

Plaintiff's Objections

1. The Court's ruling goes beyond scope of Demurrer standard; specifically, while the Court may look at the *sufficiency* of the pleadings regarding duties and/or standards of care, it is improper to make a *legal* determination that because *some* level of "standard of care" potentially existed, the Plaintiff is precluded from moving forward on theories of Gross and/or Willful negligence.
2. Plaintiff objects to not being able to amend Plaintiff's Complaint. Plaintiff contends "leave to amend should be liberally granted in furtherance of the ends of justice". Plaintiff expressed, and the Court took into consideration, the fact that other information potentially existed that a "standard of care" was breached by the Defendants that rises to the level of Gross and/or Willful Negligence, however, due to the Court's finding that a showing of *some* standard of care existed, the Plaintiff will not be able to cure their defect on an Amended Complaint. For the ends of justice, Plaintiff should be afforded the opportunity to cure his deficiencies and present arguments of fact before a trier of fact.
3. Plaintiff objects to not being able to amend Plaintiff's Complaint. Plaintiff contends "leave to amend should be liberally granted in furtherance of the ends of justice". Plaintiff expressed, and the Court took into consideration, the fact that other information potentially existed that a "standard of care" was breached by the Defendants that rises to the level of Gross and/or Willful Negligence, however, Court stated that because (i) the VFOIA statutory claims were incorporated in the Counts IV and V of the Plaintiff Complaint and (ii) because the confidential records were added as part of the Complaint on the Parties' Order Craving Oyer of the confidential records, the Plaintiff's would be unable to prove that the Defendants' actions rose to a level that is sufficient to establish a breach of a "standard of care" for Gross and Willful Negligence. For the ends of justice, Plaintiff should be afforded the opportunity to cure his deficiencies and present arguments of fact before a trier of fact.
4. The issue of a degree of "standard of care" for Gross Negligence should go to a trier of fact and should not have been determined on Demurrer; specifically, the determination of whether the (i) *redaction* of Plaintiff's confidential TDO documents and (ii) incorporation of VFOIA statutes that allow for "discretionary releases" constitute a level of a "standard of care" that is sufficient to withstand gross and willful negligence should not have been determined on Demurrer.

FILED
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TESTE: *[Signature]*, DC
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LOUDOUN COUNTY, VIRGINIA