

**IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
IN AND FOR ST. LUCIE COUNTY, FLORIDA**

CASE NO.: 56-2025CA002199

JUDGE: Steven J. Levin

KEVIN S. KEENE,
Plaintiff,

v.

CITY OF FORT PIERCE,
Defendant.

**PLAINTIFF'S REVISED RESPONSE IN OPPOSITION TO DEFENDANT'S MOTION
TO DISMISS
FIRST AMENDED COMPLAINT, MOTION TO QUASH SERVICE, MOTION FOR
MORE
DEFINITE STATEMENT, AND REQUEST FOR ATTORNEY'S FEES**

Plaintiff, KEVIN S. KEENE, pro se, files this Revised Response in Opposition to Defendant City of Fort Pierce's Motion to Dismiss Plaintiff's First Amended Verified Complaint, Motion to Quash Service, Motion for More Definite Statement, and Request for Attorney's Fees, and states:

1. At the motion to dismiss stage, the Court must test the legal sufficiency of the First Amended Complaint, accept well-pled allegations as true, and draw all reasonable inferences in favor of Plaintiff. The City seeks the extreme remedy of dismissal with prejudice. That remedy is not warranted here.
2. The City's renewed motion largely repackages the same themes raised in its earlier motion—service, standing, mootness, and sufficiency of declaratory and injunctive allegations—even though the Court already granted leave to amend and Plaintiff amended specifically to strengthen standing and to identify more precisely the right and legal relation to be declared.
3. The First Amended Complaint is materially different from the original pleading. It now alleges Plaintiff's longstanding, repeated, and personal history of direct use of the Little Jim / North Causeway waterfront area from childhood to the present; Plaintiff's present use of the area with his grandchildren for fishing, boating, waterfront recreation, and enjoyment of the public waterfront; Plaintiff's personal use of the docks, boat-launch area, adjacent beach area, and surrounding public waterfront access; and Plaintiff's familiarity with and observation of the paddleboarding, kayaking, boating, and fishing activity in the surrounding waters and mangrove areas. The Amended Complaint further alleges that the City's continuing handling of the Little Jim property directly interferes with Plaintiff's personal use, enjoyment, access, and benefit from that specific public waterfront site.
4. The Amended Complaint also alleges a present, real-world controversy at the Little Jim site based on the Florida Department of Environmental Protection's Warning Letter and accompanying inspection report. Those allegations are not speculative. They concern an existing

City-owned site that FDEP inspected, identified as the subject of possible unauthorized structures and activities over sovereign submerged lands, and classified as “Significant Non-Compliance.”

5. For the reasons set forth below, the Motion should be denied. At minimum, if the Court finds any technical deficiency as to service or pleading specificity, the proper remedy would be quashal of service, a more definite statement, or limited further amendment—not dismissal with prejudice or sanctions.

A. ANY DEFECT IN SERVICE OF THE AMENDED COMPLAINT IS CURABLE, WAS NOT WILLFUL, AND DOES NOT WARRANT DISMISSAL WITH PREJUDICE.

6. The City argues that Plaintiff did not properly serve the Amended Complaint and that Plaintiff improperly directed a summons to Sara Hedges individually. Plaintiff respectfully submits that, even if the Court concludes service of the Amended Complaint was technically defective, dismissal with prejudice is not the proper remedy.

7. On May 20, 2026, Plaintiff e-filed the First Amended Complaint and the Florida Courts E-Filing Portal identified Sara K. Hedges, counsel for Defendant, as a selected e-service recipient for service of that filing. Plaintiff reasonably believed that portal e-service on counsel satisfied service of the amended pleading. See Exhibits “A” and “B.”

8. Plaintiff also filed a Certificate of Service through the E-Filing Portal on May 6, 2026. The accompanying notices further reflect Plaintiff’s use of the E-Filing Portal in an effort to provide service and notice. See Exhibits “C” and “D.”

