

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT DEPARTMENT

PAUL O'KEEFE, as Personal
Representative of the Estate of JOHN
JOSEPH O'KEEFE III, PAUL O'KEEFE,
Individually, JOHN O'KEEFE II,
MARGARET O'KEEFE, and MARGARET
O'KEEFE as Grandparent/
Guardian of KAYLEY FURBUSH,

Civil Action No. 2483cv00692

Plaintiffs,

v.

C&C HOSPITALITY, LLC d/b/a C.F.
MCCARTHY'S, G&S HOSPITALITY,
LLC d/b/a C.F. MCCARTHY'S,
WATERFALL BAR & GRILL, LTD d/b/a
WATERFALL BAR & GRILL, and
KAREN READ,

Defendants.

**MEMORANDUM OF LAW IN SUPPORT OF MOTION TO COMPEL NORFOLK
DISTRICT ATTORNEY'S OFFICE TO PRODUCE DATA
IN RESPONSE TO SUBPOENA**

Defendant Karen Read ("Read") respectfully requests that the Court compel the Norfolk District Attorney's Office (the "NDAO") to produce all data in its possession extracted from cell phones owned, controlled, or used by former State Police trooper Michael Proctor ("Proctor"). Read served a subpoena on NDAO on July 24, 2025. NDAO produced some documents in response to the subpoena and is in the process of reviewing and producing others. However, NDAO has refused to produce to Read the contents of Proctor's cell phone, which it possesses and has, at least in part, reviewed. Proctor's cell phone, and the data and messages that are stored on it, are likely to be highly relevant to Read's defense in this case. Based on limited text

messages that were disclosed to Read by a “separate law enforcement agency” during her criminal trials, Proctor regularly sent and received text messages with fellow troopers, other police officers, friends, and family members regarding Read, the investigation into John O’Keefe III’s death, and who would and would not become a suspect. These messages bear directly on the accuracy of Read’s allegations regarding Mr. O’Keefe’s death, which the Plaintiffs allege was a “false narrative” that caused them compensable emotional distress.

Now, NDAO has recently reviewed new data from Proctor’s private cell phone that NDAO has deemed “highly sensitive” and, when shared with him, caused Proctor to suddenly drop his challenge to his firing from the State Police. It is very likely, based on the select messages to and from Proctor she received in the past, that this cell phone extraction relates, at least in part, to Read. However, if it doesn’t, the NDAO can make that representation in writing. Barring that, Proctor’s cell phone data must be produced so that Read can present evidence that supports the allegations Plaintiffs claim are false.

Facts

Plaintiffs allege that Read backed her car into Mr. O’Keefe on January 29, 2022 and caused his death. They also allege that Read created a “false narrative” that someone else killed Mr. O’Keefe and that the police investigation into his death was corrupt, biased, and designed to deflect attention away from the law enforcement officers and their families who were inside the house at 34 Fairview Road in Canton the night Mr. O’Keefe died. Compl., Doc. No. 1, ¶¶ 52, 126, 134, 142, 160. Plaintiffs claim this “false narrative” supports their “Negligent/Reckless Infliction of Emotional Distress” claims against Read. *Id.* Read denies the Plaintiffs’ claims.

On July 24, 2025, as part of her attempt to defend against Plaintiffs' claims by, in part, proving that this same narrative was actually true, Read served on NDAO a subpoena (the "Subpoena") seeking various categories of documents, including:

- "All iCloud data and other data concerning or belonging to Michael Proctor received from any source, including but not limited to any federal or state agency or office." Subpoena (attached as Exhibit 1), Doc. Req. No. 4; and
- "All . . . communications to, from, or concerning Michael Proctor from January 28, 2022 to the present." *Id.*, Doc. Req. No. 11.

The Subpoena also instructs NDAO that "to the extent you obtain possession, custody, or control of a document that is responsive to these requests after you make your production in response to these requests, you must supplement that initial production with the newly acquired document." *Id.*, Instruction No. 7. NDAO has produced some documents in response to the Subpoena and is in the process of completing its production.

