

IN THE SUPERIOR COURT OF FULTON COUNTY  
STATE OF GEORGIA

IN RE:

REVOLUTION GEORGIA LLC, ASPIRE  
MEDICAL PARTNERS LLC, GA  
BIOSCIENCE RESEARCH INC.,  
CURALEAF GA HOLDINGS LLC,  
PEACH STATE MEDICINALS LLC,  
PURE BEAUTY GA LLC,  
CUMBERLAND CURATIVE LLC,  
SYMPHONY MEDICAL LLC,  
PURE PEACH ORGANIC INC., ACC  
LLC, PEACH HEALTH ALTERNATIVES  
LLC, HARVEST CONNECT LLC,  
SILVERLEAF HEALTH  
ALTERNATIVES INC., and REMEDIUM  
LIFE SCIENCE OF GEORGIA LLC,

Petitioners,

v.

FFD GA HOLDINGS, LLC; THERATRUE  
GEORGIA, LLC; NATURES GA, LLC;  
and TREEVANA REMEDY, INC.,

Respondents.

CIVIL ACTION NO.  
2022CV370799

**JUDGE RACHEL R. KRAUSE**

**FINAL ORDER DENYING MOTION TO UNSEAL**

This case is before the Court on the Motion of Non-Party Georgia First Amendment Foundation (GFAF), seeking to overturn an Order Granting Motion to Seal, entered on June 23, 2022, by Stephanie Howells, an Administrative Law Judge, sitting as a hearing officer on behalf of the Georgia Access to Medical Cannabis Commission.

The underlying proceedings involve bid protests by unsuccessful applicants. The Order at issue in this appeal provided that “documents submitted or filed, any transcripts, or recordings are not subject to the Georgia Open Records Act” and “will not be publicly disclosed.” Order, p. 5. The Order further provided all hearings on the protest matters would be closed to the public. *Id.* In sealing the proceedings, the Commission, through its hearing officer, relied upon O.C.G.A. § 16-12-220, which provides that “[a]ll working papers, recorded information, documents, and copies produced by, obtained by, or disclosed to the commission pursuant to the activities conducted pursuant to this part,” unless it is published by the Commission, “shall be confidential data and shall not be subject to” Georgia’s Open Records Act (O.C.G.A. § 50-18-71, *et seq.*)

In this action, GFAF alleges that the order violates the public’s constitutional right of access.<sup>1</sup> Having considered the briefing and argument by GFAF and the parties to the underlying bid protests, the Court is not persuaded that these proceedings should be unsealed. The plain language of O.C.G.A. § 16-12-220 provides that the Georgia Open Records Act is not applicable. Rule 21 of the Uniform Superior Court Rules does not apply because the bid protests are neither

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<sup>1</sup> Although GFAF made general constitutional arguments, it did not assert in its briefing or argument that the statute on which the hearing officer relied in sealing the record (O.C.G.A. § 16-12-220) was, in itself, unconstitutional.

pending in Superior Court nor are they “court records” within the meaning of that rule. *See Undisclosed LLC v. State*, 302 Ga. 418 (2017).

Similarly, Georgia’s Administrative Rules of Procedure do not seem to squarely apply to this bid protest, but even if they did, those rules do not require public disclosure. Section 606-1-2-.23 provides that the record of administrative proceedings may be deemed unavailable to the public when, as here, there is a “law according confidentiality.” GFAF’s reliance on confidentiality provisions in the bid protest rules (Sections 2.3 and 3.2) is similarly misplaced because those rules do not apply to the public or the media, but rather to “interested applicants,” defined by those rules to mean “an actual or prospective applicant with a direct economic interest in the procurement of a Class 1 or Class 2 production license.” *Section 1.2, Cannabis Commission Post-Award Protest Procedure*.

Because GFAF is not a party to these confidential proceedings and no law or rule requires disclosure to non-parties, GFAF’s Motion to Unseal is hereby DENIED.

IT IS SO ORDERED, this 9<sup>th</sup> day of February 2023.



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The Honorable Rachel Krause  
Fulton County Superior Court  
Atlanta Judicial Circuit

*Filed and served via eFileGA.*