9. When Plaintiff later inquired directly of Defendant’s counsel whether portal service was sufficient, Ms. Hedges responded that ‘[t]he City is expecting a Summons, which is the service document for a Complaint. That is what triggers our timeframe to respond to the Complaint.’ Plaintiff then immediately advised counsel that he was heading to the courthouse, and Ms. Hedges replied, ‘Thank you. I will let my office know to expect it in the next few days.’ See Exhibit “E.”

10. These communications demonstrate actual notice, Plaintiff’s good-faith effort to comply, and the absence of prejudice to Defendant. They also show that Plaintiff did not ignore service requirements or attempt to conceal the amended pleading. Rather, Plaintiff used the E-Filing Portal, sought clarification from opposing counsel, and then promptly took additional steps after counsel indicated the City was expecting a summons.

11. The City indisputably received actual notice of the Amended Complaint, has appeared through counsel, and has fully responded on the merits. Under these circumstances, if the Court finds any technical defect in service, the proper remedy is at most quashal and allowance of proper service—not dismissal with prejudice and not sanctions.

B. THE FIRST AMENDED COMPLAINT SUFFICIENTLY ALLEGES STANDING.

12. The City attempts to recast Plaintiff’s pleading as though Plaintiff were suing only as a generalized taxpayer dissatisfied with public decisions. That is not what the First Amended Complaint alleges.

13. The Amended Complaint alleges a direct, personal, and site-specific connection to the Little Jim / North Causeway waterfront area extending from childhood to the present. Plaintiff alleges repeated direct use of the area for shrimping, fishing, boating, docks, boat-launch access, adjacent beach access, waterfront recreation, and ongoing family use with his grandchildren. Plaintiff alleges that the City's continuing handling of the Little Jim property directly interferes with Plaintiff's personal use, enjoyment, access, and benefit from that specific public waterfront site.

14. Those allegations go beyond abstract disagreement with municipal policy. They identify a specific public waterfront location, repeated direct personal use of that location, and a presently alleged interference with that use and enjoyment arising from the City's continuing administration and threatened future disposition of the same site.

15. The Amended Complaint also alleges that the City continues to control and manage a site that remains under unresolved regulatory and site-condition controversy documented by FDEP. That further distinguishes this case from a purely hypothetical future challenge or a generalized taxpayer complaint.

16. At minimum, the standing allegations in the Amended Complaint are sufficient to survive dismissal at the pleading stage. And if the Court believes additional specificity is needed, the proper remedy would be a more definite statement or limited amendment, not dismissal with prejudice.

C. THE CONTROVERSY IS NOT MOOT AND IS RIPE FOR REVIEW.

17. The City's own motion defeats its mootness and ripeness arguments. While the City emphasizes that one RFP was canceled, it simultaneously admits that it has not made a final decision as to when any future RFP may be reissued and has not made a final decision as to what terms, provisions, qualifications, parameters, or evaluation criteria may be included in any future Little Jim solicitation.

18. The City therefore has not renounced the challenged course of conduct. Instead, it has left future action expressly unresolved. Under those circumstances, the controversy remains practical and ongoing rather than extinguished.

19. In addition, the Amended Complaint does not rely solely on a past procurement event. It alleges present conditions at the Little Jim site, including the FDEP Warning Letter and inspection findings concerning possible unauthorized structures and activities over sovereign submerged lands and a classification of "Significant Non-Compliance." Those allegations concern an existing City-owned waterfront site and present regulatory conditions, not merely a hypothetical future dispute.

20. Accordingly, the Amended Complaint alleges a bona fide, actual, and present controversy sufficient to defeat dismissal on mootness or ripeness grounds.

D. COUNT I STATES A CLAIM FOR DECLARATORY RELIEF.

21. The City argues that Plaintiff still fails to identify the right, status, or legal relation to be declared. The Amended Complaint, however, specifically alleges Plaintiff's doubt regarding the parties' present rights and legal relations concerning whether the City may proceed toward future solicitation, leasing, operation, expenditure, or other disposition of the Little Jim property while

unresolved FDEP compliance issues, permitting deficiencies, and sovereign submerged lands authorization issues remain pending at the site.

