



IN THE SUPERIOR COURT OF DEKALB COUNTY

STATE OF GEORGIA 2nd Orig. to \_\_\_\_\_  
County, \_\_\_\_\_ day  
of \_\_\_\_\_ 20\_\_

CHARLES "MICKEY" FELTUS,

Plaintiff,

vs.

CIVIL ACTION No.:

04CV5630-1

DEKALB COUNTY, VERNON JONES, in  
his official capacity as Chief  
Executive Officer of DeKalb  
County, DEKALB-PEACHTREE  
AIRPORT, and CARL L. REMMEL, in  
his official capacity as  
Director of the DeKalb-Peachtree  
Airport,

Defendants.

CLERK OF SUPERIOR COURT  
DEKALB COUNTY GA

2004 MAY 14 A 9:16

FILED

**VERIFIED PETITION AND COMPLAINT  
FOR GEORGIA OPEN RECORDS ACT VIOLATIONS**

COMES NOW CHARLES "MICKEY" FELTUS (hereinafter  
"Plaintiff") and shows this Honorable Court the following:

**NATURE OF THE ACTION**

1.

This case involves the public's repeated attempts to obtain access to government records which are expected to show that DEKALB COUNTY and its employees are engaging in ongoing official misconduct designed to conceal the unlawful introduction of oversized aircraft into the DeKalb-Peachtree Airport, circumvent federal environmental laws and evade ad valorem taxation of aircraft based at the DeKalb-Peachtree Airport.

2.

This Complaint and Petition alleges violations of Georgia's Open Records Act, O.C.G.A. § 50-18-70 *et seq.* and seeks enforcement of the Act as well as attorney's fees and costs of litigation.

**JURISDICTIONAL STATEMENT**

3.

Plaintiff is a resident of DeKalb County and subjects himself to the jurisdiction of this Court.

4.

Defendant DEKALB COUNTY is a county and political subdivision of the State of Georgia, situated within the County of DeKalb.

5.

Service can be made on Defendant DEKALB COUNTY by serving Vernon Jones, CEO, DeKalb County Government, Manuel J. Maloof Center, 1300 Commerce Drive, Decatur, Georgia 30030.

6.

Defendant DEKALB COUNTY is subject to the jurisdiction of this Court.

7.

Venue is proper in this Court as to Defendant DEKALB COUNTY.

8.

Defendant VERNON JONES ("JONES") is the Chief Executive Officer of DeKalb County and executive head of its departments.

9.

Service can be made on Defendant JONES by serving Vernon Jones, CEO, DeKalb County Government, Manuel J. Maloof Center, 1300 Commerce Drive, Decatur, Georgia 30030.

10.

Defendant JONES is subject to the jurisdiction of this Court.

11.

Venue is proper in this Court as to Defendant JONES.

12.

Defendant DEKALB-PEACHTREE AIRPORT ("PDK") is a political subdivision of the State of Georgia and a department of DeKalb County, situated within the County of DeKalb.

13.

Service can be made on Defendant PDK by serving Carl L. Rimmel, Director, DeKalb Peachtree Airport, 212 Administrative Building, 2000 Airport Road, Atlanta, Georgia 30341.

14.

Defendant PDK is subject to the jurisdiction of this Court.

15.

Venue is proper in this Court as to Defendant PDK.

16.

Defendant CARL L. REMMEL ("REMMEL") is the Director of PDK and the executive head of the Airport Department of DeKalb County.

17.

Service can be made on Defendant REMMEL by serving Carl L. Rimmel, Director, DeKalb Peachtree Airport, 212 Administrative Building, 2000 Airport Road, Atlanta, Georgia 30341.

18.

Defendant REMMEL is subject to the jurisdiction of this Court.

19.

Venue is proper in this Court as to Defendant REMMEL.

20.

This Court has subject-matter jurisdiction over this case.

**FACTUAL STATEMENT**

21.

PDK is one of the busiest general aviation airports in the United States and perhaps the most secretive.

22.

In its modern operation, PDK is specifically designed to accommodate smaller aircraft and based upon the main runway's well-established weight limitation and contractual assurances to that effect made by DeKalb County to the Federal Aviation Administration ("FAA"), aircraft with maximum gross take-off weights in excess of 66,000 pounds are prohibited from regular use of PDK.

23.

Upon information and belief, the Defendants have and continue to knowingly, intentionally and unlawfully allow aircraft with a maximum gross take-off weight in excess of 66,000 pounds to use PDK on a regular and consistent basis and with increasing frequency.

24.

Upon information and belief, the illegal influx of larger aircraft into PDK is improperly subjecting the residents of DeKalb County and all areas impacted by PDK operations to an

increased and unanalyzed risk of noise pollution, air pollution, water pollutions and numerous other environmental hazards.

25.

Upon information and belief, Defendants DEKALB COUNTY, PDK and REMMEL are intentionally and illegally allowing numerous aircraft, including those with maximum gross take-off weights in excess of 66,000 pounds, to evade the payment of ad valorem taxes. Such acts by Defendants are costing the County in excess of \$2,000,000.00 in ad valorem taxes on aircraft at PDK.

26.

Upon information and belief, Defendants DEKALB COUNTY, PDK and REMMEL have intentionally and illegally executed a plan to deny members of the public and press access to public records which would demonstrate that Defendants are illegally allowing oversized aircraft to use PDK, violating federal environmental laws and securing the evasion of ad valorem taxes for certain aircraft based at PDK.

#### HISTORICAL BACKGROUND

27.

Since the 1970's and through the present day, government officials in DeKalb County, supported by some of the most powerful businesses in the United States, have sought to

expand PDK so that larger and heavier aircraft could regularly utilize PDK.

28.

In 1975, DeKalb County officials began a campaign to make the airport accessible to larger aircraft by extending the principal runway at PDK, runway 2R-20L (the "Runway").

29.

DEKALB COUNTY officials knew that their campaign would receive significant public opposition because the influx of larger planes into PDK would inevitably result in significant amounts of additional noise pollution, air pollution and water pollution and negatively impact the quality of life of those impacted by airport operations, resulting in health problems and decreased residential property values.

30.

Undeterred by the environmental dangers and public concerns, in 1975 DEKALB COUNTY presented a formal airport planning tool to the FAA, an Airport Layout Plan ("ALP"), which recommended a 900-foot extension of the then 5000-foot Runway at PDK.

31.

The 1975 ALP stated that the purpose of the proposed Runway extension was "to serve a larger variety of aircraft

and to provide greater capacity and operational levels for aircraft operations."

32.

The 1975 ALP listed the Runway's pavement strength as "66,000 pound gross dual gear load," sufficient only to support the regular use of the Runway by the small, general aviation aircraft then using PDK.

33.

DEKALB COUNTY'S campaign to expand PDK continued into the 1980's, and throughout the campaign, DEKALB COUNTY officials publicly and privately asserted that the reason DEKALB COUNTY needed the runway extension was so that PDK could accommodate larger and heavier aircraft.

34.

In 1985, DEKALB COUNTY presented an updated ALP to the FAA that recommended a 1000-foot extension of the then 5000-foot Runway, but maintained the Runway's pavement strength as "66,000 pound gross dual gear load."

35.

In the mid 1980s, in an effort to counter public opposition and avoid a meaningful study of the pollution impacts of the runway extension, DEKALB COUNTY'S publicly-stated need for the Runway extension dramatically changed from



that of accommodating larger aircraft to that of providing an enhanced safety margin for the small, general aviation aircraft then using the Runway.

#### THE DISPLACED THRESHOLD

36.

Likewise, along with changing the reason behind its professed need for a runway extension, in the mid 1980s, DEKALB COUNTY officials stopped referring to the Runway extension project as involving a runway extension and started describing it as a "displaced threshold project."

37.

A displaced threshold can have the effect of limiting the size of aircraft by creating a mandatory touchdown location other than the designated beginning of the runway.

38.

Because larger aircraft require longer runways, a displaced threshold can prevent larger aircraft from using a runway.

39.

The displaced threshold at PDK was imposed when the Runway was extended to prevent aircraft with maximum take-off weights in excess of 66,000 pounds from using PDK.

40.

DEKALB COUNTY repeatedly and formally represented to the FAA and the public that the purpose of extending the Runway and creating the displaced threshold was strictly to enhance the margin of safety for the small, general aviation aircraft then using the airport and would not lead to the use of the Runway by larger and heavier aircraft.

41.

On April 9, 1985, the DeKalb County Board of Commissioners ("BOC") voted to authorize the DeKalb County CEO to file applications for state funds as well as federal Airport Improvement Program ("AIP") funds to build the runway extension.

42.

In 1986, in furtherance of the application for federal AIP funds and pursuant to the mandates of the National Environmental Policy Act of 1969 ("NEPA"), DEKALB COUNTY hired a consultant to prepare an environmental assessment ("EA") for submission to the FAA.

43.

Under NEPA, the FAA could not approve or fund the Runway extension without the County conducting an EA to determine

whether the proposed runway extension created "a reasonable possibility of a significant impact on the human environment."

44.

If the EA had determined that the project created such an impact, NEPA would have required DEKALB COUNTY and the FAA to conduct a more thorough, significantly more expensive and time-consuming study known as an environmental impact study.

45.

As part of the EA process, DEKALB COUNTY held a public hearing in August 1986 at which numerous public comments were submitted, either in writing or orally, objecting to the runway extension for fear that it would permit the use of PDK by larger aircraft.

46.

In response to the substantial public outcry against the runway extension, DEKALB COUNTY made numerous representations and assurances to the FAA and the public that lengthening the Runway would not permit larger aircraft to use PDK because the runway extension was being designed to the same 66,000-pound weight bearing capacity as the existing Runway and the displaced threshold would remain mandatory.

47.

During its review of the EA, on October 7, 1986, the FAA

wrote a letter to PDK's Airport Director that required specific commitments from DEKALB COUNTY in connection with the EA and provided, in pertinent part, as follows:

[The FAA has] conducted our initial review of the [EA] for the Proposed Runway Improvement Project at [PDK]. The following issues need to be addressed before a federal finding can be made:

(1) Noise mitigation measures discussed throughout the report are described as measures which "could" be taken or "appear feasible". We need to know specifically what the sponsor [PDK] is committed to do to mitigate noise impacts. We will expect these measures to include retaining the proposed displaced threshold and limiting aircraft weights in conformance with pavement design strength. . . . The removal of a displaced threshold is ordinarily excluded from the requirement for a formal environmental assessment. However, because of the history of noise complaints and controversy attributable to air traffic at [PDK], an environmental assessment would be required in connection with any proposal to remove the displaced threshold."

48.

In other words, to receive FAA approval, the FAA required DEKALB COUNTY to commit to retaining the 66,000-pound weight limitation on aircraft as specified in the EA and if, in the future, DEKALB COUNTY wanted to use the extra runway to accommodate larger aircraft, it would have to conduct a new environmental study, another EA.

In response to the FAA's October 7, 1986 letter, PDK's airport director wrote the FAA a letter assuring the FAA that PDK would retain the 66,000-pound weight limitation and displaced threshold which provided, in pertinent part, as follows:

You identified several issues in your October 7, 1986 letter which needed to be addressed before a federal finding could be made on the [EA]. We have responded to all these issues in the final [EA] report (November 1986). However, we would like to elaborate further on the proposed noise mitigation measures that would be implemented as part of this project and reiterate the County's firm commitment to mitigate noise impacts resulting from the operation of [PDK].

. . . . .

[I]t is recognized that many details still need to be worked out to ensure the successful implementation of the proposed noise mitigation measures. These details will be an integral part of the runway improvement design phase and will be coordinated with all appropriate parties. At this time, we would expect the following actions to be taken to successfully carry out the recommended mitigation measures:

(1) Establish procedures, memorandums of understanding, etc., with the [FAA's air traffic control tower] in support of the mitigation measures.

. . . . .

(8) Publication in appropriate aviation manuals of limiting aircraft weights in conformance with existing pavement design strengths which are compatible with the

current fleet of aircraft using [PDK].

The County is committed to implementing the proposed noise mitigation measures as part of this runway improvement project. . . . We trust that this letter with attachments and the final EA report have responded to your concerns and will enable the FAA to make the appropriate federal finding on this important project.

50.

On September 3, 1986, approximately 2,000 citizens attended a public hearing conducted by DEKALB COUNTY and submitted 3,500 comments on the EA and the proposed Runway extension.

51.

In November 1986, DEKALB COUNTY issued the final EA and submitted it to the FAA.

52.

The EA expressly acknowledged that the aircraft already using PDK were smaller aircraft and that the project was not designed to accommodate larger aircraft and expressly states:

**The corporate jets that use PDK range from a 12,000 pound Cessna Citation to a 65,000 pound Gulfstream III.**

. . . .

The largest aircraft capable of operating on Runway 2R-20L is the Gulfstream II/III corporate jet. The runways weight bearing capacity is sufficient for the operation of this aircraft at gross weight (65,000 lbs.).

53.

The EA concludes as follows:

**The project is not designed** to increase the capacity of the airport nor **to accommodate larger aircraft**. The Atlanta area has two airports - Hartsfield International and Fulton County-Brown Field which can, and do, handle larger aircraft.

54.

