

IN THE MUNICIPAL COURT FOR THE CITY OF ATLANTA
STATE OF GEORGIA

STATE OF GEORGIA,

vs.

Defendant.

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Case No. _____

MOTION FOR DISCOVERY AND NOTICE TO PRODUCE

COMES NOW, Defendant in the above-styled case, by and through his/her counsel of record, and files this Motion for Discovery Materials and Notice to Produce. This motion is made pursuant to the authority of *Brady v. Maryland*, 373 U.S. 83 (1963); *Giles v. Maryland*, 386 U.S. 66 (1967), and subsequent cases. Defendant moves this to require the State through the Solicitor to produce for Defendant's inspection, any and all evidence exculpatory in nature within the meaning of the foregoing cases, including but not limited to:

NOTICE TO PROSECUTOR: You are hereby requested not only to furnish the materials requested below which are in your present possession, but also to ask the investigating police Officer(s) if any of the requested materials exist (especially audio or video tapes). See, *Kyles v. Whitley*, 514 U.S. 419 (1995), holding "that the individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government's behalf, including the police."

- (1) any statements made by any witness regarding this matter which may be favorable to Defendant's defense;
- (2) any written reports, documents, or other physical evidence that may tend to be favorable to Defendant;
- (3) the results of any chemical tests, scientific tests, analyses or experiments performed by the arresting Officer, other Officers, the State Crime Lab, the Department of Public Safety, or the manufacturer of the blood testing machine, for this case or any other purpose, which may tend to show in any way the evidence of unreliability of said testing machine or of the operator thereof, the innocence of Defendant, or other evidence favorable to Defendant's case;
- (4) all tape recordings, whether audio or video, which show Defendant's physical condition at or about the time of arrest or detention, and would arguably tend to show innocence or lack of intoxication, or which would tend to show the extent of Defendant's ability to speak and respond to

questions and directions by the police Officers involved in this case; and if any such tape recordings are allegedly unavailable due to malfunctioning equipment or faulty tape(s), Defendant demands that the State produce repair or replacement orders, or other evidence supporting their unavailability;

- (5) all booking slips, prisoner intake forms or other processing sheets used to obtain or record information about Defendant, including any photographs taken of Defendant;
- (6) any information regarding Defendant's request to take an additional or independent test, including any advice or notification by the Officer concerning the right to have such tests made, with specific mention of when, where and by whom such notice was given;
- (7) any other evidence of any kind or character discovered by, known by, or available to the prosecution or any State law enforcement agency or official that might be favorable to Defendant as to issues of guilt or innocence or punishment.

Defendant cannot safely go to trial, nor can Defendant's counsel adequately prepare for trial, without production of this evidence within a reasonable time prior to trial or any pre-trial hearings in this case; in the absence of such production, Defendant will be denied due process of law.

WHEREFORE, Defendant prays:

That the State be required to produce for Defendant said evidence within a reasonable time prior to trial or any pre-trial hearing; that the Court conduct an **in camera** inspection of all such evidence, and of the State's entire file, and that Defendant's counsel be permitted to see, copy and reproduce all such evidence determined by the Court to be favorable to Defendant as to guilt or innocence, punishment, or to be useful by Defendant in cross-examining or impeaching any of the State's witnesses against Defendant; that an exact copy be made of each and every such item not made available to Defendant, and that the same be sealed and included in the record of this case in order to insure proper review of the Court's denial of Defendant's requests for lawful disclosure.

Respectfully Submitted, this 23rd day of December, 2014.

D. Benjamin Sessions
State Bar No. 141280
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that I have served a true and accurate copy of the foregoing pleading upon the prosecuting attorney in this case by depositing same in the U.S. Mail with adequate postage affixed thereon to ensure delivery of same.

Respectfully Submitted, this 23rd day of December, 2014.