22. The Amended Complaint further seeks a declaration that cancellation of one RFP does not moot review where the City admits future Little Jim action remains undecided as to both timing and substance. It also seeks a declaration that the City's continuing ownership, control, administration, and threatened future re-solicitation or operational disposition of Little Jim present a presently justiciable controversy.

23. These are not requests for a free-floating advisory opinion. They are requests for the Court to define the parties' present rights and legal relations regarding an existing City-owned waterfront site, under existing regulatory scrutiny, where the City admits future action remains unresolved.

24. At the pleading stage, that is sufficient to state a claim for declaratory relief.

E. COUNT II SUFFICIENTLY PLEADS INJUNCTIVE RELIEF.

25. The City argues that Count II is speculative and conclusory. But the pleading stage does not require Plaintiff to prove the ultimate injunction elements. Plaintiff need only allege facts that, if accepted as true, state a legally sufficient claim.

26. The Amended Complaint alleges that the Little Jim property is a unique publicly owned waterfront asset; that monetary damages are inadequate; that Plaintiff faces irreparable harm if the City proceeds toward further solicitation, leasing, interim arrangements, expenditures, or other operational steps before legality is adjudicated; and that the site remains subject to unresolved FDEP compliance and submerged-lands authorization issues.

27. Those allegations are sufficient to state a claim for temporary and permanent injunctive relief. The City's disagreement with the merits does not convert Count II into a pleading deficiency.

F. IF THE COURT DESIRES GREATER SEPARATION OR CLARITY, THE NARROWER REMEDY WOULD BE A MORE DEFINITE STATEMENT, NOT DISMISSAL WITH PREJUDICE.

28. The City alternatively argues that Count I requests multiple declarations and therefore should be dismissed as a shotgun pleading or for lack of clarity. Even if the Court believes certain requested declarations should be more cleanly separated or more precisely stated, that concern would support, at most, a more definite statement under Rule 1.140(e), not dismissal with prejudice.

29. Plaintiff respectfully submits that the Amended Complaint is understandable and sufficiently specific for the City to prepare a response. The City's lengthy motion itself demonstrates that it understands the allegations and theories well enough to respond in detail. Nonetheless, if the Court believes additional separation or precision would facilitate presentation, Plaintiff requests the opportunity to provide it.

G. SECTION 57.105 SANCTIONS ARE UNWARRANTED.

30. This case is not frivolous. The Court already granted leave to amend, and Plaintiff amended specifically in response to the Court's guidance concerning standing and the right/legal relation to be declared.

31. The City's own motion admits that future Little Jim action remains unresolved, and the Amended Complaint is grounded in present factual allegations concerning the City's ongoing control of the Little Jim site and the FDEP Warning Letter and inspection findings. Those facts alone preclude any assertion that Plaintiff's claims are wholly unsupported by fact or law.

32. The service record reflected in Exhibits "A" through "E" further defeats any suggestion of bad faith. Those materials show portal service, direct inquiry by Plaintiff, clarification by defense counsel that the City was expecting a summons, and Plaintiff's prompt effort to comply after receiving that clarification.

33. Even if the Court were to conclude that further pleading refinement is needed, that would not justify sanctions. A complaint that may be subject to further amendment or service correction is not the same thing as a sanctionable or bad-faith filing.

WHEREFORE, Plaintiff respectfully requests that this Court:

- A. deny Defendant's Motion to Dismiss Plaintiff's First Amended Verified Complaint;
- B. deny Defendant's request to dismiss this action with prejudice;
- C. deny Defendant's request for attorney's fees pursuant to section 57.105, Florida Statutes;
- D. if the Court finds any technical deficiency in service, quash service and allow proper service rather than dismiss the Amended Complaint;
- E. if the Court finds any pleading deficiency in clarity or separation of allegations, allow a more definite statement or limited amendment rather than dismissal with prejudice; and
- F. grant such other and further relief as the Court deems just and proper.

DATED: June 24, 2026.

Respectfully submitted,

/KSK/ Kevin S Keene
KEVIN S. KEENE, Pro Se
5255 Palmetto Ave.
Fort Pierce, FL 34982
(772) 275-2040
kevinkeene1961@gmail.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by Florida Courts E-Filing Portal e-service and by electronic mail to Sara K. Hedges, City Attorney, counsel for Defendant City of Fort Pierce, shedges@cityoffortpierce.com, on June 24, 2026.