Based upon the EA's contents and representations by DEKALB COUNTY in connection therewith, on August 18, 1987 the FAA issued a finding of no significant impact ("FONSI") under NEPA in a formal Record of Decision ("ROD") and gave the PDK Runway extension project approval and over \$1,000,000 in funding.

55.

The opening paragraph of the ROD states "The current pavement strength of 66,000 pounds dual wheel loading will be maintained."

56.

The ROD further provides: "The runway extension is neither designed nor intended to accommodate operations by aircraft larger than the ones presently using the airport. The extension would enhance the safety and efficiency of operations by these aircraft. The runway would not be strengthened and aircraft would not be allowed to depart with

a maximum gross take-off weight above the current limitation of 66,000 pounds."

57.

Believing that DEKALB COUNTY'S repeated representations that it would enforce the 66,000-pound aircraft weight limitation and use the Runway extension with the displaced threshold were made in bad faith and made only to avoid an environmental impact statement and secure the FONSI needed for approval and funding of the project, members of the public, including Plaintiff, challenged the FAA's FONSI in court by filing a petition with the Eleventh Circuit Court of Appeals in Atlanta, Georgia.

58.

The Eleventh Circuit denied the public's challenge and upheld the sufficiency of the FONSI based upon the 66,000-pound weight limitation and displaced threshold and, in doing so, the Court of Appeals made the following findings:

The petitioners also contend that the FONSI's projected noise increases do not consider the possibility that the runway extension will pave the way for larger classes of aircraft and heavier loads by the currently authorized aircraft. To support this contention, the petitioners cite statistics that forecast significant increases in airport traffic in the upcoming years. These data, however, are not persuasive because PDK will experience increased traffic regardless of whether the runway is extended. **Furthermore, the proposal expressly maintains the current weight limitation of 66,000**



pounds. The proposed runway extension is not designed to accommodate operations by aircraft larger than the ones currently using PDK. Therefore, the petitioners' fear that the runway extension will cause a significant impact because of the introduction of larger types of aircraft and heavier loads is unjustified.

59.

On September 15, 1987, the DeKalb County BOC voted to authorize DEKALB COUNTY'S CEO to execute all necessary documents to accept the federal grant in the amount of \$1,679,426.00 for the runway extension.

60.

The Runway extension became fully operational in 1990.

#### **ANOMS**

61.

During the 1990s, DeKalb County acquired an Airport Noise and Operations Monitoring System ("ANOMS") to monitor aircraft operating in the vicinity of the airport and the noise levels of such aircraft over the communities below them.

62.

The ANOMS is a computer system that takes flight information from the FAA's radar stream about aircraft in the vicinity of PDK and combines it with noise levels recorded at four aircraft noise monitoring stations that are placed in the communities surrounding the Airport.

63.

The locations of the noise monitoring stations are publicized by PDK and are readily available.

64.

By combining the FAA's radar information about individual aircraft in flight and the noise levels being experienced on the ground and recorded by the noise monitoring stations, the ANOMS enables the Airport to monitor any given aircraft's noise levels in flight near the Airport as well as the flight paths and altitudes of such aircraft.

65.

The ANOMS permits the Airport to correlate a specific noise disturbance reported in the community on a specific date and time with the aircraft causing the disturbance, its altitude, noise levels and its owner and operator.

66.

The ANOMS can immediately correlate a given "noise event" or noise reading at any of the four noise monitoring stations around the PDK community with an airplane's "N#", or license plate, giving the Airport (and the community if the County would release the information) an understanding of what and who is using PDK and when and how loud they are when doing so.

67.

The ANOMS can automatically generate reports on aircraft using PDK at predetermined times or upon request and even print such reports automatically.

68.

The ANOMS can also provide on-line, real-time flight tracks and noise levels, and it can replay aircraft flight tracks with associated noise levels over the Georgia communities impacted by PDK.

69.

Although PDK conceals from the public and press the flight operations and noise information collected by the ANOMS, the exact same type of information is readily available on the Internet for many airports throughout the United States, including, for example, the Los Angeles International Airport.

#### **LARGER AND HEAVIER AIRCRAFT**

70.

Upon information and belief, PDK began secretly violating the 66,000-pound weight limit and the displaced threshold in the 1990s.

71.

Over time, the number and size of aircraft permitted by Defendants to use PDK that violate the 66,000-pound weight limit and displaced threshold have dramatically increased.

72.

Since at least 2000, PDK has regularly allowed 90,000-plus pound aircraft to land and depart from PDK, including McDonnell-Douglas DC-9s, Bombardier Global Express and Gulf-Stream V aircraft.

73.

As a result of PDK's regular and flagrant violation of the 66,000-pound weight limit and displaced threshold, between 2000 and 2004 community members began seeking public records and information from PDK and DEKALB COUNTY regarding aircraft using PDK.

74.

To date, in excess of 100 GORA requests collectively have been submitted by members of the public to DEKALB COUNTY and PDK and, to date, neither DEKALB COUNTY nor PDK has ever disclosed information that would allow the public to independently verify whether PDK has and is continuing to violate the 66,000-pound weight limitation and displaced threshold requirements.

75.

Upon information and belief, the Defendants have conspired with the other named and unnamed Defendants to conceal the systematic violation of the 66,000-pound weight limit and displaced threshold.

76.

Upon information and belief, the Defendants have intentionally ignored GORA requests or intentionally responded evasively or with false information to GORA requests so that the Defendants' systematic violation of the 66,000-pound weight limit and displaced threshold would not be disclosed to the public and press.

#### TAX EVASION

77.

Upon information and belief, Defendants DEKALB COUNTY, PDK and REMMEL are engaging in conduct that either intentionally or unintentionally secures the evasion of ad valorem taxes for certain aircraft based at the DeKalb-Peachtree Airport.

78.

Between 1999 and 2003, the tax roll for the DeKalb County Tax Assessor's office shows the number of aircraft based at PDK that were assessed ad valorem taxes to be as follows: 376

aircraft in 1999; 347 aircraft in 2000; 373 aircraft in 2001; 349 aircraft in 2002 and 334 aircraft in 2003.

79.

However, upon information and belief, since as early as 1999, the actual number of aircraft based at PDK greatly exceeded the number of aircraft assessed ad valorem taxes by DEKALB COUNTY.

80.

Specifically, in a 1999 report published by the U.S. Department of Transportation, 580 aircraft were identified as being based at PDK during 1999, but according to the DeKalb County tax rolls, only 376 paid ad valorem taxes.

81.

In 2003, the Georgia Department of Transportation initiated a State Aviation System Plan that revealed that 608 aircraft were identified as being based at PDK during 2003, but DeKalb County shows only 334 as paying ad valorem taxes.

82.

In 2004, the DeKalb County Tax Assessor's office made a formal request to Defendants REMMEL and PDK requesting that Defendants REMMEL and PDK disclose records (including ANOMS data) that would allow the identification of the number of taxable aircraft based at PDK.

83.

Since June of 2001, Defendants REMMEL and PDK have refused and continue to refuse to permit the DeKalb County Tax Assessor to enter aircraft hangers to confirm what aircraft were based there for purposes of ad valorem tax assessment.

84.

Upon information and belief, Defendants REMMEL'S and PDK'S conduct is allowing the annual avoidance by owners of aircraft based at PDK of DeKalb County ad valorem taxes in excess of \$2,000,000.00.

**THE PUBLIC NEED FOR THE RECORDS**

85.

The records of which Plaintiff seeks disclosure in this lawsuit will assist the public in determining whether the Defendants are illegally allowing oversized aircraft to use PDK.

86.

The records of which Plaintiff seeks disclosure in this lawsuit will assist the public in determining whether the Defendants are violating federal environmental laws and have violated DEKALB COUNTY'S contractual agreement with the federal government and public..

87.

The records of which Plaintiff seeks disclosure in this lawsuit will assist the public in identifying the number of taxable aircraft presently and previously based at PDK.

88.

The records of which Plaintiff seeks disclosure in this lawsuit will also permit a determination to be made as to whether Defendants DEKALB COUNTY, PDK and REMMEL have either intentionally or unintentionally secured the evasion of ad valorem taxes for aircraft based at the DeKalb-Peachtree Airport.

**COUNT ONE - GORA VIOLATION  
(DEFENDANTS JONES AND DEKALB COUNTY)**

89.

The allegations contained in all paragraphs above are incorporated herein by reference as if set forth verbatim.

90.

On January 26, 2004, Plaintiff submitted a GORA request to Defendants JONES and DEKALB COUNTY seeking ANOMS data and reports about aircraft using PDK.

91.

A true and correct copy of Plaintiff's January 26, 2004 GORA request to Defendants JONES and DEKALB COUNTY is attached hereto and incorporated as Exhibit "A".



92.

A true and correct copy of the Domestic Return Receipt for Plaintiff's January 26, 2004 GORA request to Defendants JONES and DEKALB COUNTY is attached and incorporated hereto as Exhibit "B".

93.

Exhibit B bears the stamp of a duly authorized representative of Defendants JONES and DEKALB COUNTY.

94.

Defendants JONES and DEKALB COUNTY received Exhibit A on or about February 6, 2004.

95.

Defendants JONES and DEKALB COUNTY possess records that are responsive to Exhibit A.

96.

Defendants JONES and DEKALB COUNTY never responded to Exhibit A.

97.

Defendants JONES and DEKALB COUNTY never produced any records to Plaintiff in response to Exhibit A.

98.

Defendants JONES and DEKALB COUNTY never provided Plaintiff access to any documents requested in response to Exhibit A.

99.

Defendants JONES and DEKALB COUNTY have violated the GORA by failing or refusing to provide Plaintiff access to the records, not subject to exemption, requested by Plaintiff in Exhibit A.

100.

Defendants JONES and DEKALB COUNTY have violated the GORA by failing or refusing to provide Plaintiff access to the records requested by Plaintiff in Exhibit A within the 3-day time limit set forth in GORA.

101.

In the event Defendants JONES and DEKALB COUNTY belatedly seek to claim that any records requested by Plaintiff in Exhibit A are exempt from production or access, Defendants JONES and DEKALB COUNTY have violated the GORA by failing or refusing to timely specify in writing the specific legal authority exempting such record or records from disclosure, by Code section, subsection, and paragraph.

COUNT TWO - GORA VIOLATION  
(DEFENDANTS JONES AND DEKALB COUNTY)

102.

The allegations contained in all paragraphs above are incorporated herein by reference as if set forth verbatim.

103.

On January 27, 2004, Plaintiff submitted a second GORA request to Defendants JONES and DEKALB COUNTY seeking records that would show what aircraft are using PDK and what Defendants have done or are doing to monitor and react to such usage for the purposes of safety, noise monitoring and compliance with the weight limitation and displaced threshold requirements.

104.

A true and correct copy of Plaintiff's January 27, 2004 GORA request to Defendants JONES and DEKALB COUNTY is attached hereto and incorporated as Exhibit "C".

105.

A true and correct copy of the Domestic Return Receipt for Plaintiff's January 27, 2004 GORA request to Defendants JONES and DEKALB COUNTY is attached and incorporated hereto as Exhibit "D".

106.

Exhibit D bears the signature of a duly authorized representative of Defendants JONES and DEKALB COUNTY.

107.

Defendants JONES and DEKALB COUNTY received Exhibit C on or about February 3, 2004.

108.

Defendants JONES and DEKALB COUNTY possess records that are responsive to Exhibit C.

109.

Defendants JONES and DEKALB COUNTY have never responded to Exhibit C.

110.

Defendants JONES and DEKALB COUNTY have never produced any records to Plaintiff in response to Exhibit C.

111.

Defendants JONES and DEKALB COUNTY have never provided Plaintiff access to any documents requested in response to Exhibit C.

112.

Defendants JONES and DEKALB COUNTY have violated the GORA by failing or refusing to provide Plaintiff access to the records, not subject to exemption, requested by Plaintiff in Exhibit C.

113.

Defendants JONES and DEKALB COUNTY have violated the GORA by failing or refusing to provide Plaintiff access to the records requested by Plaintiff in Exhibit C within the 3-day time limit set forth in GORA.

114.

In the event Defendants JONES and DEKALB COUNTY belatedly seek to claim that any records requested by Plaintiff in Exhibit C are exempt from production or access, Defendants JONES and DEKALB COUNTY have violated the GORA by failing or refusing to timely specify in writing the specific legal authority exempting such record or records from disclosure, by Code section, subsection, and paragraph.

**COUNT THREE - GORA VIOLATION  
(DEFENDANTS REMMEL AND PDK)**

115.

The allegations contained in all paragraphs above are incorporated herein by reference as if set forth verbatim.

116.

On January 26, 2004, Plaintiff submitted a GORA request to Defendants REMMEL and PDK seeking ANOMS data and reports about aircraft using PDK.

117.

A true and correct copy of Plaintiff's January 26, 2004 GORA request to Defendants REMMEL and PDK is attached hereto and incorporated as Exhibit "E".

118.

A true and correct copy of the Domestic Return Receipt for Plaintiff's January 26, 2004 GORA request to Defendants REMMEL and PDK is attached and incorporated hereto as Exhibit "F".

119.

Exhibit F bears the signature of a duly authorized representative of Defendants REMMEL and PDK.

120.

Defendants REMMEL and PDK received Exhibit E on or about February 3, 2004.

121.