Proctor's text messages played a prominent role at Read's first criminal trial, when Proctor was confronted with many of them, in which he made derogatory, sexist, crude, and wildly inappropriate comments about Read. In these messages, without having done almost any investigating, he assured his friends that the State Police investigation would focus on Read rather than the individuals inside the house, and that she was "fucked." Read's criminal defense only had access to these particular messages because a "separate law enforcement agency" conducted an inquiry into the investigation of Mr. O'Keefe's death and produced a selection of messages to both NDAO and Read's attorneys. But even that limited batch of text messages included many that were directly relevant to the integrity of the investigation and prosecution.

Then, on October 24th, 2025, NDAO stated in a Motion for Protective Order in an unrelated criminal case that it had now reviewed Proctor's personal cell phone and found "highly sensitive information." That information, which NDAO disclosed to Proctor's attorneys, caused

Proctor to abruptly withdraw his appeal of his termination from the Massachusetts State Police. The messages also apparently led the Canton Police Department (“CPD”) to conduct an investigation into, and then place on leave, one of its ranking first responders who was on the scene of Mr. O’Keefe’s death in the early morning of January 29, 2022. NDAO’s description of the phone’s contents and Proctor’s and CPD’s reactions to its disclosure suggest that the contents may very well support Read’s allegations relating to Proctor’s and investigators’ conduct. However, NDAO has refused to produce to Read any of the data extracted from Proctor’s personal cell phone. NDAO asserts that the messages are subject to the protective order it sought in the unrelated case and, as a result, NDAO cannot produce the data to Read without an order from this Court compelling NDAO to do so. NDAO has not asserted that the data in question is unresponsive to the subpoena or discoverable and has acknowledged having access to it. Read believes that these documents are very likely to contain additional messages that support her defense that Plaintiffs’ claims are untrue.

Analysis

The Court should compel NDAO to produce any cell phone data from phones used or owned by Proctor, including his personal cell phone that the office recently reviewed, because they are likely to contain highly relevant material. The relatively small number of messages Read’s criminal defense team previously received shed light on Proctor’s bias, corruption, and immediate baseless disdain for Read, among other things. There is no reason to believe that the previously-identified damning messages are the only ones of their kind. In fact, it is likely that the “highly sensitive information” and other troubling messages that NDAO recovered and led Proctor to suddenly withdraw his administrative appeal also relate, at least in part, to the

investigation into Mr. O’Keefe’s death and Read’s prosecution. This data falls squarely within the scope of discovery in a civil case.

According to Mass. R. Civ. P. 26(b)(1), “[p]arties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party,” and any information “reasonably calculated to lead to the discovery of admissible evidence.” Plaintiffs allege that Read is liable to them for, among other things, the emotional distress she caused them by claiming that she did not kill Mr. O’Keefe, that someone else did, and that investigators, led by Proctor, improperly targeted her rather than identifying the real murderer. Therefore, Read is entitled to prove the truth of these assertions to defend against Plaintiffs’ claims.

Read already knows from her criminal trial that Proctor sent and received many text messages that support her defense. Now, NDAO is in possession of different cell phone data it characterizes as “highly sensitive” and clearly reflects poorly on Proctor. That data is likely to relate, at least in part, to the O’Keefe murder investigation and Read’s prosecution. In that manner, it is “reasonably calculated to lead to the discovery of admissible evidence” and is within the scope of Rule 26.¹

Conclusion

For the foregoing reasons, Read respectfully requests that the Court allow the Motion and compel NDAO to produce all documents and data responsive to Document Requests Nos. 4 and 11 in the Subpoena, including the data extracted from Proctor’s personal cell phone.

¹ Concerns about privacy and confidentiality are not a basis to withhold this data. If there are certain messages or data that is irrelevant to this case and unrelated to Read, or privilege issues, the parties to the litigation and NDAO can discuss and seek an appropriately limited protective order to address those topics. But the data in question is discoverable and must be produced.