D. Benjamin Sessions
State Bar No. 141280
Attorney for Defendant

3155 Roswell Road, Suite 220
Atlanta, GA 30305
Tel: (470) 225-7710

**IN THE MUNICIPAL COURT FOR THE CITY OF ATLANTA
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STATE OF GEORGIA,

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Case No. _____

**DEMAND FOR FULL INFORMATION ABOUT DEFENDANT'S BLOOD
TEST UNDER CODE SECTION 40-6-392(a)(4)**

COMES NOW, the above-named Defendant and hereby requests and demands that the information identified below be provided no later than ten (10) days prior to any motion hearing or trial:

1) Copies of the machine-printed results of any tests of Defendant's blood test;

2) A copy of all data collected to establish that the test performed on the above- referenced sample(s) meets the requirements of precision and accuracy by the Georgia Bureau of Investigations.¹

3) All of the data from all of the records for all of the files that are printed, produced, or downloaded from headspace sampler and gas chromatograph employed in the analysis of the above-referenced test for the time period March 1, 2012 through June 30, 2012. This request includes, but is not limited to: subject files, maintenance files, diagnostic files, calibration files, operational error files, quick tests and instrument files. NOTE: File names may not be exactly as requested but the intent of this item is to receive all printed, transferred, and downloaded files. Any data fields, records or files that are not provided must be clearly identified.

4) A copy of all chromatograms produced for each sample tested in the run with the above-referenced test.

5) The complete instrument history file for the headspace sampler and gas chromatograph employed in the analysis of the above-referenced test. This request includes, but is not limited to, maintenance, repairs or calibrations conducted by the manufacturer or other service center; and any computer data collected and transferred, via modem or other means, to the Georgia Bureau of Investigations or other monitoring agency for diagnostic and or troubleshooting purposes.

6) The inlet maintenance schedule for the gas chromatograph employed in the analysis of the above-referenced sample(s). This request includes the schedule

¹ As used herein, the term "Georgia Bureau of Investigations" shall include any division, department, or other agency established, maintained, or supervised under the authority of the Georgia Bureau of Investigations.

for maintenance of the septum, liners, gold seal, and the spit vent trap.

7) The department's guidelines for the parameters in the set-up of the gas chromatograph employed in the test of the above-referenced sample.

8) The raw data of all quality control tests performed during the analysis of the above-referenced sample(s).

9) Quality control data (e.g., Levi-Jennings charts) for the previous six months.

10) The raw data of analytical tests performed on the specimens themselves.

11) Calibration data for any weight and measuring device used in the analysis (i.e., pipettors and scales).

12) Sample work list for all samples analyzed.

13) All saved, downloaded, and printed files referencing the set-up parameters of the inlet on the gas chromatograph employed in the test of the above-referenced sample.

14) All documentation produced, submitted, and received in connection with the GBI's application to attain American Society of Crime Laboratory (ASCLD) certification and re-certification. This request includes, but is not limited to, reviews produced ASCLD agents or inspectors of GBI lab.

15) The ASCLD manual in the possession of the Department.

16) The curriculum vita of the forensic toxicologist(s) that performed the above-referenced test.

17) The Department's hiring guidelines for the position of "forensic toxicologist."

18) The personnel file of the forensic toxicologist(s) that performed the above-referenced test. The request includes, but is not limited to, all performance reviews, reprimands, and all other documents relating to evaluation of the toxicologist's job performance.

19) The curriculum vita of the lab director and supervisor at the time that the above-referenced test was performed.

20) The standard operating procedure for the performance of the test on the above-referenced sample(s).

Defendant seeks production of the requested information under the authority of O.C.G.A. § 40-6-392(a)(4), see, Price v. State, 269 Ga. 222 (1998), and, to the extent that any of the requested information constitutes a scientific report, under the authority of O.C.G.A. §17-16-23.

DEFENDANT HEREBY MOVES THE COURT TO ORDER PRODUCTION OF THE DOCUMENTS AND FULL INFORMATION REQUESTED ABOVE. IF THE REQUESTED INFORMATION IS NOT PROVIDED TEN (10) DAYS BEFORE TRIAL, OR ANY HEARING CONTESTING THE ADMISSIBILITY OF

DEFENDANT'S TEST RESULTS, DEFENDANT WILL SEEK EXCLUSION OF THE TEST RESULTS THEMSELVES. See, Birdsall v. State, 254 Ga. App. 555 (2002).

Respectfully Submitted, this 23rd day of December, 2014.

D. Benjamin Sessions
State Bar No. 141280
Attorney for Defendant

3155 Roswell Road, Suite 220
Atlanta, GA 30305
Tel: (470) 225-7710

CERTIFICATE OF SERVICE

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Respectfully Submitted, this 23rd day of December, 2014.