Defendants REMMEL and PDK possess records that are responsive to Exhibit E.

122.

Exhibit E contains four separate enumerated requests (hereinafter "Request #1-4").

123.

Request #1 of Exhibit E requests that Defendants REMMEL and PDK produce the following records for inspection:

All computer data files from the Aircraft Noise and Operations Monitoring System ("ANOMS") regarding flight operations at PDK, which ANOMS was or is leased or owned by DeKalb County, from the ANOMS' first day of operation, whether it was fully operational or not, to the present. This request does not seek raw "unfiltered 'real-time' access to data and radar tracks concerning DOD, drug enforcement, or other sensitive flight operations." It seeks the release of all ANOMS computer-recorded data files which were pre-filtered/redacted and available to the public under FAA Order No. 1200.22B(4)(b) and (7)(c) for PDK aircraft operations. To facilitate the process of transferring/copying the data files, please provide me, in advance, information on the specific type and make of computer storage medium we may need to provide to DeKalb County, the FAA and/or PDK. In addition, please provide an estimate of the number of magnetic tapes, discs, etc. that will be needed.

124.

Defendants REMMEL and PDK have refused to produce records responsive to Request #1 of Exhibit E.

125.

The only exemption that Defendants REMMEL and PDK have claimed applies to Request #1 of Exhibit E is O.C.G.A. § 50-18-72(a)(1).

126.

O.C.G.A. § 50-18-72(a)(1) provides: "Public disclosure shall not be required for records that are: (1) Specifically required by the federal government to be kept confidential."

127.

Defendants REMMEL and PDK have claimed that they are not required to publicly disclose records responsive to Request #1 of Exhibit E because a Memorandum of Agreement executed among the FAA, the City of Atlanta and DeKalb County in December 2002 allegedly requires that such records remain confidential and, accordingly, are exempt from public disclosure pursuant O.C.G.A. § 50-18-72(a) (1) .

128.

A true and correct copy of the Memorandum of Agreement executed among the FAA, the City of Atlanta and DEKALB COUNTY in December 2002 is attached and incorporated hereto as Exhibit "G" .

129.

The records responsive to Request #1 of Exhibit E are not exempted from public disclosure pursuant to O.C.G.A. § 50-18-72(a) (1) .

130.

The records responsive to Request #1 of Exhibit E are not "records specifically required by the federal government to be kept confidential exempted from public disclosure" within the meaning of O.C.G.A. § 50-18-72(a) (1) .



131.

Defendants REMMEL and PDK have waived their right to claim that the records responsive to Request #1 of Exhibit E are exempted by O.C.G.A. § 50-18-72(a)(1).

132.

Defendants REMMEL and PDK have violated the GORA by failing or refusing to provide Plaintiff access to the records, not subject to exemption, requested by Plaintiff in Request #1 of Exhibit E.

133.

Defendants REMMEL and PDK have violated the GORA by failing or refusing to provide Plaintiff access to the records requested by Plaintiff in Plaintiff in Request #1 of Exhibit E within the time limits set forth in GORA.

134.

Defendants REMMEL and PDK have violated the GORA by failing to comply with O.C.G.A. § 50-18-72(h) in response to Request #1 of Exhibit E.

**COUNT FOUR - GORA VIOLATION  
(DEFENDANTS REMMEL AND PDK)**

135.

The allegations contained in all paragraphs above are incorporated herein by reference as if set forth verbatim.

136.

Request #2 of Exhibit E requests that Defendants REMMEL and PDK produce the following records for inspection:

All records from the ANOMS regarding flight operations at PDK in report formats including the "Flight Event List" and the "Flight Event-General Aviation List" depicting data from the day the ANOMS first started collecting or recording any flight operation or noise activity at PDK to the present, regardless of whether the ANOMS was fully operational or not.

137.

Defendants REMMEL and PDK have refused to produce records responsive to Request #2 of Exhibit E.

138.

Defendants REMMEL and PDK have claimed that the reports requested by Request #2 of Exhibit E are not required to be publicly disclosed pursuant to O.C.G.A. § 50-18-70(d).

139.

O.C.G.A. § 50-18-70(d) provides: "No public officer or agency shall be required to prepare reports, summaries, or compilations not in existence at the time of the request."

140.

The disclosure of reports responsive to Request #2 of Exhibit E does not require Defendants REMMEL and PDK to prepare

reports, summaries, or compilations not in existence at the time of the request.

141.

The reports responsive to Request #2 of Exhibit E are subject to public disclosure.

142.

The only exemption that Defendants REMMEL and PDK have claimed applies to Request #2 of Exhibit E is O.C.G.A. § 50-18-72(a)(1).

143.

Defendants REMMEL and PDK have claimed that they are not required to publicly disclose records responsive to Request #2 of Exhibit E because a contract, called the Memorandum of Agreement, executed between the FAA, the City of Atlanta and DEKALB COUNTY in December 2002 allegedly requires that such records remain confidential and, accordingly, are exempt from public disclosure pursuant O.C.G.A. § 50-18-72(a)(1).

144.

The records responsive to Request #2 of Exhibit E are not exempted from public disclosure pursuant to O.C.G.A. § 50-18-72(a)(1).

145.

The records responsive to Request #2 of Exhibit E are not "records specifically required by the federal government to be kept confidential exempted from public disclosure" within the meaning of O.C.G.A. § 50-18-72(a) (1).

146.

Defendants REMMEL and PDK have waived their right to claim that the records responsive to Request #2 of Exhibit E are exempted by O.C.G.A. § 50-18-72(a) (1).

147.

Defendants REMMEL and PDK have violated the GORA by failing or refusing to provide Plaintiff access to the records, not subject to exemption, requested by Plaintiff in Request #2 of Exhibit E.

148.

Defendants REMMEL and PDK have violated the GORA by failing or refusing to provide Plaintiff access to the records requested by Plaintiff in Plaintiff in Request #2 of Exhibit E within the time limits set forth in GORA.

149.

Defendants REMMEL and PDK have violated the GORA by failing to comply with O.C.G.A. § 50-18-72(h) in response to Request #2 of Exhibit E.

**COUNT FOUR - GORA VIOLATION  
(DEFENDANTS REMMEL AND PDK)**

150.

The allegations contained in all paragraphs above are incorporated herein by reference as if set forth verbatim.

151.

On January 27, 2004, Plaintiff submitted a GORA request to Defendants REMMEL and PDK seeking records that would show what aircraft are using PDK and what Defendants have done or are doing to monitor and react to such usage for the purposes of safety, noise monitoring, and compliance with the weight limitation and displaced threshold requirements.

152.

A true and correct copy of Plaintiff's January 27, 2004 GORA request to Defendants REMMEL and PDK is attached hereto and incorporated as Exhibit "H".

153.

A true and correct copy of the Domestic Return Receipt for Plaintiff's January 27, 2004 GORA request to Defendants REMMEL and PDK is attached and incorporated hereto as Exhibit "I".

154.

Exhibit I bears the signature of a duly authorized representative of Defendants REMMEL and PDK.

155.

Defendants REMMEL and PDK received Exhibit H on or about February 3, 2004.

156.

Defendants REMMEL and PDK possess records that are responsive to Exhibit H.

157.

Exhibit H contains seven separate enumerated requests (hereinafter "Requests #1-7").

158.

Request #1(a)-(b) of Exhibit H requests that Defendants REMMEL and PDK produce the following records for inspection:

1) All records that depict, describe or relate to the following information, including but not limited to National Airspace System computer and radar data ("NAS Data"), raw NAS Data, processed NAS data, ARTS data, Noise Monitoring Terminal data, FAA Registry data, Complaint data, Aircraft Noise and Operations Monitoring System data and aircraft situation display to industry data ("ASDI data"):

(a) all aircraft taking off from PDK from 1986 to the present, the type of aircraft and its N#;

(b) all noise levels or decibel levels recorded or received by DeKalb County from any source for all aircraft taking off or landing at PDK between 1986 and the present.

159.

Defendants REMMEL and PDK have refused to produce records responsive to Request #1(a)-(b) of Exhibit H.

160.

The only exemption that Defendants REMMEL and PDK have claimed applies to Request #1(a)-(b) of Exhibit H is O.C.G.A. § 50-18-72(a)(1).

161.

The records responsive to Request #1(a)-(b) of Exhibit H are not exempted from public disclosure pursuant to O.C.G.A. § 50-18-72(a)(1).

162.

The records responsive to Request #1(a)-(b) of Exhibit H are not "records specifically required by the federal government to be kept confidential exempted from public disclosure" within the meaning of O.C.G.A. § 50-18-72(a)(1).

163.

Defendants REMMEL and PDK have waived their right to claim that the records responsive to Request #1(a)-(b) of Exhibit H are exempted by O.C.G.A. § 50-18-72(a)(1).

164.

Defendants REMMEL and PDK have violated the GORA by failing or refusing to provide Plaintiff access to the

records, not subject to exemption, requested by Plaintiff in Request #1(a)-(b) of Exhibit H.

165.

Defendants REMMEL and PDK have violated the GORA by failing or refusing to provide Plaintiff access to the records requested by Plaintiff in Plaintiff in Request #1(a)-(b) of Exhibit H within the time limits set forth in GORA.

166.

Defendants REMMEL and PDK have violated the GORA by failing to comply with O.C.G.A. § 50-18-72(h) in response to Request #1(a)-(b) of Exhibit H.

**COUNT FIVE - GORA VIOLATION  
(DEFENDANTS REMMEL AND PDK)**

167.

The allegations contained in all paragraphs above are incorporated herein by reference as if set forth verbatim.

168.

Request #2 of Exhibit H requests that Defendants REMMEL and PDK produce the following records for inspection:

The information requested above in 1(a), (b) and (c) in "NOMS Data format," as that term is used in the memorandum of agreement among the Federal Aviation Administration, the City of Atlanta and DeKalb County, DeKalb County contract number 00-7806G-1.



169.

Defendants REMMEL and PDK have refused to produce records responsive to Request #2 of Exhibit H.

170.

Defendants REMMEL and PDK produced incomplete records to Plaintiff in response to Request #2 of Exhibit H.

171.

In producing incomplete records to Plaintiff in response to Request #2 of Exhibit H, Defendants REMMEL and PDK have wrongfully redacted information, improperly refused Plaintiff's requested on-site inspection of records at PDK's ANOMS computer client station and intentionally included in their response non-requested data that has rendered the records produced useless.

172.

The only exemption that Defendants REMMEL and PDK have claimed applies to Request #2 of Exhibit H is O.C.G.A. § 50-18-72(a)(1).

173.

The records responsive to Request #2 of Exhibit H are not exempted from public disclosure pursuant to O.C.G.A. § 50-18-72(a)(1).

174.

The records responsive to Request #2 of Exhibit H are not "records specifically required by the federal government to be kept confidential exempted from public disclosure" within the meaning of O.C.G.A. § 50-18-72(a) (1).

175.

Defendants REMMEL and PDK have waived their right to claim that the records responsive to Request #2 of Exhibit H are exempted by O.C.G.A. § 50-18-72(a) (1).

176.

Defendants REMMEL and PDK have violated the GORA by failing or refusing to provide Plaintiff access to the records, not subject to exemption, requested by Plaintiff in Request #2 of Exhibit H.

177.

Defendants REMMEL and PDK have violated the GORA by failing or refusing to provide Plaintiff access to the records requested by Plaintiff in Plaintiff in Request #2 of Exhibit H within the time limits set forth in GORA.

178.

Defendants REMMEL and PDK have violated the GORA by failing to comply with O.C.G.A. § 50-18-72(h) in response to Request #2 of Exhibit H.

**COUNT SIX - GORA VIOLATION  
(DEFENDANTS REMMEL AND PDK)**

179.

The allegations contained in all paragraphs above are incorporated herein by reference as if set forth verbatim.

180.

Request #3(b) of Exhibit H requests that Defendants REMMEL and PDK produce the following records for inspection:

All records demonstrating or describing DeKalb County's use of any of the information requested above in 1(a), (b) and (c) for:

. . . .

(b) noise monitoring.

. . . . .

181.

Defendants REMMEL and PDK have refused to produce records responsive to Request #3(b) of Exhibit H.

182.

Defendants REMMEL and PDK produced incomplete records to Plaintiff in response to Request #3(b) of Exhibit H.

183.

The only exemption that Defendants REMMEL and PDK have claimed applies to Request #3(b) of Exhibit H is O.C.G.A. § 50-18-72(a)(1).

184.

The records responsive to Request #3(b) of Exhibit H are not exempted from public disclosure pursuant to O.C.G.A. § 50-18-72(a) (1).

185.

The records responsive to Request #3(b) of Exhibit H are not "records specifically required by the federal government to be kept confidential exempted from public disclosure" within the meaning of O.C.G.A. § 50-18-72(a) (1).

186.

Defendants REMMEL and PDK have waived their right to claim that the records responsive to Request #3(b) of Exhibit H are exempted by O.C.G.A. § 50-18-72(a) (1).

187.

Defendants REMMEL and PDK have violated the GORA by failing or refusing to provide Plaintiff access to the records, not subject to exemption, requested by Plaintiff in Request #3(b) of Exhibit H.

188.

Defendants REMMEL and PDK have violated the GORA by failing or refusing to provide Plaintiff access to the records requested by Plaintiff in Plaintiff in Request #3(b) of Exhibit H within the time limits set forth in GORA.