Respectfully submitted,

KAREN READ,

By her attorneys,



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Charles M. Waters (BBO# 631425)
Aaron D. Rosenberg (BBO# 684826)
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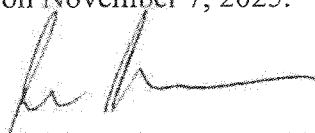
WERKSMAN JACKSON & QUINN LLP

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Dated: November 7, 2025

CERTIFICATE OF SERVICE

I certify that a copy of this document was served on all counsel of record by email and on the Norfolk District Attorney's Office by hand on November 7, 2025.



Aaron D. Rosenberg

Dated: November 7, 2025

EXHIBIT 1

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT DEPARTMENT

PAUL O'KEEFE, as Personal
Representative of the Estate of JOHN
JOSEPH O'KEEFE III, PAUL O'KEEFE,
Individually, JOHN O'KEEFE II,
MARGARET O'KEEFE, and MARGARET
O'KEEFE as Grandparent/
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MCCARTHY'S, G&S HOSPITALITY,
LLC d/b/a C.F. MCCARTHY'S,
WATERFALL BAR & GRILL, LTD d/b/a
WATERFALL BAR & GRILL, and
KAREN READ,

Defendants.

SUBPOENA

To: Keeper of Records
Norfolk District Attorney's Office
45 Shawmut Road
Canton, MA 02021

GREETINGS, YOU ARE HEREBY COMMANDED, in the name of the
Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts
Rules of Civil Procedure, to produce the documents identified in the attached Schedule A at the
offices of Sheehan Phinney Bass & Green PA, 28 State Street, 22nd Floor, Boston,
Massachusetts 02109, on or before **August 6, 2025, at 10:00 a.m.**¹

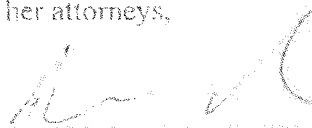
¹ To arrange electronic production of the requested documents, please contact Attorney Aaron Rosenberg at (617) 897-5664, arosenberg@sheehan.com.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

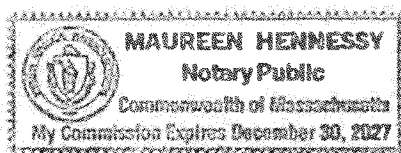
Respectfully submitted,

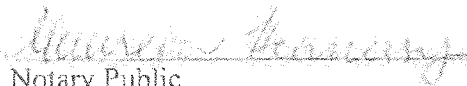
KAREN READ,

By her attorneys,


Damon M. Seligson (BBO# 632763)
Charles M. Waters (BBO# 631425)
Aaron D. Rosenberg (BBO# 684826)
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617.897.5600
dseligson@sheehan.com
cwaters@sheehan.com
arosenberg@sheehan.com

Dated: July 23, 2025




Notary Public
My Commission Expires: 12/30/27

CERTIFICATE OF SERVICE

I certify that a copy of this document was served on all counsel of record by email on July 23, 2025.


Aaron D. Rosenberg

SCHEDULE A

DEFINITIONS

Unless specifically indicated, or otherwise required by the context in which the terms, names, and instructions are used:

1. “**FBI**” means the Federal Bureau of Investigation, as well as any of its agents, officers, directors, employees, managers, contractors, attorneys, or other representatives.
2. “**DOJ**” means the United States Department of Justice, as well as any of its agents, officers, directors, employees, managers, contractors, attorneys, or other representatives.
3. “**MSP**” means the Massachusetts State Police, as well as any of its troopers, agents, officers, directors, employees, managers, contractors, attorneys, or other representatives.
4. “**You**” and “**your**” refer to the Norfolk District Attorney’s office, as well as any of its agents, officers, directors, employees, managers, contractors, attorneys, or other representatives.
5. “**Document**” or “**documents**” means all written, printed, typed, or other graphic matter; all print-outs and run-offs now, or at any time, in your possession, custody or control, or known to you, whether or not prepared by you. “Document” or “documents” includes, but is not limited to, all correspondence, agreements, memoranda, reports, notes, drafts of documents, internal communications, interoffice communications, telegrams, letters, directives, bulletins, accounts, vouchers, invoices, bills, ledgers, financial statements, analyses, estimates, maps, charts, graphs, drawings, work sheets, minutes, and summaries of meetings, conversations, or communications of any type, including telephone conversations and telephone messages, text messages, electronically stored information, electronic mail, instant messages, and information stored on CD-ROM and/or tape. “Document” or “documents” also include all copies and drafts which are not identical to the original.
6. A “**recording**” means any original or copies, either full or partial, of any responsive audio or video recording, including all metadata associated with such recordings. “Recording” also includes any derivative works or derivative video or audio compilations.