D. Benjamin Sessions
State Bar No. 141280
Attorney for Defendant

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**IN THE MUNICIPAL COURT FOR THE CITY OF ATLANTA
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STATE OF GEORGIA,

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**MOTION IN LIMINE TO EXCLUDE BLOOD TEST RESULTS
ON STATUTORY GROUNDS**

COMES NOW, Defendant in the above-styled case and moves this Court in limine to exclude from evidence the results of the blood test that was administered to Defendant in connection with the charge of driving under the influence of alcohol contained in the above-styled accusation. The Defendant submitted to the state-administered test of his/her blood in connection with his/her arrest in this case. The results of the blood test that was administered upon the Defendant should be excluded from evidence based upon the following grounds and reasons:

- (1) The state cannot show that the request for Defendant's blood test was preceded by a valid DUI arrest supported by probable cause;
- (2) The state cannot show that Defendant was properly and timely advised of implied consent rights as required under O.C.G.A. § 40-6-392(a)(4), *see, Perano v. State*, 250 Ga. 704 (1984);
- (3) The state cannot show that Defendant was given a reasonable opportunity to have an additional test performed by a person of Defendant's own choosing, as required by O.C.G.A. § 40-6-392(a)(3);
- (4) The state cannot show that Defendant's blood test was performed, or the machine inspected, according to the methods approved by the Division of Forensic Sciences of the Georgia Bureau of Investigation ("DFS") as required by O.C.G.A. § 40-6-392(a)(1)(A);
- (5) The state cannot show that Defendant's blood test was performed on a machine operating with all its electronic and operating components attached and in good working order by an individual possessing valid permit issued by the DFS for this purpose as required by O.C.G.A. § 40-6-392(a)(1)(A);
- (6) The state cannot show that Defendant's blood test was administered as soon as possible as required by O.C.G.A. § 40-5-67.1(a);

- (7) The state cannot show that DFS has approved “requirements for properly operating and maintaining” the testing instruments used in this case. O.C.G.A. § 40-6-392(a)(1)(A), as amended;
- (8) Defendant was tested on an Intoxilyzer 5000EN, or enhanced model. The state has failed to administratively approve the Intoxilyzer 5000EN through the administrative procedures act found in Chapter 13 of Title 50 of the Georgia Code;
- (9) Defendant submits that O.C.G.A. § 35-3-155 passed in 1997 (after the approval of the Intoxilyzer 5000 but before introduction of the 5000EN) is unconstitutional. The statute states: “unless otherwise specifically provided by law, technical, scientific, and similar processes, procedures, guidelines, standards, and methods for the collection, preservation, or testing of evidence adopted by the division shall not be subject to the provisions of Chapter 13 of Title 50, the Georgia Administrative Procedure Act.” Specifically Defendant hereby challenges the statute as a violation of the constitutional mandate on separation of powers and in violation of the due process clauses of the federal and Georgia constitutions; and
- (10) Defendant was misled into submitting to testing by an improperly read implied consent notice which changed the substance of the implied consent warning. *Maurer v. State*, 240 Ga. App. 145 (1999).

WHEREFORE, Defendant moves the Court to suppress the results of any blood test obtained in connection with the charges in the above-styled accusation from use as evidence in the trial of the above-styled case or any other legal proceeding.

Respectfully Submitted, this 23rd day of December, 2014.

D. Benjamin Sessions
State Bar No. 141280
Attorney for Defendant

3155 Roswell Road, Suite 220
Atlanta, GA 30305
Tel: (470) 225-7710

CERTIFICATE OF SERVICE

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D. Benjamin Sessions
State Bar No. 141280
Attorney for Defendant

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**IN THE MUNICIPAL COURT FOR THE CITY OF ATLANTA
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STATE OF GEORGIA,

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Case No. _____

**MOTION IN LIMINE TO EXCLUDE DEFENDANT’S ALLEGED
INCRIMINATORY STATEMENTS AND ACTS**

Comes Now, Defendant and moves this Court to exclude from evidence any and all statements, acts or responses allegedly made by Defendant, which statements, acts or responses are incriminating as to guilt or impeachment, including Defendant’s acts in response to instructions from the arresting Officer to perform “field sobriety tests.” On December 13, 2014, at approximately 10:26 p.m. B. Coker of the Georgia State Patrol detained the Defendant and proceeded to interrogate him/her and search his/her person and property without a warrant of any kind. In support of this motion, the Defendant shows the Court as follows:

- (1) At the time of the aforesaid statements, acts, or responses, Defendant was in “custody” and was not advised of his rights against self-incrimination under the Georgia Constitution;
- (2) Without a search warrant, the arresting Officer required Defendant to perform a series of unusual maneuvers and acts, enabling the Officer to obtain evidence which was not detectible through simple observation, and in which Defendant has a reasonable expectation of privacy, all in violation of Article I, Section I, Paragraph XIII, of the Georgia Constitution.