189.

Defendants REMMEL and PDK have violated the GORA by failing to comply with O.C.G.A. § 50-18-72(h) in response to Request #3(b) of Exhibit H.

**COUNT SEVEN - GORA VIOLATION  
(DEFENDANTS REMMEL AND PDK)**

190.

The allegations contained in all paragraphs above are incorporated herein by reference as if set forth verbatim.

191.

Request #4 of Exhibit H requests that Defendants REMMEL and PDK produce the following records for inspection:

Any reports, documents and/or data generated or received by computer system(s) leased or owned by DeKalb County including, but not limited to, the reports numbered 11 through 20, and 30 through 56 on the attached List of Reports available from the NOMS/TAMIS system, reflecting information between January 1, 1986 and the present. If no such reports have been generated, we request that all such reports be generated for our inspection, as reflected in the PDK-TAMIS System Overview.

192.

Defendants REMMEL and PDK have refused to produce records responsive to Request #4 of Exhibit H.

193.

Defendants REMMEL and PDK produced incomplete records to Plaintiff in response to Request #4 of Exhibit H.

194.

Defendants REMMEL and PDK have not claimed that any exemption applies to Request #4 of Exhibit H.

195.

Defendants REMMEL and PDK have claimed that the reports requested by Request #2 of Exhibit E are not required to be publicly disclosed pursuant to O.C.G.A. § 50-18-70(d).

196.

O.C.G.A. § 50-18-70(d) provides: "No public officer or agency shall be required to prepare reports, summaries, or compilations not in existence at the time of the request."

197.

The disclosure of reports responsive to Request #4 of Exhibit H does not require Defendants REMMEL and PDK to prepare reports, summaries, or compilations not in existence at the time of the request.

198.

The reports responsive to Request #4 of Exhibit H are subject to public disclosure.

199.

Defendants REMMEL and PDK have waived their right to claim that the records responsive to Request #4 of Exhibit H are exempted from public disclosure.

200.

Defendants REMMEL and PDK have violated the GORA by failing or refusing to provide Plaintiff access to the records, not subject to exemption, requested by Plaintiff in Request #4 of Exhibit H.

201.

Defendants REMMEL and PDK have violated the GORA by failing or refusing to provide Plaintiff access to the records requested by Plaintiff in Plaintiff in Request #4 of Exhibit H within the time limits set forth in GORA.

202.

Defendants REMMEL and PDK have violated the GORA by failing to comply with O.C.G.A. § 50-18-72(h) in response to Request #4 of Exhibit H.

**COUNT EIGHT - GORA VIOLATION  
(DEFENDANTS REMMEL AND PDK)**

203.

The allegations contained in all paragraphs above are incorporated herein by reference as if set forth verbatim.

204.

Requests #5 and #7 of Exhibit H requests that Defendants REMMEL and PDK produce the following records for inspection:

5) Any records and/or data including, but not limited to, all documents, correspondence, letters, notes, tapes, memoranda, electronic mail or minutes

created, received and/or sent between January 1986 and the present by DeKalb County, the FAA or the City of Atlanta or their respective contractors or agents, including any records internal to any one of those entities or copied or sent by one of said entities to one or more of the others, regarding:

(a) whether dual gear aircraft with a maximum takeoff weight in excess of 66,000 lbs. have used, are using or should be permitted to use PDK on a regular basis without prior authorization; and,

(b) consideration given to PDK permitting or being required by the FAA to permit aircraft with a maximum takeoff weight in excess of 66,000 lbs. to use PDK on a regular basis without prior authorization;

. . . . .

7) All records and/or data including, but not limited to, all documents, correspondence, letters, notes, tapes, memoranda, electronic mail or minutes created, received and/or sent between January 1986 and the present by DeKalb County, the FAA or the City of Atlanta or their respective contractors or agents, including any records internal to any one of those entities or copied or sent by one of said entities to one or more of said entities that refer or relate to pavement strength of runways or taxiways at PDK as a factor in what types of aircraft may use PDK.

205.

Defendants REMMEL and PDK produced incomplete records to Plaintiff in response to Requests #5 and #7 of Exhibit H.

206.

Defendants REMMEL and PDK have not claimed that any exemption applies to Requests #5 and #7 of Exhibit H.



207.

Defendants REMMEL and PDK have not claimed that there is any legal reason not to disclose records responsive to Requests #5 and #7 of Exhibit H.

208.

Defendants REMMEL and PDK have waived their right to claim that the records responsive to Requests #5 and #7 of Exhibit H are exempted from public disclosure.

209.

Defendants REMMEL and PDK have violated the GORA by failing or refusing to provide Plaintiff access to the records, not subject to exemption, requested by Plaintiff in Requests #5 and #7 of Exhibit H.

210.

Defendants REMMEL and PDK have violated the GORA by failing or refusing to provide Plaintiff access to the records requested by Plaintiff in Requests #5 and #7 of Exhibit H within the time limits set forth in GORA.

211.

Defendants REMMEL and PDK have violated the GORA by failing to comply with O.C.G.A. § 50-18-72(h) in response to Requests #5 and #7 of Exhibit H.

212.

Defendants REMMEL and PDK have violated the GORA by failing to comply with O.C.G.A. § 50-18-71 during its incomplete production of documents responsive to Exhibit H.

**COUNT NINE - ATTORNEY'S FEES AND EXPENSES  
(O.C.G.A. § 13-6-11)**

213.

The allegations contained in all paragraphs above are incorporated herein by reference as if set forth verbatim.

214.

Defendant has acted in bad faith and has caused Plaintiff unnecessary hardship and expense in this matter.

215.

Plaintiff is entitled to an award of costs, attorney's fees, and litigation expenses pursuant O.C.G.A. § 13-6-11.

**COUNT TEN - ATTORNEY'S FEES AND EXPENSES  
(O.C.G.A. § 50-18-73)**

216.

The allegations contained in all paragraphs above are incorporated herein by reference as if set forth verbatim.

217.

Defendants have acted without substantial justification in not complying with GORA.

212.

Defendants REMMEL and PDK have violated the GORA by failing to comply with O.C.G.A. § 50-18-71 during its incomplete production of documents responsive to Exhibit H.

**COUNT NINE - ATTORNEY'S FEES AND EXPENSES  
(O.C.G.A. § 9-15-14)**

213.

The allegations contained in all paragraphs above are incorporated herein by reference as if set forth verbatim.

214.

Defendant has acted in bad faith and has caused Plaintiff unnecessary hardship and expense in this matter.

215.

Plaintiff is entitled to an award of costs, attorney's fees, and litigation expenses pursuant O.C.G.A. § 9-15-14.

**COUNT TEN - ATTORNEY'S FEES AND EXPENSES  
(O.C.G.A. § 50-18-73)**

216.

The allegations contained in all paragraphs above are incorporated herein by reference as if set forth verbatim.

217.

Defendants have acted without substantial justification in not complying with GORA.

Plaintiff is entitled to an award of attorney's fees and litigation costs pursuant O.C.G.A. § 50-18-73.

**WHEREFORE** Plaintiff demands:

(a) That summons issue and service be perfected upon Defendants requiring Defendants to be and appear in this Court within the time required by law and to answer this Complaint;

(b) That the Clerk of this Court issue a second original or originals of summons and this Complaint as required for service to be perfected upon Defendants;

(c) That all costs and expenses of this action, including reasonable attorney's fees, be assessed against Defendants;

(d) That Defendants be required to produce all records responsive to Plaintiff's January 26, 2004 and January 27, 2004 GORA requests;

(e) That Defendants be subject to the continuing jurisdiction of this Court to review and approve Defendants' methods of searching for and producing records pursuant to the GORA;

(f) That Defendants be required to refund any monies paid by Plaintiff which were not authorized pursuant to O.C.G.A. § 50-18-71; and,

(g) That Plaintiff have such other and further relief as this Court deems just and proper.

**TRIAL BY JURY DEMANDED.**

**BRANDON HORNSBY, P.C.**

  
\_\_\_\_\_  
Brandon Hornsby  
Ga. State Bar No. 367680

Atlantic Center Plaza  
1180 West Peachtree Street  
Suite 1110  
Atlanta, Georgia 30309  
Tel: 404-577-1505  
Fax: 404-577-1565

Attorney for Plaintiff

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EXHIBIT A

TO

PLAINTIFF'S COMPLAINT AND PETITION

*Feltus v. DeKalb County, et al.*

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LAW OFFICES

**BRANDON HORNSBY**

PROFESSIONAL CORPORATION  
522 MORELAND AVENUE  
ATLANTA, GEORGIA 30307  
EMAIL [brandon@hornsbylaw.com](mailto:brandon@hornsbylaw.com)  
[www.hornsbylaw.com](http://www.hornsbylaw.com)



TEL: (404) 577-1505

FAX: (404) 577-1565

January 26, 2004

VIA CERTIFIED MAIL (7002 3150 0006 0137 2973)  
RETURN RECEIPT REQUESTED

VIA CERTIFIED MAIL (7002 3150 0006 0137 2980)  
RETURN RECEIPT REQUESTED

Vernon Jones, CEO  
DeKalb County Government  
Manuel J. Maloof Center  
1300 Commerce Drive  
Decatur, Georgia 30030

Carl L. Rimmel, Director  
DeKalb Peachtree Airport  
212 Administrative Building  
2000 Airport Road  
Atlanta, Georgia 30341

**RE: Open Records Request  
Georgia Open Records Act, O.C.G.A. § 50-18-70 et seq.**

**SUBJ: Records Relating to DeKalb Peachtree Airport ("PDK")**

Dear CEO Jones and Director Rimmel:

This firm represents Mr. Charles Feltus. Pursuant to Georgia's Open Records Act, O.C.G.A. § 50-18-70, *et seq.*, Mr. Feltus respectfully requests that you produce for inspection the following records:

1) All computer data files from the Aircraft Noise and Operations Monitoring System ("ANOMS") regarding flight operations at PDK, which ANOMS was or is leased or owned by DeKalb County, from the ANOMS' first day of operation, whether it was fully operational or not, to the present. This request does not seek raw "unfiltered 'real-time' access to data and radar tracks concerning DOD, drug enforcement, or other sensitive flight operations." It seeks the release of all ANOMS computer-recorded data files which were pre-filtered/redacted and available to the public under FAA Order No. 1200.22B(4)(b) and (7)(c) for PDK aircraft operations. To facilitate the process of transferring/copying the data files, please provide me, in advance, information on the specific type and make of computer storage medium we may need to provide to DeKalb County, the FAA and/or PDK. In addition, please provide an estimate of the number of magnetic tapes, discs, etc. that will be needed;

2) All records from the ANOMS regarding flight operations at PDK in report formats including the "Flight Event List" and the "Flight Event-General Aviation List" depicting data from the day the ANOMS first started collecting or recording any flight operation or noise activity at PDK to the present, regardless of whether the ANOMS was fully operational or not. To facilitate the process of transferring/copying the data files, please provide me, in advance, information on the specific type and make of computer storage medium we may

1/26/2004

Page 2 of 2

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need to provide to DeKalb County, the FAA and/or PDK. In addition, please provide an estimate of the number of magnetic tapes, discs, etc. that will be needed;

3) All records evidencing, reflecting, referring to, or relating to DeKalb County's administrative policy and/or ordinance enforcement regarding restrictions on the type of aircraft permitted to use PDK, including, but not limited to, records related to DeKalb County's and/or Chief Executive Officer Vernon Jones' policy regarding enforcement of DeKalb County Code Section 6-93, and any publication or distribution of such policy; and,

4) All records evidencing, reflecting, referring to, relating to or constituting any communication between Chief Executive Officer Vernon Jones (or any employee or agent of his office) and any other person or entity, including, without limitation, all documents, correspondence, letters, notes, tapes, memoranda, electronic mail and any other evidence of communications that in any way relate to (i) ANOMS for flight operations at PDK; (ii) aircraft weight restrictions at PDK; and, (iii) the environmental impact (including, but not limited to, noise, compatible land use, social effects, air and water quality and construction) of past, present or future runway extensions at PDK.

We request that all responsive material that can be produced via electronic media be so produced in a commonly available and usable format, or that we be provided access to any equipment or software necessary to meaningfully review the records. Please provide any and all responsive data files in a usable format such as text (TXT), Comma Separated Variable (CSV) or Microsoft Excel (XLS).

We wish to make it clear that we want all records "identifiable with our request," even though records or materials relating to those records may reside in another office, department or private party contractor facility and even though there may be duplication among files.

If records are denied in whole or in part, please specify which exemption(s) is (are) claimed for each portion or whole record denied and give the number of data files, pages or other descriptive information regarding each record denied and the date(s) of such record(s). If portions of any records are redacted, we request that you so state with regard to **each** such record and describe the material redacted and the purpose of and authority for the redaction, and release the remaining portion of the record(s). We also request that excised material in any responsive hard copies provided be "blacked out" rather than "whited out" or cut out and that the remaining non-exempt portions of records be released as provided under O.C.G.A. § 50-18-70, *et seq.*

Please send memoranda (with a copy(ies) to me) to all appropriate personnel to ensure that no records related to this request are destroyed. Please advise of any prior destruction of records requested and include the date of and authority for such destruction. As we expect to challenge any denials, please specify the office and address to which an appeal should be directed.