7. The term “**concerning**” means referring to, relating to, describing, evidencing, or constituting.

8. The term “**communication**” means the transmittal of information (in the form of facts, ideas, inquiries, or otherwise) in whatever form, written or verbal or otherwise.

9. “**Representative**” or “**representatives**” used with reference to a person or entity, means (a) any past or present officer, director, partner, associate, employee, servant, agent, subsidiary, affiliate, legal counsel, or any agent of such persons; and (b) any other persons acting on behalf of, or in concert with, such persons, including, without limitation, insurance brokers or agents, auditors, actuaries, and consultants of any type.

10. “**Relate(s) to,**” “**related to,**” or “**relating to**” means to refer to, reflect, concern, pertain to, or in any manner be connected with the matter discussed.

INSTRUCTIONS

1. **Documents Withheld.** If any document is withheld under a claim of privilege or other protection, so as to aid the Court and the parties hereto to determine the validity of the claim of privilege or other protection, please provide the following information with respect to any such documents:

- (a) the identity of the person(s) who prepared the document, who signed it, and over whose name it was sent or issued;
- (b) the identity of the person(s) to whom the document was directed;
- (c) the nature and substance of the document with sufficient particularity to enable the Court and parties hereto to identify the document;
- (d) the date of the document;
- (e) the identity of the person(s) who has custody of, or control over the document and each copy thereof;
- (f) the identify of each person to whom copies of the document were furnished;
- (g) the number of pages;
- (h) the basis on which any privilege or other protection is claimed; and,

- (i) whether any non-privileged or non-protected matter is included in the document.

2. **Partial Production.** If you object to a particular request, or portion thereof, you must produce all documents called for which are not subject to that objection. Similarly, wherever a document is not produced in full, please state with particularity the reason or reasons it is not being produced in full, and describe, to the best of your knowledge, information and belief, and with as much particularity as possible, those portions of the document which are not produced.

3. **Orderly Response.** Wherever it is reasonably practicable, please produce documents in such manner as will facilitate their identification with the particular request or category of requests to which they are responsive.

4. **Construction of "and" and "or".** As used herein, the words "and" and "or" shall be construed both conjunctively and disjunctively, and each shall include the other wherever such dual construction will serve to bring within the scope of these requests and any documents which would otherwise not be brought within its scope.

5. **Construction of the Singular and Plural Forms.** As used herein, the singular form shall include the plural and vice versa whenever such dual construction will serve to bring within the scope of these requests any documents which would otherwise not be brought within its scope.

6. **Format for Production.** For all documents currently stored in electronic format, produce those documents in their electronic, native form with all metadata intact. For example, emails should be produced in .pst format and audio and video recordings should be produced in their native forms with all metadata intact. If you intend to produce documents in a format other

than that specified in these instructions, please notify Plaintiff's counsel before making the production.

7. Supplementation Required. To the extent you obtain possession, custody, or control of a document that is responsive to these requests after you make your production in response to these requests, you must supplement that initial production with the newly acquired document.

DOCUMENT REQUESTS

1. All documents, video or audio recordings, and communications to, from, or concerning Karen Read, or any of her family members, heirs, assigns, employees, contractors, agents, attorneys, or other representatives.

2. All documents, communications, audio or video recordings, or other data or items of any kind relating in any way to the investigation and prosecution of Karen Read by your office.

3. All documents, communications, audio or video recordings, or other data or items of any kind relating to the death of John J. O'Keefe, III or any investigation into his death or the cause thereof.