WHEREFORE, Defendant prays that the Court exclude from the trial of this case the evidence obtained illegally as set forth above.

Respectfully Submitted, this 23rd day of December, 2014.

D. Benjamin Sessions
State Bar No. 141280
Attorney for Defendant

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Tel: (470) 225-7710

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D. Benjamin Sessions
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**MOTION IN LIMINE TO EXCLUDE ALL EVIDENCE GATHERED AS A
RESULT OF AN UNLAWFUL SEIZURE**

Comes now, Defendant in the above-styled case and moves the Court to exclude from use at trial any evidence gathered after the initial detention of the Defendant. On December 13, 2014, at approximately 10:26 p.m., B. Coker of the Georgia State Patrol detained the Defendant and proceeded to interrogate him and search his person and property without a warrant of any kind. Any evidence gathered after the initial stop and detention of Defendant should be excluded from use at trial based upon the following grounds and reasons:

- (1) At the time of Defendant's initial detention by the police, sufficient facts did not exist to support even an articulable suspicion that Defendant was under the influence of alcohol or drugs, or that any other criminal activity was underfoot. Specifically, Defendant never failed to maintain lane and committed no other traffic violations prior to being detained by law enforcement; and
- (2) Defendant further shows that this initial detention was an unlawful warrantless seizure, not supported by probable cause or suspicion, violating Defendant's rights under the Fourth Amendment to the Constitution of the United States, and Article I, Section I, Paragraph XIII of the Constitution of the State of Georgia of 1982.

WHEREFORE, Defendant moves the Court to exclude the evidence illegally obtained as set forth above, and to direct the prosecutor and the state's witnesses to not use, mention or otherwise refer to such evidence at the trial or other proceeding in this case.

Respectfully Submitted, this 23rd day of December, 2014.

D. Benjamin Sessions
State Bar No. 141280
Attorney for Defendant

3155 Roswell Road, Suite 220
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Tel: (470) 225-7710

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**IN THE MUNICIPAL COURT FOR THE CITY OF ATLANTA
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**MOTION IN LIMINE TO LIMIT TESTIMONY
REGARDING HORIZONTAL GAZE NYSTAGMUS TEST**

COMES NOW, the Defendant in the above-styled case, by and through his counsel of record, and moves this Court to limit testimony regarding the horizontal gaze nystagmus test at trial of this matter. In support thereof, Defendant shows as follows:

Defendant expects the State will seek to introduce evidence that the arresting officer administered a field sobriety test known as the Horizontal Gaze Nystagmus test (HGN). The Court of Appeals of Georgia has approved has approved allowing the HGN as a valid field sobriety test because it has

...reached a stage of verifiable certainty in the medical community as being an indicator off something wrong with the central nervous system or the vestibular apparatus of the eye; that one of the factors that might create horizontal gaze nystagmuus was the presence of alcohol or drugs; and that although the test originated in the medical community, it was scientifically reliable indicator along with others of the influence of alcohol.

Based on the evidence, the court did not err in ruling the HGN Test admissible as valid to show a symptom indicative of, though not determinative of, the presence of alcohol.

Manley v. State, 424 S.E.2d 818, 820 (1992), cert. denied (1993).

It is clear from the *Manley* case, that while the HGN test is admissible to show a “symptom indicative of, though not determinative of, the presence of alcohol” (emphasis supplied), it is not an indicator of the amount of alcohol that may be present in the subject’s blood system. As recently as 2006, the Georgia Court of Appeals stated that it remains an open question whether HGN has reached a state of verifiable certainty in the

scientific community basis for determining the numerical level of a driver's blood alcohol content. *Webb v. State*, 277 Ga. App.355, fn3 (2006).

In *Lorio v. State*, 454 S.E.2d 164, 216 Ga.App. 255 (1995), the Court of Appeals citing *Manley v. State*, supra. recognized the HGN test as having reached a "state of verifiable certainty in the scientific community." The Court went even further and approved the arresting officer's testimony that he observed "all six signs in Lorio, thus resulting in a failing score." As the HGN was devised by the National Highway Traffic Safety Administration (NHTSA), structures formal roadside field sobriety tests in order to be scientifically reliable, need to be performed in the manner prescribed by NHTSA and as taught to the officer in his training for field sobriety test.