KEVIN S. KEENE

EXHIBITS TO PLAINTIFF'S REVISED RESPONSE

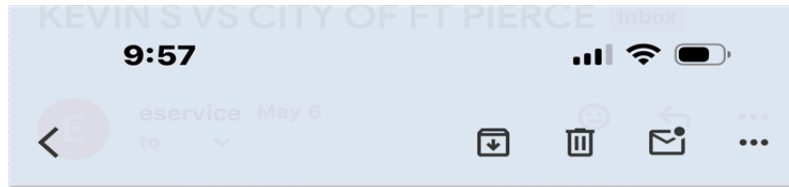
Exhibit A – May 20, 2026 Florida Courts E-Filing Portal e-service notice for First Amended Complaint

Exhibit B – May 20, 2026 amended complaint e-service recipients screenshot

Exhibit C – May 6, 2026 portal receipt / certificate of service filing

Exhibit D – May 6, 2026 certificate of service e-service screenshot

Exhibit E – June 9–10, 2026 email exchange with Sara Hedges regarding summons/service



Notice of Service of Court Documents

Filing Information

Filing #: [247585870](#)
Filing Time: 05/06/2026 11:44:00 AM ET
Filer: Kevin Keene 772-275-2040
Court: Nineteenth Judicial Circuit in and for St. Lucie County, Florida
Case #: 562025CA002199AXXXHC
Court Case #: 2025CA002199
Case Style: KEENE, KEVIN S VS CITY OF FT PIERCE
Documents

Click on the file name below to download or print your document NOW. The link expires in 14 days

Documents

Title	File
Certificates Certificate Of Service	Certificate_of_Service_Corrected.docx

E-service recipients selected for service:

Name	Email Address
Kevin Keene	kevinkeene1961@gmail.com
	kevinkeene1961@gmail.com
	kevinkeene1961@gmail.com

E-service recipients not selected for service:

Name	Email Address
Judicial Batch Admin	*****
Sara Kristine Hedges	shedges@cityoffortpierce.com
Steve J. Levin	*****

This is an automatic email message generated by the Florida Courts E-Filing Portal. This email address does not receive email.

Document Access Link(s) will be active for 14 days (excluding weekends) after the Clerk accepts the submission or it is abandoned. In addition to access to the link for 14 days



