Hearing Date to be determined by the Court

STATE OF RHODE ISLAND **PROVIDENCE, SC.**		**SUPERIOR COURT**
ANCORA PARTNERS, LLC d/b/a FLOWER & POT, ***Plaintiff,***	: :	
v.	:	**C.A. No. PC-2026-02802**
RHODE ISLAND CANNABIS CONTROL COMMISSION ***Defendant***	: :	

THE DEFENDANT RHODE ISLAND CANNABIS CONTROL COMMISSION'S MOTION TO STAY DISCOVERY

The Defendant, Rhode Island Cannabis Control Commission (the "RICCC"), moves to stay discovery in this case. The RICCC's motion to dismiss Plaintiff's Amended Complaint is currently pending before this Court and set to be heard on October 27, 2026. As the RICCC's motion explains, Plaintiff's entire lawsuit is explicitly barred by statute, and the RICCC's motion seeks to have all of Plaintiffs' claims dismissed with prejudice, thus it is potentially dispositive of this entire case. Accordingly, it is in the interest of judicial economy to stay all discovery deadlines.

Throughout this litigation Plaintiff has misused the Access to Public Records Act ("APRA") as a run-around for litigation discovery. Plaintiff filed its initial Complaint on May 26, 2026. It then submitted an extremely voluminous APRA request to the RICCC on June 10, 2026. *See* Exhibit A. The APRA request sought 50 categories of records and was drafted more like a discovery request than an APRA request. For example, it requested a privilege log, which is common in discovery responses but not applicable in the APRA context. *See id.* The RICCC spent 243 hours and fulfilled Plaintiff's APRA request, providing it with 4,792 pages of records.

Although Plaintiff's initial APRA request was stylized as an APRA request, its subsequent actions made plain that it was utilized as a run-around of litigation discovery. Plaintiff made this clear when it filed its currently pending motion for a temporary restraining order and preliminary injunction. Plaintiff admits in its memorandum in support of its motion that its "motion rests on … additional evidence obtained after suit, including records produced through APRA." Memo. ISO Mot. for TRO at p. 3; *see also* Rozen affidavit attached to Memo. ISO Mot. for TRO (discussing the role the first APRA request played in the litigation).

Plaintiff now attempts to misuse APRA as a run-around for litigation discovery a second time. The same day it filed its motion for a TRO, it submitted another voluminous APRA request to the RICCC.[1] *See* Exhibit B. This request seeks records directly related to this litigation. *See id.* The Court should not permit Plaintiff to continue to misuse APRA as a run-around for litigation discovery.[2]

First, all discovery (through APRA or otherwise) should be stayed as the RICCC's pending motion to dismiss, if granted, will be dispositive of this case. Any discovery is irrelevant at this stage because the RICCC's motion to dismiss is based on the four corners of Plaintiff's Amended Complaint. Rhode Island law indicates that granting "a Rule 12(b)(6) motion to dismiss is appropriate 'when it is clear beyond a reasonable doubt that the plaintiff would not be entitled to relief from the defendant under any set of facts that could be proven in support of the plaintiff's claim.'" *Barrette v. Yakavonis*, 966 A.2d 1231, 1234 (R.I. 2009). To promote judicial parsimony "a trial court possesses the discretion to stay discovery in a civil case until one or more potentially

[1] Plaintiff is well aware that the RICCC is represented by counsel in this matter and should never have communicated with the RICCC without the undersigned counsel's knowledge.
[2] Plaintiff submitted this APRA request not just to the RICCC, but also to other state entities as well. As of the filing of this motion, the RICCC is aware of similar APRA requests submitted to the General Assembly and the Governor's office.

dispositive issues have been decided." *Martin v. Howard*, 784 A.2d 291, 297 (R.I. 2001) (affirming the trial court's granting of a stay of discovery pending the adjudication of a Rule 12(b)(6) motion) (citing *Sinclair Refining Co. v. Jenkins Petroleum Process Co*., 289 U.S. 689, 694 (1933)).