The Georgia Court of Appeals, in *Johnson v. State*, 264 Ga. 456, 458 held:

In *Caldwell v. State*, 260 Ga. 278, 286-287(1) (b) (393 SE2d 436) (1990), we held that the admissibility of such evidence is ultimately dependent upon the trial's court's determination whether the general scientific principles and techniques involved in [DNA] testing are valid and capable of producing reliable results, [and] also whether [the DNA tester himself] substantially performed the scientific procedures in an acceptable manner. [Cits.]

Accordingly, the trial court erred in failing to premise the admissibility of the DNA test results in the instant case upon the determination, rather than merely upon the fact that such evidence has been admitted in other cases.

If the officer failed to perform the said test in the manner prescribed, the tests would be therefore unreliable and inadmissible as evidence. See also, *State v. Tousley*, 271 Ga. App. 874, 611 S.E.2d 139 (2005) (State must show that the officer administered and interpreted the scientific HGN test properly under law enforcement guidelines); and *Sultan v. State*, 289 Ga. App.405, 657 S.E.2d 311 (2008) (Failure of officer to check for equal tracking precludes the admission of the HGN test).

WHEREFORE, Defendant requests that this Court limit the testimony of the arresting officer on this case (1) by omitting any reference to the idea that the HGN test is an indicator of the amount of alcohol that may be in the blood system of the subject under suspicion; (2) by eliminating any testimony of the clues allegedly observed by the officer, and any testimony whatsoever of the Horizontal Gaze Nystagmus test if the officer failed to follow the prescribed method of administering said test.

Respectfully Submitted, this 23rd day of December, 2014.

D. Benjamin Sessions
State Bar No. 141280
Attorney for Defendant

3155 Roswell Road, Suite 220
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Tel: (470) 225-7710

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Respectfully Submitted, this 23rd day of December, 2014.

D. Benjamin Sessions
State Bar No. 141280
Attorney for Defendant

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**IN THE MUNICIPAL COURT FOR THE CITY OF ATLANTA
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**MOTION TO SUPPRESS EVIDENCE AND STATEMENTS
OBTAINED UNLAWFULLY BY POLICE**

Comes Now, the above-named Defendant, by and through counsel and hereby files within Motion to Suppress, showing this Honorable Court the following:

-1-

On December 13, 2014, at approximately 10:26 p.m., B. Coker of the Georgia State Patrol detained the Defendant and proceeded to interrogate him and search his person and property without a warrant of any kind.

-2-

As a result of the aforesaid warrantless acts by police, Defendant was arrested and is now charged in the above styled action with the misdemeanor offenses of driving under the influence of alcohol and disobedience to a traffic control device.

-3-

With regard to the warrantless stop of the vehicle and the detention and search of Defendant's person and property by police at the above time and place, Defendant shows as follows:

(a) The police stopped and detained the Defendant without probate cause, without consent and without reasonable and articulable suspicion that the vehicle was engaged in or about to be engaged in criminal activity or was otherwise subject to seizure.

(b) The police detained Defendant without probable cause, without consent and without reasonable and articulable suspicion that the Defendant was engaged in or about to be engaged in criminal activity.

(c) The police detained Defendant beyond the time necessary and for purposes unrelated to the initial stop, and such prolonged detention was without probable cause, without consent and without reasonable articulable suspicion of criminal activity.

(d) The police searched the Defendant's person and property without probable cause, without consent, without lawful arrest, without exigent circumstances and without authority under any other recognized exception to the warrant requirement embodied in the State and Federal Constitutions.

(e) The police interrogated Defendant while he was unlawfully detained, handcuffed and held in police custody and without giving the required Miranda warnings to Defendant prior to such interrogation.

-4-

For the foregoing reasons, the warrantless stop, detention, search and interrogation by police at the above time and place was unreasonable and violated the Defendant's rights under the Fourth, Fifth and Sixth Amendments to the United States Constitution, Article I, Section I, Paragraph XIII, XIV and XVI of the Georgia Constitution, and the provisions of O.C.G.A. § 17-5-30.

Consequently, any and all evidence gathered, observed, and seized by police as a result of such unlawful actions should be suppressed by the Court, and no testimony, statements, conclusions or other references concerning such matters should be allowed or considered as evidence in the trial of this case.