4. All iCloud data and other data concerning or belonging to Michael Proctor received from any source, including but not limited to any federal or state agency or office. **For the avoidance of doubt, this Subpoena demands that you maintain and do not delete, discard, or otherwise destroy any portion of Michael Proctor's iCloud or other data that you have in your current possession, custody, or control, including but not limited to, the data subject to a federal court protective order, which you previously agreed at a hearing before the Norfolk Superior Court to maintain until July 25, 2025.**

5. All communications with FBI or DOJ concerning Karen Read, MSP, Michael Proctor, Yuri Bukhenik, the death of John J. O'Keefe, III or any investigation into the cause of his death, or the investigation and prosecution of Karen Read.

6. All documents, video or audio recordings, and communications concerning any investigation by any federal agency, department, board, administration, office, or agent relating in any way to the death of John J. O'Keefe, III from January 28, 2022 to the present.

7. All documents, video or audio recordings, and communications concerning the 2021 black Lexus LX 570 SUV leased by Karen Read as of January 28, 2022.

8. All documents, video or audio recordings, or communications to, from, or concerning John O'Keefe, II, Paul O'Keefe, or Margaret O'Keefe from January 1, 2021 to the present.

9. All documents, video or audio recordings, and communications to, from, or concerning Brian Albert, Nicole Albert, Chris Albert, Julie Albert, Colin Albert, Brian Higgins, Jennifer McCabe, Matthew McCabe, Allison McCabe, Kerry Roberts, or any other individual present at 34 Fairview Road, Canton, Massachusetts 02021 on January 28 or January 29, 2022, or any interviews, meetings, conversations, or encounters with any such individuals, from January 1, 2021 to the present.

10. All documents, video or audio recordings, and communications concerning any dog owned, kept, or fostered by any member of the Albert family at 34 Fairview Road, Canton, Massachusetts 02021, from January 1, 2021 to the present.

11. All documents, video or audio recordings, and communications to, from, or concerning Michael Proctor from January 28, 2022 to the present.

12. All documents, video or audio recordings, and communications to, from, or concerning Yuri Bukhenik from January 28, 2022 to the present.

13. All documents or communications concerning any guidelines, policies, or protocols concerning homicide investigations or proper communication and coordination between your office and MSP.

14. All documents and communications with FBI, DOJ, or MSP regarding Sandra Birchmore.

15. All documents and communications with FBI, DOJ, or MSP regarding Brian Walshe.

16. All documents and communications with FBI, DOJ, or MSP regarding Myles King.

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT DEPARTMENT

PAUL O'KEEFE, as Personal Representative of the
Estate of JOHN JOSEPH O'KEEFE III, PAUL
O'KEEFE, Individually, JOHN O'KEEFE II,
MARGARET O'KEEFE, and MARGARET O'KEEFE
as Grandparent/Guardian of KAYLEY FURBUSH,

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Plaintiffs,

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G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S,
WATERFALL BAR & GRILL, LTD d/b/a
WATERFALL BAR & GRILL, and KAREN READ,

Defendants.

AFFIDAVIT OF SERVICE

I, Brent A. Bellamy, on oath depose and state as follows:

1. I am a private investigator at Airde Group, Inc. ("Airde"), a full-service private investigation company bearing Commonwealth of Massachusetts Private Investigator License Number LP0518K. I have been a private investigator for over 10 years.
2. Deponent is not a party herein and is a competent adult over 18 years of age.
3. Airde was retained by Aaron D. Rosenberg, Esq. of Sheehan Phinney Bass & Green, PA, 28 State Street, 22nd Floor, Boston, MA 02109, to obtain service of subpoena upon the Keeper of Records at Norfolk District Attorney's Office – 45 Shawmut Road, Canton, MA 02021. Airde received said subpoena on July 23, 2025.
4. On July 24, 2025, I served a true copy of the subpoena in-hand to Kristen Kelly, Assistant District Attorney, on behalf of the Keeper of Records at Norfolk District Attorney's Office – 45 Shawmut

Road, Canton, MA 02021, at 9:00AM. Kristen Kelly provided her name and title upon accepting said subpoena.

I confirm that all the above statements are to the best of my knowledge true and correct.

Signed under the pains and penalties of perjury this 24th day of July 2025.

B + B - 16
Brent A. Bellamy, Investigator

Before me, Theresa Poste Mansfield, Notary Public