If you have any questions, you or your staff may reach me by phone at 404-577-1505. Please call rather than write if there are any questions or if you need additional information from me. Additionally, please



Vernon Jones, CEO and Carl L. Mummel, Director

1/26/2004

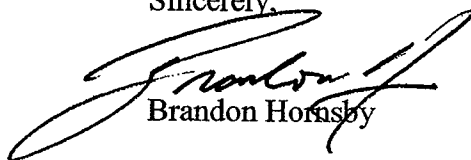
Page 3 of 3

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maintain the originals of all records that are copied, since we plan on comparing all copies provided by your office to the originals.

Finally, we ask that you process this request **within a three (3) day period** as required by O.C.G.A. § 50-18-70(f). If you need more time, please contact me immediately so we can attempt to agree on a convenient time frame. Let me thank you in advance for your time and consideration of this very important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Brandon Hornsby", with a large, stylized flourish extending from the end of the signature.

Brandon Hornsby

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EXHIBIT B

TO

PLAINTIFF'S COMPLAINT AND PETITION

*Feltus v. DeKalb County, et al.*

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**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Vernon Jones, CEO  
 DeKalb County Government  
 Manuel J. Maloot Center  
 1300 Commerce Drive  
 Decatur, GA 30030

2. Article Number

(Transfer from service label)

7002 3150 0006 0137 2973

PS Form 3811, August 2001

Domestic Return Receipt

102595-01-M-2509

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

*Walter E. Schaefer*  Agent  
 Addressee

B. Received by (Printed Name)

C. Date of Delivery

FEB 06 2004

D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:  No

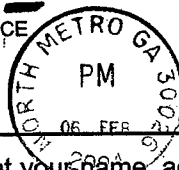
3. Service Type

- Certified Mail  Express Mail
- Registered  Return Receipt for Merchandise
- Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes  No

UNITED STATES POSTAL SERVICE



First-Class Mail  
 Postage & Fees Paid  
 USPS  
 Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

**BRANDON HORNSBY, PC**  
 1180 WEST PEACHTREE STEET  
 SUITE 1110  
 ATLANTA, GA 30309

13



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EXHIBIT C  
TO  
PLAINTIFF'S COMPLAINT AND PETITION

*Feltus v. DeKalb County, et al.*

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LAW OFFICES

**BRANDON HORNSBY**

PROFESSIONAL CORPORATION  
522 MORELAND AVENUE  
ATLANTA, GEORGIA 30307  
EMAIL [brandon@hornsbylaw.com](mailto:brandon@hornsbylaw.com)  
[www.hornsbylaw.com](http://www.hornsbylaw.com)



TEL: (404) 577-1505

FAX: (404) 577-1565

January 27, 2004

VIA CERTIFIED MAIL (7002 3150 0006 0137 2997)  
RETURN RECEIPT REQUESTED

VIA CERTIFIED MAIL (7002 3150 0006 0137 3017)  
RETURN RECEIPT REQUESTED

Vernon Jones, CEO  
DeKalb County Government  
Manuel J. Maloof Center  
1300 Commerce Drive  
Decatur, Georgia 30030

Carl L. Rimmel, Director  
DeKalb Peachtree Airport  
212 Administrative Building  
2000 Airport Road  
Atlanta, Georgia 30341

**RE: Open Records Request  
Georgia Open Records Act, O.C.G.A. § 50-18-70 et seq.**

**SUBJ: Records Relating to DeKalb Peachtree Airport ("PDK")**

Dear CEO Jones and Director Rimmel:

This firm represents Mr. Charles Feltus. Pursuant to Georgia's Open Records Act, O.C.G.A. § 50-18-70, *et seq.*, Mr. Feltus respectfully requests that you produce for inspection the following records:

- 1) All records that depict, describe or relate to the following information, including but not limited to National Airspace System computer and radar data ("NAS Data"), raw NAS Data, processed NAS data, ARTS data, Noise Monitoring Terminal data, FAA Registry data, Complaint data, Aircraft Noise and Operations Monitoring System data and aircraft situation display to industry data ("ASDI data"):
  - (a) all aircraft taking off from PDK from 1986 to the present, the type of aircraft and its N#;
  - (b) all noise levels or decibel levels recorded or received by DeKalb County from any source for all aircraft taking off or landing at PDK between 1986 and the present; and,
  - (c) all altitude readings recorded or received by DeKalb County from any source for all aircraft taking off or landing at PDK between 1986 and the present;
- 2) The information requested above in 1(a), (b) and (c) in "NOMS Data format," as that term is used in the memoranda of agreement among the Federal Aviation Administration, the City of Atlanta and DeKalb County, DeKalb County contract number 00-7806G-1;

1/27/2004

Page 2 of 2

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- 3) All records demonstrating or describing DeKalb County's use of any of the information requested above in 1(a), (b) and (c) for:
  - (a) safety purposes;
  - (b) noise monitoring; and,
  - (c) determining whether dual gear aircraft taking off or landing at PDK have a maximum take off weight in excess of 66,000 lbs;
  
- 4) Any reports, documents and/or data generated or received by computer system(s) leased or owned by DeKalb County including, but not limited to, the reports numbered 11 through 20, and 30 through 56 on the attached List of Reports available from the NOMS/TAMIS system, reflecting information between January 1, 1986 and the present. If no such reports have been generated, we request that all such reports be generated for our inspection, as reflected in the PDK-TAMIS System Overview;
  
- 5) Any records and/or data including, but not limited to, all documents, correspondence, letters, notes, tapes, memoranda, electronic mail or minutes created, received and/or sent between January 1986 and the present by DeKalb County, the FAA or the City of Atlanta or their respective contractors or agents, including any records internal to any one of those entities or copied or sent by one of said entities to one or more of the others, regarding:
  - (a) whether dual gear aircraft with a maximum takeoff weight in excess of 66,000 lbs. have used, are using or should be permitted to use PDK on a regular basis without prior authorization; and,
  - (b) consideration given to PDK permitting or being required by the FAA to permit aircraft with a maximum takeoff weight in excess of 66,000 lbs. to use PDK on a regular basis without prior authorization;
  
- 6) All records and/or data including, but not limited to, all documents, correspondence, letters, notes, tapes, memoranda, electronic mail or minutes created, received and/or sent between January 1986 and the present by DeKalb County, the FAA or the City of Atlanta or their respective contractors or agents, including any records internal to any one of those entities or copied or sent by one of said entities to one or more of the others that refer or relate to efforts by members of the public or other entities to obtain information about the types of aircraft that have been using PDK at any time subsequent to 1982; and,
  
- 7) All records and/or data including, but not limited to, all documents, correspondence, letters, notes, tapes, memoranda, electronic mail or minutes created, received and/or sent between January 1986 and the present by DeKalb County, the FAA or the City of Atlanta or their respective contractors or agents, including any records internal to any one of those entities or copied or sent by one of said entities to one or more of said entities that refer or relate to pavement strength of runways or taxiways at PDK as a factor in what types of aircraft may use PDK.

1/27/2003

Page 3 of 3

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We request that all responsive material that can be produced via electronic media be so produced in a commonly available and usable format, or that we be provided access to any equipment or software necessary to meaningfully review the records. Please provide any and all responsive data files in a usable format such as text (TXT), Comma Separated Variable (CSV) or Microsoft Excel (XLS).

We wish to make it clear that we want all records "identifiable with our request," even though records or materials relating to those records may reside in another office, department or private party contractor facility and even though there may be duplication among files.

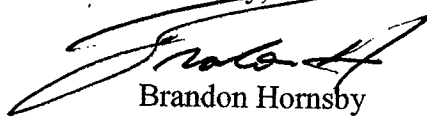
If records are denied in whole or in part, please specify which exemption(s) is (are) claimed for each portion or whole record denied and give the number of data files, pages or other descriptive information regarding each record denied and the date(s) of such record(s). If portions of any records are redacted, we request that you so state with regard to **each** such record and describe the material redacted and the purpose of and authority for the redaction, and release the remaining portion of the record(s). We also request that excised material in any responsive hard copies provided be "blacked out" rather than "whited out" or cut out and that the remaining non-exempt portions of records be released as provided under O.C.G.A. § 50-18-70, *et seq.*

Please send memoranda (with a copy(ies) to me) to all appropriate personnel to ensure that no records related to this request are destroyed. Please advise of any prior destruction of records requested and include the date of and authority for such destruction. As we expect to challenge any denials, please specify the office and address to which an appeal should be directed.

If you have any questions, you or your staff may reach me by phone at 404-577-1505. Please call rather than write if there are any questions or if you need additional information from me. Additionally, please maintain the originals of all records that are copied, since we plan on comparing all copies provided by your office to the originals.

Finally, we ask that you process this request **within a three (3) day period** as required by O.C.G.A. § 50-18-70(f). If you need more time, please contact me immediately so we can attempt to agree on a convenient time frame. Let me thank you in advance for your time and consideration of this very important matter.

Sincerely,



Brandon Hornsby

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EXHIBIT D

TO

PLAINTIFF'S COMPLAINT AND PETITION

*Feltus v. DeKalb County, et al.*

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SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Vernon Jones, CEO  
 DeKalb County Government  
 Manuel S. Malone Center  
 1300 Commerce Drive  
 Decatur, GA 30030

Birtchhoff

COMPLETE THIS SECTION ON DELIVERY

A. Signature  Agent  Addressee  
*[Signature]*

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type

Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

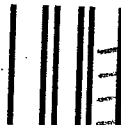
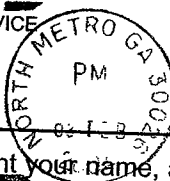
2. Article Number (Transfer from) 7002 3150 0006 0137 2997

PS Form 3811, August 2001

Domestic Return Receipt

102595-01-M-2509

UNITED STATES POSTAL SERVICE

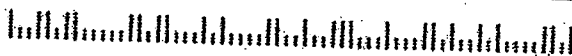


First-Class Mail  
 Postage & Fees Paid  
 USPS  
 Permit No. G

• Sender: Please print your name, address, and ZIP+4 in this box •

**BRANDON HORNSBY, PC**  
 1180 WEST PEACHTREE STEET  
 SUITE 1110  
 ATLANTA, GA 30309

13



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EXHIBIT E

TO

PLAINTIFF'S COMPLAINT AND PETITION

*Feltus v. DeKalb County, et al.*

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LAW OFFICES  
**BRANDON HORNSBY**  
PROFESSIONAL CORPORATION  
522 MORELAND AVENUE  
ATLANTA, GEORGIA 30307  
EMAIL [brandon@hornsbylaw.com](mailto:brandon@hornsbylaw.com)  
[www.hornsbylaw.com](http://www.hornsbylaw.com)



TEL: (404) 577-1505

FAX: (404) 577-1565

January 26, 2004

VIA CERTIFIED MAIL (7002 3150 0006 0137 2973)  
RETURN RECEIPT REQUESTED

VIA CERTIFIED MAIL (7002 3150 0006 0137 2980)  
RETURN RECEIPT REQUESTED

Vernon Jones, CEO  
DeKalb County Government  
Manuel J. Maloof Center  
1300 Commerce Drive  
Decatur, Georgia 30030

Carl L. Rimmel, Director  
DeKalb Peachtree Airport  
212 Administrative Building  
2000 Airport Road  
Atlanta, Georgia 30341

**RE: Open Records Request  
Georgia Open Records Act, O.C.G.A. § 50-18-70 et seq.**

**SUBJ: Records Relating to DeKalb Peachtree Airport ("PDK")**

Dear CEO Jones and Director Rimmel:

This firm represents Mr. Charles Feltus. Pursuant to Georgia's Open Records Act, O.C.G.A. § 50-18-70, *et seq.*, Mr. Feltus respectfully requests that you produce for inspection the following records:

- 1) All computer data files from the Aircraft Noise and Operations Monitoring System ("ANOMS") regarding flight operations at PDK, which ANOMS was or is leased or owned by DeKalb County, from the ANOMS' first day of operation, whether it was fully operational or not, to the present. This request does not seek raw "unfiltered 'real-time' access to data and radar tracks concerning DOD, drug enforcement, or other sensitive flight operations." It seeks the release of all ANOMS computer-recorded data files which were pre-filtered/redacted and available to the public under FAA Order No. 1200.22B(4)(b) and (7)(c) for PDK aircraft operations. To facilitate the process of transferring/copying the data files, please provide me, in advance, information on the specific type and make of computer storage medium we may need to provide to DeKalb County, the FAA and/or PDK. In addition, please provide an estimate of the number of magnetic tapes, discs, etc. that will be needed;
- 2) All records from the ANOMS regarding flight operations at PDK in report formats including the "Flight Event List" and the "Flight Event-General Aviation List" depicting data from the day the ANOMS first started collecting or recording any flight operation or noise activity at PDK to the present, regardless of whether the ANOMS was fully operational or not. To facilitate the process of transferring/copying the data files, please provide me, in advance, information on the specific type and make of computer storage medium we may

1/26/2004

Page 2 of 2

need to provide to DeKalb County, the FAA and/or PDK. In addition, please provide an estimate of the number of magnetic tapes, discs, etc. that will be needed;

3) All records evidencing, reflecting, referring to, or relating to DeKalb County's administrative policy and/or ordinance enforcement regarding restrictions on the type of aircraft permitted to use PDK, including, but not limited to, records related to DeKalb County's and/or Chief Executive Officer Vernon Jones' policy regarding enforcement of DeKalb County Code Section 6-93, and any publication or distribution of such policy; and,

4) All records evidencing, reflecting, referring to, relating to or constituting any communication between Chief Executive Officer Vernon Jones (or any employee or agent of his office) and any other person or entity, including, without limitation, all documents, correspondence, letters, notes, tapes, memoranda, electronic mail and any other evidence of communications that in any way relate to (i) ANOMS for flight operations at PDK; (ii) aircraft weight restrictions at PDK; and, (iii) the environmental impact (including, but not limited to, noise, compatible land use, social effects, air and water quality and construction) of past, present or future runway extensions at PDK.