WHEREFORE, the Defendant prays as follows:

(a) That the Court hold evidentiary hearings on this motion outside the presence of the jury and as otherwise deemed appropriate; and,

(b) That the Court allow Defendant to submit written briefs and argument in support of this motion subsequent to any hearing;

(c) That the Court grant the within motion to suppress and prohibit the State from offering evidence concerning any observation of the Defendant made during the illegal stop and detention, any observation of the Defendant made during the Defendant's performance of field sobriety tests, any alleged positive result indicated by a portable breath test machine which the Defendant submitted to during the illegal stop and detention, and the results of state-administered blood test which the Defendant submitted to, as well as any statement obtained by police in violation of the Defendant's Constitutional and statutory rights enumerated above; and,

(d) That the Court grant Defendant such other and further relief deemed just and proper in this case.

Respectfully Submitted, this 23rd day of December, 2014.

D. Benjamin Sessions
State Bar No. 141280
Attorney for Defendant

3155 Roswell Road, Suite 220
Atlanta, GA 30305
Tel: (470) 225-7710

CERTIFICATE OF SERVICE

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State Bar No. 141280
Attorney for Defendant

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**DEFENDANT'S DEMAND FOR STATUTORY DISCOVERY
PURSUANT TO TITLE 17, CHAPTER 16, ARTICLE 2
OF THE OFFICIAL CODE OF GEORGIA**

COMES NOW, the Defendant, by and through the undersigned counsel, and files this Demand for Statutory Discovery Pursuant to Title 17, Chapter 16, Article 2 of the Official Code of Georgia. Defendant respectfully demands production of each of the items he is entitled to pursuant to Title 17, Chapter 16, Article 2 of the Official Code of Georgia, and shows this Honorable Court that the following items should be produced in response to this request:

- (a) a copy of the accusation, as required by O.C.G.A. § 17-16-21);
- (b) a list of the witnesses on whose testimony the charge(s) against the Defendant is/are founded, as required by O.C.G.A. § 17-16-21;
- (c) oral and written statements of the Defendant, as required by O.C.G.A. § 17-16-22; and
- (d) all written scientific reports, as required by O.C.G.A. § 17-16-23.

Wherefore, the Defendant prays that the State be required to produce each of the above-referenced items in the time required by law. In the event that the State fails to provide the Defendant each of the above-referenced items in the time required by law, the Defendant requests that this Court exclude said items and witnesses from evidence in the trial of this case.

Respectfully Submitted, this 23rd day of December, 2014.

D. Benjamin Sessions
State Bar No. 141280
Attorney for Defendant

3155 Roswell Road, Suite 220
Atlanta, GA 30305
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MOTION TO PRESERVE BLOOD SAMPLES

COMES NOW, the Defendant, by and through the undersigned Counsel of record, and respectfully moves this Honorable Court to require the State to take all actions necessary to preserve all remaining samples of the Defendant's blood in the custody and care of the State or the State's agents, including the Georgia Bureau of Investigations. Upon the best information and belief of the Defendant, if the State does not take affirmative action to preserve the samples, the blood samples submitted to the State by the Defendant will be destroyed after 1 year from the date of submission to the Georgia Bureau of Investigations. The ability of the Defendant to defend against the charges in this case will be irreparably harmed if the blood samples are not preserved.

Respectfully Submitted, this 23rd day of December, 2014.

D. Benjamin Sessions
State Bar No. 141280
Attorney for Defendant

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Atlanta, GA 30305
Tel: (470) 225-7710

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State Bar No. 141280
Attorney for Defendant

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**IN THE MUNICIPAL COURT FOR THE CITY OF ATLANTA
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STATE OF GEORGIA,

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GENERAL AND SPECIAL DEMURRERS

Comes Now, the above-named Defendant, by and through the undersigned counsel, and generally demurrers to the accusatory documents and challenges each count thereof. None of the accusatory allegations sufficiently identifies a crime and each count totally fails to inform the defendant of the specific alleged improper conduct that is alleged to have been committed.

Further, the Defendant specially demurrers to each count of the accusation based upon defective form and demands that the defects be removed to allow the document to be perfect in form.

Respectfully Submitted, this 23rd day of December, 2014.

D. Benjamin Sessions
State Bar No. 141280
Attorney for Defendant

3155 Roswell Road, Suite 220
Atlanta, GA 30305
Tel: (470) 225-7710

CERTIFICATE OF SERVICE

I hereby certify that I have served a true and accurate copy of the foregoing pleading upon the prosecuting attorney in this case by depositing same in the U.S. Mail with adequate postage affixed thereon to ensure delivery of same.

Respectfully Submitted, this 23rd day of December, 2014.

D. Benjamin Sessions
State Bar No. 141280
Attorney for Defendant

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