Second, APRA is not meant to be an alternative to litigation discovery, and Plaintiff should not be permitted to continue to misuse APRA in this way. As the Rhode Island Supreme Court has made clear:

> "APRA was not designed to provide an alternative method of discovery for litigants. The Superior Court Rules of Civil Procedure provide for litigation discovery and place appropriate limitations on the scope of that discovery. APRA, on the other hand, was primarily designed to provide for production of documents by members of the public, including the press, who seek access to government documents that are not subject to one of the twenty-one exemptions under § 38–2–2(d). It was never the Legislature's intent to give litigants a greater right of access to documents through APRA than those very same litigants would have under the rules of civil procedure."

Hydron Lab'ys, Inc. v. Dep't of Atty. Gen., 492 A.2d 135, 139 (R.I. 1985). Just last year, the Supreme Court reaffirmed this principle, cautioning that the APRA was never intended to be misappropriated as a discovery vehicle. *See Seguin v. R.I. Dep't of Hum. Serv., Off. of Child Support Servs.*, 335 A.3d 452, 454 (2025) ("APRA was not designed to provide an alternative method of discovery for litigants.").

Here, Plaintiff should utilize the traditional litigation discovery methods (and only after RICCC's Rule 12(b)(6) motion is adjudicated) if it wishes to receive records from the RICCC, not by seeking the same records through an APRA request (sent without informing RICCC's counsel). "APRA is not designed to provide an alternative method of discovery," and Plaintiff should be prohibited from attempting to use APRA as a run-around for litigation discovery. *See Hydron Lab'ys, Inc.,* 492 A.2d at 139; *Seguin*. 335 A.3d at 454.

The Rhode Island Supreme Court recently dealt with a similar situation in *Asa Davis, et al. v. Town of Exeter*, SU-2025-0164-MP. In *Davis*, the plaintiff attempted to submit APRA requests to the defendant Town of Exeter seeking records relevant to the litigation as a run-around for litigation discovery. Upon the Town's motion, the Supreme Court ordered that:

> "Neither Asa Davis nor his counsel, who is an officer of the Court, is permitted to request any materials relevant to this case from the Town of Exeter or the other petitioners through a request pursuant to the Access to Public Records Act (APRA) or any other means while this Court's stay remains in effect. As such, Mr. Davis is prohibited from requesting the information with respect to the change in the building permit fee calculation formula that he asked for in the APRA request at issue in this motion."

Exhibit C.

To be clear, the APRA is a critically important tool for members of the public, whether members of the media or concerned residents, to receive public records and increase public transparency. The RICCC takes its responsibility to provide for public transparency incredibly seriously and has responded to many APRA requests over the years carefully and thoughtfully. However, it is precisely because of the APRA's great import for its purpose of "provid[ing] for production of documents by members of the public, including the press, who seek access to government documents" that the APRA should not be misappropriated as a vehicle to sidestep litigation discovery for litigants suing public bodies. *See Hydron Lab'ys, Inc.,* 492 A.2d at 139. "It was never the Legislature's intent" for the APRA to be misused in this way, and this Court should not permit Plaintiff to do so here. *See id.*; *Seguin*, 335 A.3d at 454 (holding that plaintiff was not "entitled to utilize APRA as a ploy to aid discovery within the then-pending Family Court enforcement action to which she is a party").

Accordingly, the RICCC respectfully requests an Order of this Honorable Court staying discovery in this case, pending the Court's decision on the RICCC's motion to dismiss. This Order

should be inclusive of any and all APRA requests submitted by Plaintiff, or its agents, to State entities seeking records related to this litigation. Thus, the Order should relieve the RICCC, and other State entities, of any obligation to fulfill Plaintiff's September 28, 2026 APRA requests.

Respectfully submitted,

Defendant,

RHODE ISLAND
CANNABIS CONTROL COMMISSION

By:

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this 1st day of October, 2026 I filed the within document via the ECF filing system and that a copy is available for viewing and downloading.

/s/ Abigail Clark