We request that all responsive material that can be produced via electronic media be so produced in a commonly available and usable format, or that we be provided access to any equipment or software necessary to meaningfully review the records. Please provide any and all responsive data files in a usable format such as text (TXT), Comma Separated Variable (CSV) or Microsoft Excel (XLS).

We wish to make it clear that we want all records "identifiable with our request," even though records or materials relating to those records may reside in another office, department or private party contractor facility and even though there may be duplication among files.

If records are denied in whole or in part, please specify which exemption(s) is (are) claimed for each portion or whole record denied and give the number of data files, pages or other descriptive information regarding each record denied and the date(s) of such record(s). If portions of any records are redacted, we request that you so state with regard to each such record and describe the material redacted and the purpose of and authority for the redaction, and release the remaining portion of the record(s). We also request that excised material in any responsive hard copies provided be "blacked out" rather than "whited out" or cut out and that the remaining non-exempt portions of records be released as provided under O.C.G.A. § 50-18-70, *et seq.*

Please send memoranda (with a copy(ies) to me) to all appropriate personnel to ensure that no records related to this request are destroyed. Please advise of any prior destruction of records requested and include the date of and authority for such destruction. As we expect to challenge any denials, please specify the office and address to which an appeal should be directed.

If you have any questions, you or your staff may reach me by phone at 404-577-1505. Please call rather than write if there are any questions or if you need additional information from me. Additionally, please

Vernon Jones, CEO and Carl L. Mmmel, Director

1/26/2004

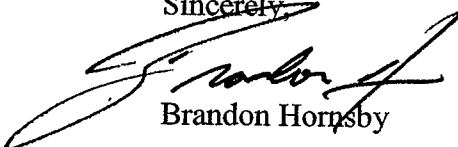
Page 3 of 3

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maintain the originals of all records that are copied, since we plan on comparing all copies provided by your office to the originals.

Finally, we ask that you process this request **within a three (3) day period** as required by O.C.G.A. § 50-18-70(f). If you need more time, please contact me immediately so we can attempt to agree on a convenient time frame. Let me thank you in advance for your time and consideration of this very important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Brandon Hornsby", written in a cursive style.

Brandon Hornsby

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EXHIBIT F

TO

PLAINTIFF'S COMPLAINT AND PETITION

*Feltus v. DeKalb County, et al.*

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**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Carl L. Remmel, Director  
 DeKalb Peachtree Airport  
 212 Administrative Bldg.  
 2000 Airport Rd  
 Atlanta, GA 30341

2. Article Number

(Transfer from service label)

7002 3150 0006 0137 2980

PS Form 3811, August 2001

Domestic Return Receipt

102595-01-M-2509

**COMPLETE THIS SECTION ON DELIVERY**

A. Sign

X *Allen Jackson*

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

*2/30/04*

D. Is delivery address different from item 1? If YES, enter delivery address below:

- Yes
- No

3. Service Type

- Certified Mail
- Express Mail
- Registered
- Return Receipt for Merchandise
- Insured Mail
- C.O.D.

4. Restricted Delivery? (Extra Fee)

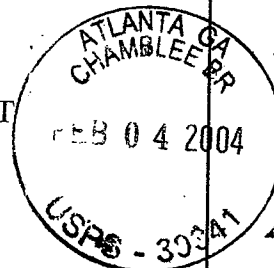
UNITED STATES POSTAL SERVICE



First-Class Mail  
 Postage & Fees Paid  
 USPS  
 Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

**BRANDON HORNSBY, PC**  
 1180 WEST PEACHTREE STREET  
 SUITE 1110  
 ATLANTA, GA 30309



30309+3407



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EXHIBIT G

TO

PLAINTIFF'S COMPLAINT AND PETITION

*Feltus v. DeKalb County, et al.*

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**MEMORANDUM OF AGREEMENT** Contract No. DD-7806G

Federal Aviation Administration /Atlanta Large TRACON (A80)

and the

City of Atlanta/Department of Aviation

and the

DeKalb County Aviation Division

The City of Atlanta (City) and DeKalb County (County) have requested that the Federal Aviation Administration (FAA) provide them access to certain flight track data to support the data requirements of the Environmental Impact Statement (EIS), Airport Noise Compatibility Planning under 14 CFR Part 150/Noise Abatement, NOMS (noise and operations monitoring system), or other purposes expressly approved elsewhere in this document for the William B. Hartsfield Atlanta International Airport (ATL) and the DeKalb-Peachtree Airport (PDK). The FAA agrees to provide and allow the City and County to use certain data (Data—see section VII), as set forth in this Memorandum of Agreement (MOA). The Data will be filtered and aged per the stipulations articulated in Section II of this MOA by means of a computer system (System). The County will obtain the Data from the City. The parties acknowledge that the City has installed the System referenced herein pursuant to a previous MOA, and that the City and County are, and have been, receiving Data per that MOA. The FAA enters this updated MOA pursuant to 49 United States Code (USC) section 106 (I) 6. Therefore, the FAA, the City, and the County agree to the following procedures, restrictions and responsibilities on this date 12/11/2002. Should, at a later date, the City and County elect to dissolve their separate intergovernmental agreement, the City's relationship with the FAA will continue and this MOA will remain in force.

**I. DESCRIPTION.**

- A. Flight track data acquired will be used for the City's and County's noise and operations monitoring systems.
- B. This MOA covers the requirements for (i) provision of the Data; (ii) use of the Data; and (iii) installation, use and maintenance of the System.

**II. FAA RESPONSIBILITIES.**

- A. The FAA will release the Data to the City, subject to the terms of this MOA, within no more than one (1) day from the date it is generated, but no less than fifteen (15) minutes, unless this MOA is further amended by FAA and the Parties to provide otherwise. The Parties agree that the release of the Data may be delayed due to operational necessity and/or hardware unavailability. No Data will be released to the City unless and until it has been filtered and aged by the installed System. The FAA will also extract from the Data to be released any

information which is not filtered out by the installed System concerning military flights, aircraft incidents and any other information deemed sensitive by the FAA, at its sole discretion. Final authority to deny access to the Data or other information in accordance with the terms of this MOA shall rest with the FAA's Atlanta TRACON Air Traffic Manager.

- B. All computer programs and equipment comprising the System described herein that have been installed pursuant to previous MOAs shall continue to conform to established FAA criterion and performance standards. FAA personnel will be present during the installation, testing, demonstration, servicing, and removal of the System. The FAA agrees to provide access to the facility at the mutual convenience of the parties with at least twenty-four (24) hours notice, normally Monday through Friday from 08:00 local time until 16:30 local time, to the City's designated service personnel for the purpose of repairing, removing, or returning computer equipment.
- C. The FAA will perform a risk analysis on the System by conducting a Security Evaluation in accordance with FAA Order 1370.82. System equipment is located in the TRACON. Auxiliary flight track viewing equipment, located elsewhere, is to be used for the purpose of flight track analysis by FAA personnel, rather than Data processing.
- D. The FAA shall notify the City by telephone, fax, or e-mail communication of all System software, hardware, and telecommunications problems within twenty-four (24) hours of the discovery of any process aberration. Major maintenance of the System shall be performed off-site.
- E. FAA Airway Facilities System Specialists will be thoroughly familiar with the methods of the installation and removal of the System. Those FAA personnel must be proficient in the removal of all connecting hardware in the event of equipment problems and/or failures.
- F. The TRACON Air Traffic Manager (Atlanta Large TRACON A80), System Support Center Supervisor, or their designated representatives shall have the authority to disconnect all System interface devices for operational purposes without prior notification and coordination with the City. Service interruptions may occur due to operational necessity, safety and security concerns, and/or hardware failure. The FAA shall make reasonable attempts to notify the City before any disconnection or interruption in service. Should a disconnection occur without prior notification, the FAA will promptly notify the City by telephone, facsimile, or e-mail communication upon discovery of the disruption of Data flow or, if outside the business hours of 08:00 through 16:30 local time, Monday through Friday, by 09:00 the following business day. For a scheduled interruption of Data, the FAA will notify the City twenty four (24) hours prior to the scheduled interruption if possible; this in no way abrogates the FAA's right to disrupt the flow of Data without notice, if dictated by operational necessity. The Atlanta Large TRACON A-80 shall not be held responsible or retain any legal obligation as to the accuracy, validity, or continued availability of the data.

- G. The FAA shall honor and be subject to all software licensing agreements and copyrights that apply to any software installed in the System.

### **III. CITY/COUNTY RESPONSIBILITIES – USE OF ATC COMPUTER/RADAR DATA.**

- A. The City has installed a Data acquisition System in accordance with the requirements enumerated in Appendix A. All computer programs and equipment to be installed and operated in the Atlanta Large TRACON will be subject to FAA approval. The System will ensure that all radar information is screened to filter out the restricted Data prior to that Data leaving the TRACON. The System shall be subject to random output testing conducted at the request of the FAA regional security representative or the Automated Information Systems Security Branch, ASO-710, or the Air Traffic Manager (or designee). The System's software program(s) shall have commands available to designated FAA personnel that will allow temporary interruption of the flow of Data, but will not compromise the integrity of the ATC computer/radar system.
- B. Neither the City nor the County shall release Data to the public in other than NOMS Data format, unless required by law. Should the City or County be required to release Data in other than NOMS Data format, it shall notify the FAA before doing so via fax transmission or e-mail communication. This notification must be provided promptly upon either entity's receipt of the request for the Data, so that the FAA has sufficient opportunity to take whatever action it deems appropriate. If no FAA response is received within two (2) business days of either the City's or County's receipt of a Georgia Open Records Act request, then the FAA understands that the City or County must and shall determine whether or not the records are subject to access under the provisions of the state law without the FAA's response. All requests for Data other than that in NOMS Data format must be directed to the FAA. Neither the City nor the County shall provide Raw Data, Filtered/ Aged Data, and/or Processed Data to the public; possible actions related to the violation of this provision include, but are not limited to, the cessation of Data transmission and the termination of this MOA. If the County violates the terms of this MOA, but the City remains in compliance with the regulations elaborated upon in this document, the City shall, in compliance with a directive from the FAA, disconnect the County from the City's System. Exceptions to the prohibition against transferring Filtered/Aged Data and/or Processed Data are in providing those types of Data to other non-public entities including but not limited to: 1) other FAA offices; 2) certain noise/aircraft-operations consultants under the control of either the City or County; 3) airline personnel working with either the City or County for the purpose of airspace development or in the furtherance of other NOMS objectives, after attaining approval from the FAA's Atlanta TRACON Air Traffic Manager.
- C. Except as otherwise provided herein, the City and County may use the Data for their own purposes including but not limited to: 1) monitoring operational compliance with its noise abatement procedures; 2) the analysis of flight operations; 3) the correlation of recorded noise events with aircraft operations; 4) the assessment and collection of landing fees; 5) reports and analyses derived

from the Data, such as flight track trajectories and flight events over given areas during certain time periods, as well as other derived data of a similar nature (subject to the provisions of all other provisions of all other paragraphs in this Agreement); 6) for other administrative purposes that are not expressly prohibited by this document.

- D. The Data may not be used by either the City or the County for legal actions without the prior approval of the FAA with the exception of cases involving the assessment or collection of landing fees. The Data may not be used to enforce noise abatement regulations. Publicly released reports shall not contain specific: 1) airline references; 2) aircraft flight ID numbers; 3) FAA registry numbers; 4) aircraft owner information. At the FAA's request, copies of all reports and analyses, publicly released, shall be provided to the FAA.
- E. Except as otherwise required by law, neither the City nor the County shall release Data if advised by the FAA that it contains information relating to: 1) a military operation; 2) an aircraft incident; 3) or other sensitive matter as articulated in FAA Order 1200.22.
- F. The City agrees that any property of the United States damaged or destroyed incident to the exercise of the privileges herein shall be promptly repaired or replaced by the City to the satisfaction of the FAA at the City's expense.
- G. The City and County agree, to the extent permitted by law, to indemnify and hold harmless the FAA, its agents, officers, and employees, from and against all claims, demands, damages, liabilities, losses, suits, and judgments (including all costs and expenses incident thereto) which may accrue against, be suffered by, be charged to or be recoverable from the FAA, its agents, officers, and employees and agents under this MOA. In the event that either the City or County hold or obtain insurance in support of this promise, a Certificate of insurance shall be delivered to the FAA. Nothing in this provision shall be construed to indemnify the FAA for any negligent act or willful misconduct committed by it in performing its obligations under this MOA or otherwise dealing with the System or the Data or constitute a waiver by the City of Atlanta, DeKalb County, or any of their agents of the protection of any sovereign or other statutory immunity.
- H. The City, or its designated contractor, has installed or shall install and pay for the System and all System equipment, including but not limited to: 1) the System's interface devices; 2) hardware; 3) software; 4) utilities; 5) and all other auxiliary equipment required under this MOA. Should the City deem it necessary to install additional equipment or incur other expenses in connection with this MOA, the City, or its designated contractor, will pay for the installation of such necessary phone lines and assume the costs for any expenses so incurred. All such materials shall at all times remain the property of the City.