Exhibit A

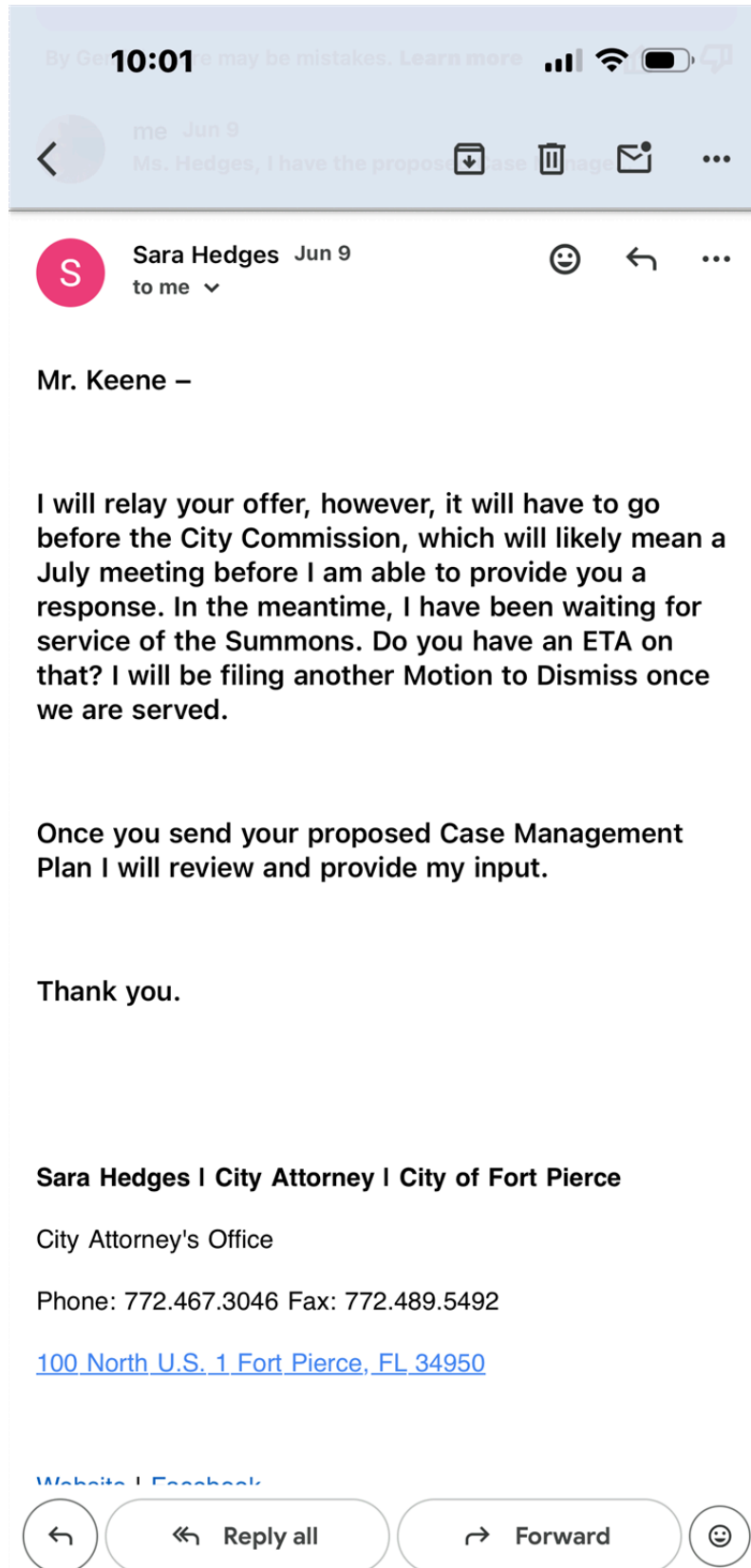


Exhibit B

9:57



Filing Received Inbox



noreply May 6
to



Dear Kevin Keene:

This email verifies the receipt of 1 document submitted by you to St. Lucie Circuit Civil on 05/06/2026 11:44:00 AM.

UCN:	562025CA002199AXXXHC
Clerk Case #:	2025CA002199
Case Style:	KEENE, KEVIN S VS CITY OF FT PIERCE
Document Title:	Certificates Certificate of Service
Matter #:	
Memo:	
Filing Fee:	\$0.00
Certificates Certificate of Service:	\$0.00
Statutory Convenience Fee:	\$0.00
Total Fee:	\$0.00
Fee Status:	Assessed
Paid By:	No Payment Required
Order #:	
Financial ID:	

The E-Portal reference number of this filing is: 247585870. Please reference this Filing # in any correspondence.

You will receive a follow-up email when your filing has been docketed with the Clerk.

This is a non-monitored email. Do not reply directly to it. If you have any questions about this filing please contact the St. Lucie Circuit Civil division.

Thank you,
The Florida Courts E-Filing Portal

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KEVIN S VS CITY OF FT PIERCE

Inbox

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Notice of Service of Court Documents Filing Information

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to

Notice of Service of Court Documents

Filing Information

Filing #:

248583840

Filing Time:

05/20/2026 08:57:57 AM ET

Filer:

Kevin Keene 772-275-2040

Court:

Nineteenth Judicial Circuit in and for St. Lucie County, Florida

Case #:

562025CA002199AXXXHC

Court Case #:

2025CA002199

Case Style:

KEENE, KEVIN S VS CITY OF FT PIERCE

Documents

Click on the file name below to download or print your document NOW. The link expires in 14 days

Documents

Title	File
Complaint/Statements Of Claim Amended Complaint	First Amended Complaint City of Fort Pierce (1).docx

E-service recipients selected for service:

Name	Email Address
Kevin Keene	kevinkeene1961@gmail.com
	kevinkeene1961@gmail.com
	kevinkeene1961@gmail.com
Sara Kristine Hedges	shedges@cityoffortpierce.com

E-service recipients not selected for service:

Name	Email Address
Judicial Batch Admin	*****
Steve J. Levin	*****

This is an automatic email message generated by the Florida Courts E-Filing Portal. This email address does not receive email.

