

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

LEE SCHMIDT and CRYSTAL ARRINGTON,

Plaintiffs,

v.

CITY OF NORFOLK and MARK TALBOT, in
his official capacity as the Norfolk Chief of Police,

Defendants.

Civil Action No. 2:24-cv-621

NOTICE OF SUPPLEMENTAL AUTHORITY

Defendants respectfully submit this Notice of Supplemental Authority to alert the Court to two federal court decisions which issued after the completion of briefing and are relevant to the parties' motions for summary judgment. The decision in *Schemel v. City of Marco Island Fla.*, No. 2:22-CV-79-KCD-DNF, 2025 WL 2958798 (M.D. Fla. Oct. 17, 2025) is attached as **Exhibit A**. The decision in *United States v. Floyd*, No. 8:23-CR-305-TPB-SPF, 2025 WL 3250951 (M.D. Fla. Nov. 21, 2025) is attached as **Exhibit B**.

In *Schemel*, the plaintiffs brought a civil claim alleging the City of Marco Island was illegally recording their movements through an automated license plate recognition ("ALPR") system. The City moved to dismiss the Complaint and the court granted the City's motion with respect to the plaintiffs' Fourth Amendment claim, holding that "[s]ince the ALPRs do not track the whole of Plaintiffs' movements—or anything analogous—the City's use of them does not trigger a search under the Fourth Amendment." **Ex. A** at 6.

In *Floyd*, the defendant moved to suppress evidence obtained from ALPR cameras arguing that observations of his vehicle using ALPR cameras constituted a Fourth Amendment search. The court denied the motion to suppress, noting that "there does not appear to be any legitimate basis

upon which to conclude that Defendant had a reasonable expectation of privacy as it relates to his license plate, automatic license plate readers, or in law enforcement's queries of those license plate databases and systems." **Ex. B** at 8.

THE CITY OF NORFOLK and
MARK TALBOT

/s/

Karla J. Soloria (VSB 82674)
Assistant City Attorney
Adam D. Melita (VSB 41716)
Chief Deputy City Attorney
karla.soloria@norfolk.gov
adam.melita@norfolk.gov
City of Norfolk Department of Law
810 Union Street, Suite 900
Norfolk, VA 23510
Telephone: (757) 664-4529
Facsimile: (757) 664-4201

*Attorneys for Defendants the City of Norfolk
and Mark Talbot*

E. Martin Estrada (*pro hac vice*)
MUNGER, TOLLES & OLSON LLP
350 S. Grand Avenue, Fiftieth Floor
Los Angeles, California 90071
(213) 683-9100
Martin.Estrada@mto.com

Jonathan I. Kravis (*pro hac vice*)
Lauren E. Ross (*pro hac vice*)
MUNGER, TOLLES & OLSON LLP
601 Massachusetts Avenue, NW, Suite 500E
Washington, D.C. 20001
(202) 220-1100
Jonathan.Kravis@mto.com
Lauren.Ross@mto.com

Justin P. Raphael (*pro hac vice*)
MUNGER, TOLLES & OLSON LLP
560 Mission Street, 27th Floor
San Francisco, California 94105
(415) 512-4000
Justin.Raphael@mto.com

Attorneys for Defendant the City of Norfolk

CERTIFICATE OF SERVICE

I hereby certify that on this 12 th day of December, 2025, I will electronically file the foregoing Notice of Supplemental Authority with the Clerk of Court using the CM/ECF system, which will send a copy of the foregoing to the following:

Michael B. Soyfer, Esq. (NY Bar # 5488580; DC Bar # 230366)
Robert Frommer, Esq. (VA Bar #70086)
Joshua Windham, Esq. (NC Bar #51071)
Tahmineh Dehbozorgi, Esq. (DC Bar #90030252)
Jessica Bigbie, Esq. (TX Bar #24134429)
James T. Knight, II (DC Bar #1671382)
INSTITUTE FOR JUSTICE
901 N. Glebe Road, Suite 900
Arlington, VA 22203-1854
703-682-9320 phone
703-682-9321 fax
rfrommer@ij.org
jwindham@ij.org
msoyfer@ij.org
tdehbozorgi@ij.org
jbigbie@ij.org
jknight@ij.org

Counsel for Plaintiffs

/s/

Karla J. Soloria (VSB 82674)
Assistant City Attorney
karla.soloria@norfolk.gov
City of Norfolk Department of Law
810 Union Street, Suite 900
Norfolk, VA 23510
Telephone: (757) 664-4529
Facsimile: (757) 664-4201

*Attorney for Defendants the City of Norfolk
and Mark Talbot*