#### **IV. INTERAGENCY COMMUNICATIONS.**

All notices, demands, consents, approvals, and requests (other than those allowed verbally by telephone, fax transmission, or e-mail communication) given by any party to another under this MOA shall be in writing and shall be sent by registered or certified mail, postage prepaid to the parties at the following addresses as applicable. All required telephonic/facsimile notices shall be made to the individuals designated in this section (IV). Any party may, at any time, change its respective address/phone or facsimile numbers by sending written notice to the other party of the change. Notices shall be deemed to be received upon deposit in the mail, properly addressed.

##### **CITY OF ATLANTA**

###### **Direct requests to:**

Aviation General Manager  
City of Atlanta/Department of Aviation  
6000 N. Terminal Parkway  
Atrium Suite 4000  
Atlanta, GA 30320  
404 530-6600  
404 530-6803 (fax)

###### **With a copy to:**

NOMS Specialist  
City of Atlanta/Department of Aviation  
6000 N. Terminal Parkway  
Atrium Suite 430  
Atlanta, GA 30320  
404 209-2945  
404 305-7928 (fax)

###### **With a copy to:**

City Attorney  
City of Atlanta/Department of Law  
68 Mitchell St. SW, Suite 4100  
Atlanta, GA 30303  
404 330-6567  
404 658-7980 (fax)

##### **FAA**

###### **Direct requests to:**

Air Traffic Manager  
Federal Aviation Administration  
Atlanta Large TRACON  
784 Hwy. 74 South  
Peachtree City, GA 30269  
678 364-6000  
678 364-6313 (fax)

###### **With a copy to:**

Systems Management Office Manager  
Federal Aviation Administration  
Atlanta Air Traffic Control Tower  
Hartsfield Atlanta International Airport  
1101 Aviation Boulevard  
Hapeville, GA 30354  
404 669-1250  
404 669-1296 (fax)

##### **DEKALB COUNTY**

###### **Direct requests to:**

Chief Executive Officer  
DeKalb County, GA  
The Maloof Center  
1300 Commerce Drive  
Decatur, GA 30030  
404 371-2885  
404 371-3224 (fax)

###### **With a copy to:**

Airport Director  
DeKalb Peachtree Airport  
212 Administration Building  
2000 Airport Road  
Atlanta, GA 30341  
770 936-5440  
770 936-5446 (fax)

**V. TERMINATION OF MOA.**

Any party may terminate this MOA by giving ninety- (90) days prior written notification to the others.

**VI. ADDITIONAL PROCEDURES AND RESTRICTIONS.**

- A. All City personnel in FAA spaces shall meet all security requirements and follow all security policies/practices established by the FAA's Atlanta Large TRACON Air Traffic Manager.

**VII. DEFINITIONS COVERED BY THIS MOA.**

Data: a generic term pertaining to information related to the path of aircraft flights within the terminal environment of the airport. When not contextually clear, the specific type, or stage of Data evolution will be elaborated upon by referencing one of the definitions below.

Raw Data: information pertaining to individual aircraft flights (accessed through the ARTS Gateway) and containing geo-referenced points that, when connected, form flight tracks (the path, projected on the ground, of an aircraft in flight). This is the same data used by ATC to fulfill its mission to safely separate and sequence aircraft operations.

Filtered/Aged Data: The same as Raw Data with the exception that the information has been filtered by squawk code and aged per the terms of this MOA.

Processed Data: Filtered/Aged data that has been transmitted to the NOMS Program main server and integrated with a database so that queries can be executed and it can be viewed/analyzed on NOMS client-stations.

NOMS: Noise and Operations Monitoring System; used primarily to track the movement of aircraft and the noise they cause at certain locations and other uses further elaborated upon in other sections of this document.

NOMS Data: Processed Data that, accessed by special software, permits its viewing/analysis on NOMS client-stations; it includes graphical representations and tabular information.

System: hardware and software used to access, filter, and age the Data contained in the ARTS Gateway.

Public: refers to persons other than those authorized by this MOA to access other than NOMS Data.

VIII. CONCURRENT WITH THIS MOA

The FAA and the outside interest concur with the provisions of this MOA as indicated by the signatures of their duly authorized officials. This MOA supplants its predecessors.

CITY OF ATLANTA

BY:

Shirley Franklin (SEAL)  
SHIRLEY FRANKLIN  
MAYOR  
CITY OF ATLANTA

ATTEST:

[Signature]  
MUNICIPAL CLERK  
DEPUTY MUNICIPAL CLERK  
APPROVED AS TO FORM:

Paula [Signature]  
CITY ATTORNEY, Sr. Asst.

APPROVED:

[Signature]  
BEN DE COSTA  
AVIATION GENERAL MANAGER

[Signature]  
FELICIA STRONG-WHITAKER  
DIRECTOR BPRE

RECOMMENDED:

[Signature]  
CHIEF OPERATING OFFICER

FEDERAL AVIATION  
ADMINISTRATION

BY:

Frances Mulkey  
FRANCES MULKEY  
AIR TRAFFIC MANAGER  
ATLANTA LARGE TRACON

BY:

[Signature]  
ROBERT H. JOHNSON  
MANAGER ATLANTA SMO

DEKALB COUNTY, GA

BY:

Vernon Jones (SEAL)  
VERNON JONES  
CHIEF EXECUTIVE OFFICER  
DEKALB COUNTY, GA

ATTEST:

[Signature]  
MICHAEL J. BELL  
EX OFFICIO CLERK OF THE CHIEF  
EXECUTIVE OFFICER AND BOARD OF  
DEKALB COUNTY, GA

APPROVED AS TO FORM:

[Signature]  
COUNTY ATTORNEY  
[Signature]  
Asst.

DeKalb County

Contract No. 00-7806G-1

## Appendix A

The City has provided a System consisting of a processor, console, mass storage device, modem, UPS/power conditioner, and disk drives. The System will be designed such that the following selected digital radar data will be transferred to a computer mass storage device supplied by the City at no cost to the FAA:

- A. Flight track data for the Airport and other local airports within 40 nautical miles of latitude 33 37'43.47" and longitude 84 25'48.19", the upper tracking threshold shall be twenty thousand (20,000) feet above sea level.
- B. Flight track data for all in-flight activity described in Paragraph A. above twenty-four (24) hours a day, seven (7) days a week for commercial and general aviation aircraft. Data should not include military operations, aircraft incidents, or any other information deemed sensitive at the sole discretion of the FAA.
- C. Flight track data will be restricted to aircraft assigned beacon codes allocated to the Atlanta Tower in accordance with FAA Order 7110.66

This Data will be extracted from all information transmitted from the ATC computer/radar system, and will be aged and filtered by the City's System, in accordance with FAA Order 1200.22, in the FAA facility. After aging and filtering, the Data will be transmitted to the City (and then forwarded to the County) to be further processed for use in their respective NOMS (noise and operations monitoring system).

The FAA will provide space and utilities for the equipment comprising the System. The electrical power provided by the FAA may be subject to momentary interruption or voltage variations. Power conditioning, if required, will be the responsibility of the City.

The System provided by the City will have the capabilities to: 1) allow the FAA to terminate transmission at any time subject to the provisions of this MOA; 2) allow the FAA to selectively, and at its sole discretion, exclude additional data based upon beacon codes and/or aircraft identification, including but not limited to military operations and aircraft incidents; 3) filter air traffic control data to meet Civil Aviation Security Standards.

The System provided by the City must meet all requirements of Department of Transportation Federal Aviation Administration Order 1200.22



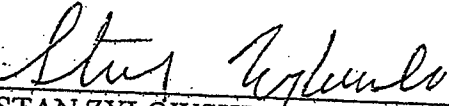
AMENDMENT NUMBER ONE  
MEMORANDUM OF AGREEMENT  
FEDERAL AVIATION ADMINISTRATION  
ATLANTA AIR TRAFFIC CONTROL TOWER  
CITY OF ATLANTA DEPARTMENT OF AVIATION  
DEKALB COUNTY ADMINISTRATION

On or about February 22, 2000, the Federal Aviation Administration ("FAA"), the City of Atlanta ("City") and DeKalb County ("County") executed or ratified a Memorandum of Agreement concerning utilization of certain data transmitted from the ATC computer/radar system at Hartsfield Atlanta International Airport to the City's equipment.

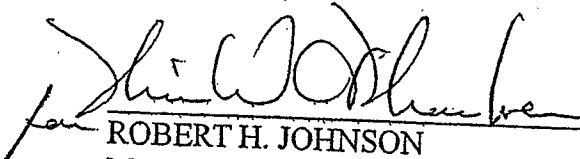
The parties acknowledge that, after the commissioning of the Large TRACON at Peachtree City, Georgia, the data will be generated at, and transmitted from, that facility rather than at the Atlanta Air Traffic Control Tower. Consequently, the parties hereby agree that the original Memorandum of Agreement is amended to the extent necessary to reflect that change in conditions. Wherever the original agreement references data generated or transmitted by the Atlanta Air Traffic Control Tower, the Agreement shall be construed to mean the Large TRACON. In all other respects the agreement remains unchanged.

FEDERAL AVIATION ADMINISTRATION

BY:

  
STAN ZYŁOWSKI  
AIR TRAFFIC MANAGER  
ATLANTA ATC TOWER

BY:

  
ROBERT H. JOHNSON  
MANAGER  
ATLANTA SMO

**CITY OF ATLANTA**

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

APPROVED:

\_\_\_\_\_  
BEN DECOSTA  
AVIATION GENERAL MANAGER

APPROVED:

\_\_\_\_\_  
FELICIA STRONG-WHITAKER  
DIRECTOR BUREAU OF PURCHASING AND REAL ESTATE

**DEKALB COUNTY, GEORGIA**

APPROVED AS TO FORM:

*Dist. M. Wilson*  
\_\_\_\_\_  
COUNTY ATTORNEY

APPROVED:

*Vernon Jones*  
\_\_\_\_\_  
VERNON JONES  
CHIEF EXECUTIVE OFFICER  
DEKALB COUNTY, GEORGIA

**DeKalb County**  
Contract No. 00-7806G

ATTEST:

*Michael J. Bell*  
\_\_\_\_\_  
Michael J. Bell  
Ex Officio Clerk of the  
Chief Executive Officer and  
Board of Commissioners of  
DeKalb County, Georgia

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EXHIBIT H

TO

PLAINTIFF'S COMPLAINT AND PETITION

*Feltus v. DeKalb County, et al.*

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LAW OFFICES

**BRANDON HORNSBY**

PROFESSIONAL CORPORATION  
522 MORELAND AVENUE  
ATLANTA, GEORGIA 30307  
EMAIL [brandon@hornsbylaw.com](mailto:brandon@hornsbylaw.com)  
[www.hornsbylaw.com](http://www.hornsbylaw.com)



TEL: (404) 577-1505

FAX: (404) 577-1565

January 27, 2004

VIA CERTIFIED MAIL (7002 3150 0006 0137 2997)  
RETURN RECEIPT REQUESTED

VIA CERTIFIED MAIL (7002 3150 0006 0137 3017)  
RETURN RECEIPT REQUESTED

Vernon Jones, CEO  
DeKalb County Government  
Manuel J. Maloof Center  
1300 Commerce Drive  
Decatur, Georgia 30030

Carl L. Rimmel, Director  
DeKalb Peachtree Airport  
212 Administrative Building  
2000 Airport Road  
Atlanta, Georgia 30341

**RE: Open Records Request  
Georgia Open Records Act, O.C.G.A. § 50-18-70 et seq.**

**SUBJ: Records Relating to DeKalb Peachtree Airport ("PDK")**

Dear CEO Jones and Director Rimmel:

This firm represents Mr. Charles Feltus. Pursuant to Georgia's Open Records Act, O.C.G.A. § 50-18-70, *et seq.*, Mr. Feltus respectfully requests that you produce for inspection the following records:

- 1) All records that depict, describe or relate to the following information, including but not limited to National Airspace System computer and radar data ("NAS Data"), raw NAS Data, processed NAS data, ARTS data, Noise Monitoring Terminal data, FAA Registry data, Complaint data, Aircraft Noise and Operations Monitoring System data and aircraft situation display to industry data ("ASDI data"):
  - (a) all aircraft taking off from PDK from 1986 to the present, the type of aircraft and its N#;
  - (b) all noise levels or decibel levels recorded or received by DeKalb County from any source for all aircraft taking off or landing at PDK between 1986 and the present; and,
  - (c) all altitude readings recorded or received by DeKalb County from any source for all aircraft taking off or landing at PDK between 1986 and the present;
- 2) The information requested above in 1(a), (b) and (c) in "NOMS Data format," as that term is used in the memoranda of agreement among the Federal Aviation Administration, the City of Atlanta and DeKalb County, DeKalb County contract number 00-7806G-1;

