

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

CHURCH OF SCIENTOLOGY OF GEORGIA,)	
INC., a Georgia Corporation,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION FILE
)	NO.: 1:10-cv-0082-AT
CITY OF SANDY SPRINGS, GEORGIA,)	
et. al.)	
)	
Defendants.)	

JOINT MOTION TO CLOSE MEDIATION TO THE PUBLIC

COME NOW Plaintiff and Defendants (the "Parties") and file this their Joint Motion to Close Mediation to the Public in the above-styled action.

1.

On February 10, 2012 the Court entered an Amended Order requiring the Parties to participate in and complete mediation on or before April 2, 2012.

2.

The parties have scheduled mediation for March 26, 2012.

3.

Given the short timeframe set by the Court's Amended Order to complete mediation, the City must have a decision-maker present to fully and frankly discuss the disputed issues in this case with Plaintiff's representatives, meaningfully evaluate all potential solutions, and potentially resolve the dispute.

4.

A single member of the Mayor and Council would not be authorized to speak for and bind the full Mayor and Council at the mediation. A single Councilmember does not hold any independent decision-making authority. Only the full Mayor and Council have authority to evaluate offers of settlement and to make a binding decision for the City.

5.

As a result, attendance by the full Mayor and Council at the mediation is necessary to facilitate a two-sided dialogue with the potential to resolve the dispute by the April 2nd deadline set by the Court. A true dialogue between the parties is not possible if only a single member of the Mayor and Council is in attendance.

5.

Yet, if a quorum of the Mayor and Council attends the mediation, then the mediation is required to be open to the public under the Georgia Open Meetings Act. See O.C.G.A. § 50-14-1.

6.

Opening the mediation to the public undermines the effectiveness of mediation by destroying the confidentiality of the proceedings. Confidentiality of settlement negotiations is essential to ensure candid discussion by the Parties of the

disputed issues in this case, the Parties' relative interests, and the full range of possible solutions.

7.

This Court's Amended Order demonstrates a clear public policy specifically encouraging out of court settlement of this dispute. See Doc. 92, p. 94-95. This policy is also mirrored generally at both the federal and state level. See Fed. R. Civ. Proc. 16; Fed. R. of Evid. 408; Lampliter Dinner Theatre, Inc. v. Liberty Mutual Insurance Co., 792 F.2d 1036, 1042 (11th Cir. 1986); Blu-J, Inc. v. Kemper C.P.A. Group, 916 F.2d 637, 642 (11th Cir. 1990); see also O.C.G.A. 24-3-37; Davidson v. American Fitness Centers, Inc., 171 Ga. App. 691, 693 (1984); Mableton Parkway CVS, Inc. v. Salter, 254 Ga. App. 162, 164 (2002); Nevitt v. CMD Realty Investment Fund IV, LP, 282 Ga. App. 533, 535 (2007). Preserving the confidentiality of settlement offers and negotiations in mediation furthers this important public policy goal. See id.

8.

Closing mediation in this case to the public furthers the public policy of encouraging out of court settlement by ensuring the confidentiality of the Parties' discussions and negotiations. Absent a safety blanket of confidentiality, the parties will not be able to engage in the type of candid discussions that mediation is designed to produce.

9.

Although it would incur no liability for a violation of the Georgia Open Meetings Act, Plaintiff recognizes the importance of confidentiality to the mediation process. As such, Plaintiff joins Defendants in this Motion requesting that the Court close the mediation to public that has been scheduled by the Parties for March 26, 2012.

10.

The Parties also respectfully show the Court that if an agreement can be reached in mediation, Georgia law requires another public hearing be held and a vote in public meeting taken before that decision would result in modification of existing zoning conditions. It is impossible for mediation to avoid that process where zoning is at issue.

WHEREFORE, the Parties respectfully request that the Court order that the mediation scheduled by the Parties for March 26, 2012 be closed to the public.

Respectfully submitted this the 7th day of March, 2012.

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

CHURCH OF SCIENTOLOGY OF GEORGIA,)	
INC., a Georgia Corporation,)	
)	
Plaintiff,)	
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v.)	CIVIL ACTION FILE
)	NO.: 1:10-cv-0082-AT
CITY OF SANDY SPRINGS, GEORGIA,)	
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)	
Defendants.)	

CONSENT ORDER REGARDING MEDIATION

The court having considered the parties' Joint Motion to Close Mediation to the Public in the above styled action, and finding that confidentiality is essential to facilitate full and frank discussion of the issues in this case and encourage productive settlement negotiations between the parties, hereby concludes that it is necessary to close the mediation to the public that is scheduled by the parties for March 26, 2012.

IT IS HEREBY ORDERED that the mediation scheduled by the parties in this lawsuit for March 26, 2012 will be closed to the public.

This _____ day of _____, 2012.

Honorable Amy Totenberg,
District Court Judge

Order Presented by:

Order Consented to by:

/s/ Laurel E. Henderson

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FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CHURCH OF SCIENTOLOGY OF GEORGIA,)
INC., a Georgia Corporation,)
)
Plaintiff,)

v.)

CIVIL ACTION FILE
NO.: 1:10-cv-0082-CAP

CITY OF SANDY SPRINGS, GEORGIA)
a Municipal Corporation of the)
State of Georgia; the CITY COUNCIL)
of the CITY OF SANDY SPRINGS,)
GEORGIA, EVA GALAMBOS, in her)
Official Capacity as Mayor of the)
City of Sandy Springs, Georgia;)
and JOHN PAULSON, DIANNE FRIES,)
WILLIAM COPPEDGE COLLINS, JR,)
ASHLEY JENKINS, TIBERIO DeJULIO)
and KAREN MEINZEN McENERNY,)
Individually in Their Official)
Capacities as Members of the CITY)
COUNCIL of the CITY OF SANDY)
SPRINGS, GEORGIA)

Defendants.)

CERTIFICATE OF SERVICE

I hereby certify that on March 7th, 2012 I electronically filed the foregoing **JOINT MOTION TO CLOSE MEDIATION TO THE PUBLIC** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

- G. Douglas Dillard, Esq. dougd@wncwlaw.com
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- Lauren M. Hansford, Esq. lauren@glawgp.com
- Wendell K. Willard, Esq. wkwillard@wendellwillard.com

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