

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, EX REL., MUNICIPAL)
CONSTRUCTION EQUIPMENT)
OPERATORS' LABOR COUNCIL, et al.,) Case No. 2006-2056
)
Relators)
)
-v-)
)
CITY OF CLEVELAND, et al.,)
)
Respondents.)

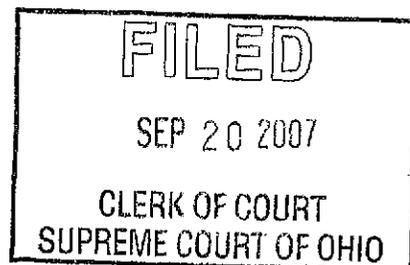
**RESPONDENTS' BRIEF IN OPPOSITION TO RELATORS' MOTIONS FOR
ORDERS (1) TO REQUIRE RESPONDENTS TO SHOW CAUSE WHY THEY
SHOULD NOT BE DEEMED TO BE CONTEMNORS OF THIS COURT, AND
(2) FOR SANCTIONS UNTIL THEIR COMPLIANCE WITH THIS COURT'S
JUDGMENT ENTRY AND WRITS OF MANDAMUS**

Stewart D. Roll (0038004)
Persky, Shapiro & Arnoff Co., L.P.A.
Signature Square II
25101 Chagrin Boulevard, Suite 350
Beachwood, Ohio 44122
(216) 360-3737
Fax No. (216) 593-0921
sroll@perskylaw.com

COUNSEL FOR RELATORS

Robert J. Triozzi, Director of Law
Theodora Monegan (0039357), Chief Assistant Director of Law
William A. Sweeney (0041415), Assistant Director of Law
City of Cleveland Department of Law
601 Lakeside Avenue, Room 106
Cleveland, Ohio 44114
(216) 664-2800 Fax No. (216) 664-2663
tmonegan@city.cleveland.oh.us

COUNSEL FOR RESPONDENTS



INTRODUCTION

On September 12, 2007, less than a month after the Court's Judgment Entry, Relators, the Municipal Construction Equipment Operators' Labor Council and nineteen individually named construction equipment operators or master mechanics, moved the Court to issue two orders. First, Relators asked the Court to require Respondents to show cause why they should not be deemed in contempt of Court for the alleged failure to comply with the Court's Judgment Entry of August 15, 2007 to pay the individually named construction equipment operators or master mechanics a certain yearly difference in pay for the period from May 1, 1994 through February 14, 2005, less a certain offset for certain Relators. Second, Relators asked the Court for sanctions until the City fully complies with the Court's August 15, 2007 Judgment Entry. The Relators reason that these motions should be granted because Respondents have not committed to a date certain for full compliance.

The Respondents are complying with the Court's Judgment Entry. Respondents, through their lawyers, have repeatedly assured Respondents' lawyer that Respondents are complying. The failure to supply a date certain for full compliance is not a reason to make the Respondents show why they should not be held in contempt, nor is it a reason to sanction Respondents. Respondents ask the Court to deny the motions.

STATEMENT OF THE FACTS AND THE CASE

On August 15, 2007, the Court ordered a writ of mandamus to compel Respondents to pay the individually named construction-equipment operator Relators and the individually named master mechanic Relators "the difference between the prevailing wage rates and the lower rates they were paid for the period from May 1, 1994, through February 14, 2005, less the collective-bargaining offset of \$2,500.00 for those employees who worked during the period from January 1, 2004, through January 31, 2005." The Judgment Entry and the Court's opinion require the City to calculate the wage difference for each of the individually named Relators. Neither the Judgment Entry nor the Court's opinion stated a certain sum for any of the Relators.

The City is complying with the Judgment Entry. To issue paychecks to the individually named Relators, the Division of Accounts had to figure out the best way to determine the rate of pay and hours worked for each person for the relevant period, which starts in 1994, so that calculations may be made and paychecks for the wage deficiencies could be generated. The process is more complex than the mere multiplication process Relators describe in their Motion. The steps that the Division of Accounts is taking to comply with the Judgment Entry are included in the Affidavit of the Commissioner of Accounts, attached as Exhibit A. The Commissioner examined two methods to comply with the Judgment Entry. He could (1) extract the data into an Excel spreadsheet where the computer could do the calculations or (2) look at the hard copies of the

payroll records and manually calculate the amounts.¹ Although photocopies of the payroll records have already been generated, the Commissioner of Accounts chose the first method because he determined that it would be more efficient and more accurate.² Thus, the payroll records that Relators discuss in their Motion do not speed the process in any meaningful way.

At this time, because the process of complying with the Court's Judgment Entry is farther along, the Commissioner of Accounts is more able to estimate a time for completion than he was two weeks ago.³ Barring anything unforeseen, the Commissioner of Accounts estimates that the checks will be ready by October 5, 2007.

Relators claim that the Respondents' excuse for the time it is taking to produce payroll checks is difficulty finding the payroll records. Relators attach to their Motions what Relators' counsel claims to be "[a]ll E-mail correspondence between Steward D. Roll, counsel for Relators Municipal Construction Equipment Operators' Labor Council, and counsel for Respondents, City of Cleveland, regarding demand for payment of Supreme Court Judgment." This is not accurate. There were two more September 10, 2007 e-mails between the Respondents' counsel and Mr. Roll after 11:22 a.m., the date and time of the last e-mail in the set of e-mail attached to Relators' Motion. The two additional e-mails missing from Relators' