper from the Attorney General's Office, who represents the Capitol Police, and informed her about the situation and that it might be a First Amendment violation. Ms. Piper confirmed that she would discuss the matter with her client. During the day on March 12, I informed Ms. Piper that a lawsuit would be filed unless the Capitol Police immediately and publicly explains, in writing, what exactly the policy on wearing messages in the State Capitol Building is. I also explained that the matter was urgent because Plaintiff Hickey wanted to wear the button at issue during the next scheduled committee hearing on March 14, so that a court order would be needed in advance of that date. Ms. Piper stated that she understood my position and asked me to immediately send her a courtesy copy of any lawsuit papers as soon as it was filed. The night these papers were filed, I immediately emailed them to Ms. Piper asking her whether she would accept service on behalf of Defendants. I also emailed them to Shana Brown at shanabrown@gsp.net, who I know from past experience promptly relays e-mailed documents to Captain Lewis Young. I

also transmitted these documents to a professional document server and asked that he serve Defendants right away, without waiting for a response from Ms. Piper, and without waiting for the electronic filing system to assign the case.

This 12th day of March, 2019

s/ Sean J. Young_____

Sean J. Young
Ga. Bar No. 790399