< Reply

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Exhibit D

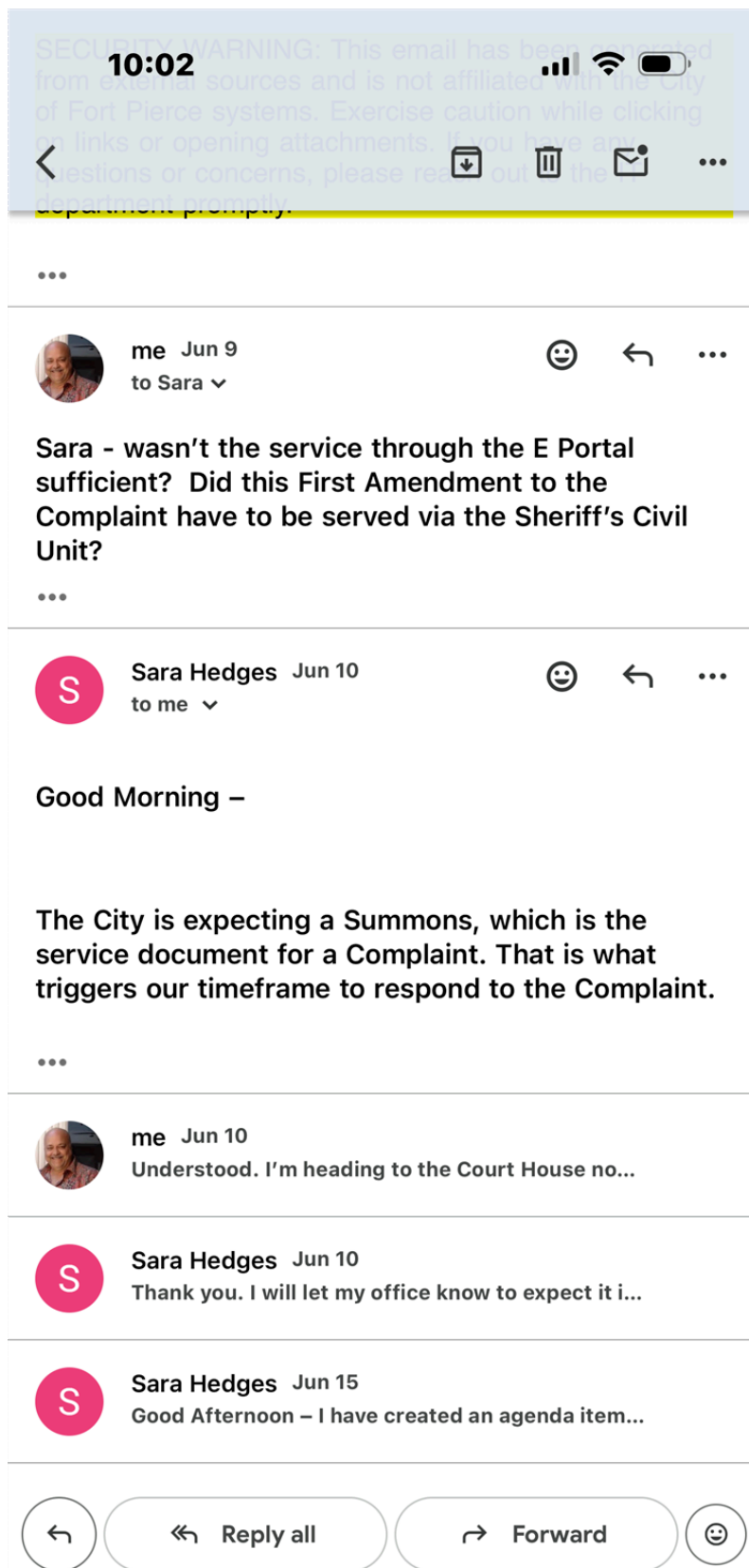


Exhibit E-1

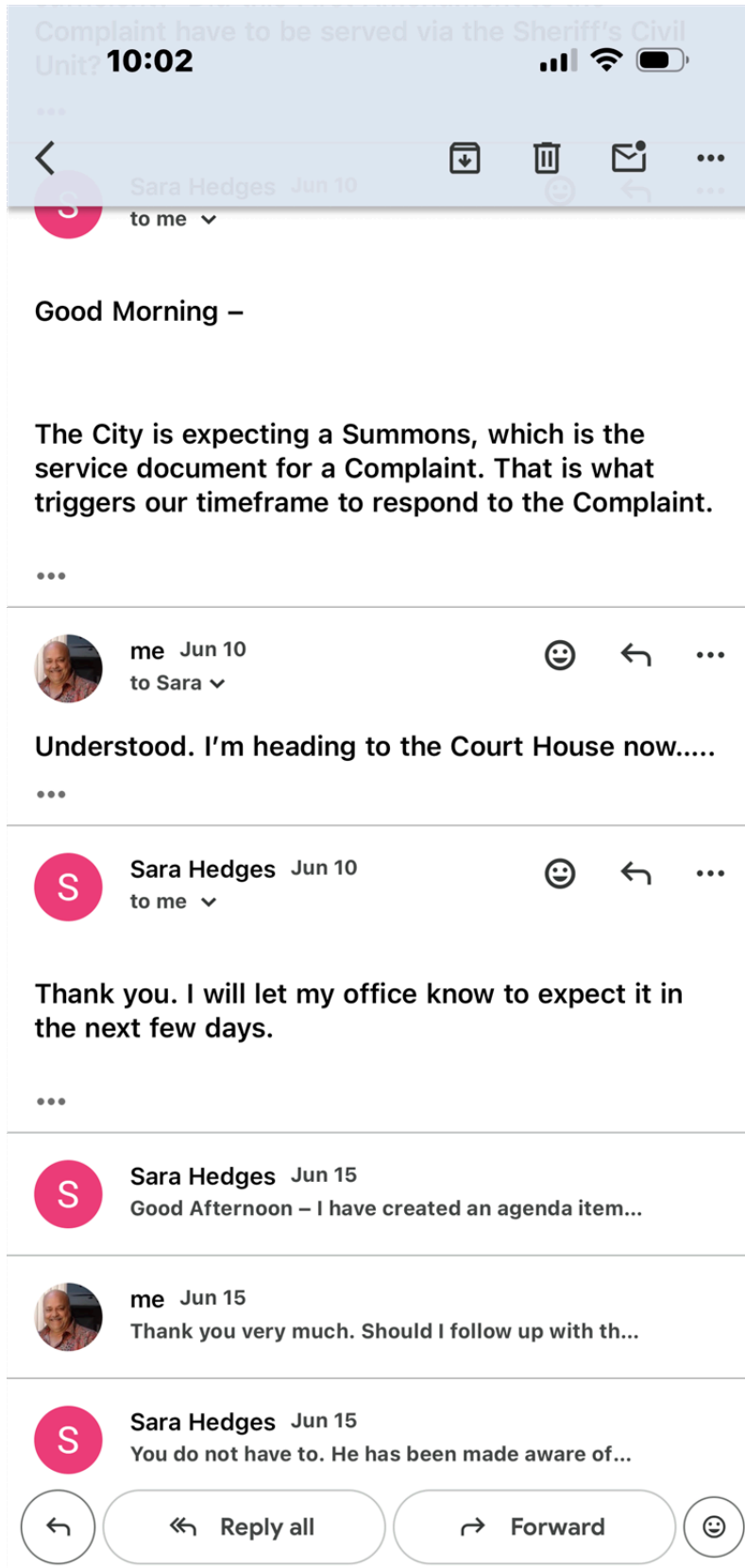


Exhibit E-2