1/27/2004

Page 2 of 2

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- 3) All records demonstrating or describing DeKalb County's use of any of the information requested above in 1(a), (b) and (c) for:
  - (a) safety purposes;
  - (b) noise monitoring; and,
  - (c) determining whether dual gear aircraft taking off or landing at PDK have a maximum take off weight in excess of 66,000 lbs;
  
- 4) Any reports, documents and/or data generated or received by computer system(s) leased or owned by DeKalb County including, but not limited to, the reports numbered 11 through 20, and 30 through 56 on the attached List of Reports available from the NOMS/TAMIS system, reflecting information between January 1, 1986 and the present. If no such reports have been generated, we request that all such reports be generated for our inspection, as reflected in the PDK-TAMIS System Overview;
  
- 5) Any records and/or data including, but not limited to, all documents, correspondence, letters, notes, tapes, memoranda, electronic mail or minutes created, received and/or sent between January 1986 and the present by DeKalb County, the FAA or the City of Atlanta or their respective contractors or agents, including any records internal to any one of those entities or copied or sent by one of said entities to one or more of the others, regarding:
  - (a) whether dual gear aircraft with a maximum takeoff weight in excess of 66,000 lbs. have used, are using or should be permitted to use PDK on a regular basis without prior authorization; and,
  - (b) consideration given to PDK permitting or being required by the FAA to permit aircraft with a maximum takeoff weight in excess of 66,000 lbs. to use PDK on a regular basis without prior authorization;
  
- 6) All records and/or data including, but not limited to, all documents, correspondence, letters, notes, tapes, memoranda, electronic mail or minutes created, received and/or sent between January 1986 and the present by DeKalb County, the FAA or the City of Atlanta or their respective contractors or agents, including any records internal to any one of those entities or copied or sent by one of said entities to one or more of the others that refer or relate to efforts by members of the public or other entities to obtain information about the types of aircraft that have been using PDK at any time subsequent to 1982; and,
  
- 7) All records and/or data including, but not limited to, all documents, correspondence, letters, notes, tapes, memoranda, electronic mail or minutes created, received and/or sent between January 1986 and the present by DeKalb County, the FAA or the City of Atlanta or their respective contractors or agents, including any records internal to any one of those entities or copied or sent by one of said entities to one or more of said entities that refer or relate to pavement strength of runways or taxiways at PDK as a factor in what types of aircraft may use PDK.

1/27/2003

Page 3 of 3

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We request that all responsive material that can be produced via electronic media be so produced in a commonly available and usable format, or that we be provided access to any equipment or software necessary to meaningfully review the records. Please provide any and all responsive data files in a usable format such as text (TXT), Comma Separated Variable (CSV) or Microsoft Excel (XLS).

We wish to make it clear that we want all records "identifiable with our request," even though records or materials relating to those records may reside in another office, department or private party contractor facility and even though there may be duplication among files.

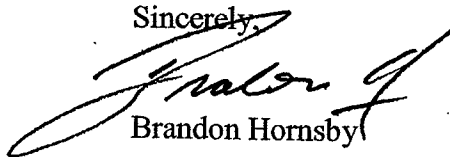
If records are denied in whole or in part, please specify which exemption(s) is (are) claimed for each portion or whole record denied and give the number of data files, pages or other descriptive information regarding each record denied and the date(s) of such record(s). If portions of any records are redacted, we request that you so state with regard to **each** such record and describe the material redacted and the purpose of and authority for the redaction, and release the remaining portion of the record(s). We also request that excised material in any responsive hard copies provided be "blacked out" rather than "whited out" or cut out and that the remaining non-exempt portions of records be released as provided under O.C.G.A. § 50-18-70, *et seq.*

Please send memoranda (with a copy(ies) to me) to all appropriate personnel to ensure that no records related to this request are destroyed. Please advise of any prior destruction of records requested and include the date of and authority for such destruction. As we expect to challenge any denials, please specify the office and address to which an appeal should be directed.

If you have any questions, you or your staff may reach me by phone at 404-577-1505. Please call rather than write if there are any questions or if you need additional information from me. Additionally, please maintain the originals of all records that are copied, since we plan on comparing all copies provided by your office to the originals.

Finally, we ask that you process this request **within a three (3) day period** as required by O.C.G.A. § 50-18-70(f). If you need more time, please contact me immediately so we can attempt to agree on a convenient time frame. Let me thank you in advance for your time and consideration of this very important matter.

Sincerely,



Brandon Hornsby

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EXHIBIT I

TO

PLAINTIFF'S COMPLAINT AND PETITION

*Feltus v. DeKalb County, et al.*

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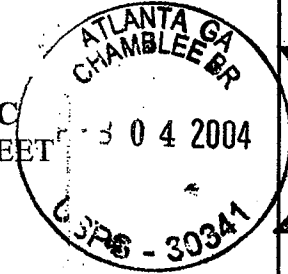
UNITED STATES POSTAL SERVICE



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

BRANDON HORNSBY, PC  
1180 WEST PEACHTREE STREET  
SUITE 1110  
ATLANTA, GA 30309



**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Carl L. Remmel, Director  
DeKalb Peachtree Airport  
212 Administrative Bldg.  
2000 Airport Rd  
Atlanta, GA 30341

2. Article #  
(Transf)

7002 3150 0006 0137 3017

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

*Allen Jackson*

Agent  
 Addressee

B. Received by (Printed Name)

C. Date of Delivery

2 304

D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:  No

3. Service Type

- Certified Mail  Express Mail
- Registered  Return Receipt for Merchandise
- Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)



IN THE SUPERIOR COURT OF DEKALB COUNTY

STATE OF GEORGIA

CHARLES "MICKEY" FELTUS,

Plaintiff,

vs.

CIVIL ACTION No.:

DEKALB COUNTY, VERNON JONES, in  
his official capacity as Chief  
Executive Officer of DeKalb  
County, DEKALB-PEACHTREE  
AIRPORT, and CARL L. REMMEL, in  
his official capacity as  
Director of the DeKalb-Peachtree  
Airport,

Defendants.

VERIFICATION OF CHARLES "MICKEY" FELTUS

STATE OF GEORGIA,

COUNTY OF FULTON.

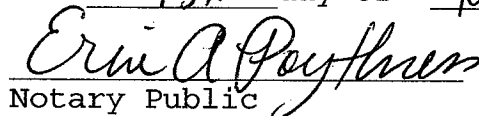
Personally appeared before the undersigned officer, duly authorized to administer oaths, CHARLES "MICKEY" FELTUS, who after first being duly sworn deposes and says that he has read his Petition and Complaint, that he is competent to verify said Petition and Complaint and the information stated and contained therein, and that he does hereby verify said Petition and Complaint as being true, accurate, and correct to the best of his knowledge, information and belief.

This 13<sup>th</sup> day of May 2004.



CHARLES "MICKEY" FELTUS

Sworn to and subscribed before me  
this 13<sup>th</sup> day of May 2004, 2004.

  
Notary Public

IN THE SUPERIOR COURT OF DEKALB COUNTY

STATE OF GEORGIA

CHARLES "MICKEY" FELTUS,

Plaintiff,

vs.

CIVIL ACTION No.:

DEKALB COUNTY, VERNON JONES, in his official capacity as Chief Executive Officer of DeKalb County, DEKALB-PEACHTREE AIRPORT, and CARL L. REMMEL, in his official capacity as Director of the DeKalb-Peachtree Airport,

Defendants.

**PLAINTIFF'S  
FIRST REQUEST FOR ADMISSIONS TO DEFENDANT**

**TO EACH NAMED DEFENANT:**

COMES NOW Plaintiffs in the above-captioned action, and in accordance with O.C.G.A. § 9-11-36, hereby requests that each Defendant individually admit or deny that each of the statements set forth below is true, and serve a copy of the answers upon counsel for Plaintiffs within the time provided by law.

I.

**NOTES**

When used in these Requests, the term "you," or any synonym thereof, is intended to and shall embrace and shall

include in addition to responding Defendant, all of your owners, employees, agents, servants, and representatives.

REQUESTS

1.

Admit you have been correctly named in the present cause of action insofar as the legal designation of names is concerned.

2.

Admit that you have been properly served as a party Defendant.

3.

Admit that process is sufficient with regard to you in this case.

4.

Admit that service of process is sufficient with regard to you in this case.

5.

Admit that the DeKalb County Superior Court has jurisdiction over the subject matter of this case.

6.

Admit that the DeKalb County Superior Court has personal jurisdiction over you as a party Defendant in this case.

7.

Admit that venue is proper in DeKalb County.

8.

Admit that the Plaintiff has not failed to join an indispensable party in this action.

9.

Admit that you violated the Georgia Open Records Act by failing to disclose records responsive to Plaintiff's January 26, 2004 letter to your attention which is an Exhibit to Plaintiff's Verified Complaint and Petition.

10.

Admit that you violated the Georgia Open Records Act by failing to disclose records responsive to Plaintiff's January 27, 2004 letter to your attention which is an Exhibit to Plaintiff's Verified Complaint and Petition.

This 14<sup>th</sup> day of May 2004.

**BRANDON HORNSBY, P.C.**



Brandon Hornsby  
Ga. State Bar No. 367680

Atlantic Center Plaza  
1180 W. Peachtree St., Ste. 1110  
Atlanta, Georgia 30309  
Tel: 404-577-1505  
Fax: 404-577-1565

Attorney for Plaintiff

IN THE SUPERIOR COURT OF DEKALB COUNTY

STATE OF GEORGIA

CHARLES "MICKEY" FELTUS,

Plaintiff,

vs.

DEKALB COUNTY, VERNON JONES, in  
his official capacity as Chief  
Executive Officer of DeKalb  
County, DEKALB-PEACHTREE  
AIRPORT, and CARL L. REMMEL, in  
his official capacity as  
Director of the DeKalb-Peachtree  
Airport,

Defendants.

CIVIL ACTION No.:

NOTICE OF DEPOSITION

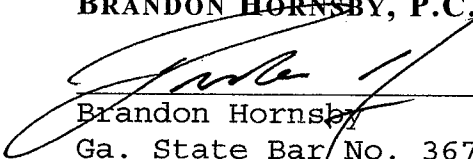
COMES NOW Plaintiff in the above-captioned action, and gives Notice that at 10:00 a.m. on the 5<sup>th</sup> day of July 2004 at the offices of Brandon Hornsby, P.C., 1180 W. Peachtree Street, Suite 1110, Atlanta, Georgia 30309, counsel for Plaintiff shall take the deposition of **CARL L. REMMEL** upon oral examination, pursuant to the Georgia Rules of Civil Procedure before a Notary Public, or before some other officer authorized by law to administer oaths.

The deposition will be taken for all purposes authorized by the Georgia Civil Practice Act and will continue from day to day until the examination is complete. If for any reason the deposition cannot be commenced, or if commenced, cannot be

concluded on that day, the deposition will be continued daily at the same time and place.

This 14<sup>th</sup> day of May 2004.

**BRANDON HORNSBY, P.C.**



Brandon Hornsby  
Ga. State Bar No. 367680

Atlantic Center Plaza  
1180 West Peachtree Street  
Suite 1110  
Atlanta, Georgia 30309  
Tel: 404-577-1505  
Fax: 404-577-1565

Attorney for Plaintiff

IN THE SUPERIOR COURT OF DEKALB COUNTY

STATE OF GEORGIA

CHARLES "MICKEY" FELTUS,

Plaintiff,

vs.

DEKALB COUNTY, VERNON JONES, in  
his official capacity as Chief  
Executive Officer of DeKalb  
County, DEKALB-PEACHTREE  
AIRPORT, and CARL L. REMMEL, in  
his official capacity as  
Director of the DeKalb-Peachtree  
Airport,

Defendants.

CIVIL ACTION No.:

NOTICE OF DEPOSITION

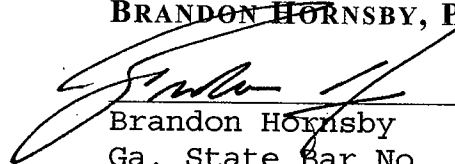
COMES NOW Plaintiff in the above-captioned action, and gives Notice that at 10:00 a.m. on the 6<sup>th</sup> day of July 2004 at the offices of Brandon Hornsby, P.C., 1180 W. Peachtree Street, Suite 1110, Atlanta, Georgia 30309, counsel for Plaintiff shall take the deposition of **VERNON JONES** upon oral examination, pursuant to the Georgia Rules of Civil Procedure before a Notary Public, or before some other officer authorized by law to administer oaths.

The deposition will be taken for all purposes authorized by the Georgia Civil Practice Act and will continue from day to day until the examination is complete. If for any reason the deposition cannot be commenced, or if commenced, cannot be

concluded on that day, the deposition will be continued daily  
at the same time and place.

This 14<sup>th</sup> day of May 2004.

**BRANDON HORNSBY, P.C.**



---

Brandon Hornsby  
Ga. State Bar No. 367680

Atlantic Center Plaza  
1180 West Peachtree Street  
Suite 1110  
Atlanta, Georgia 30309  
Tel: 404-577-1505  
Fax: 404-577-1565

Attorney for Plaintiff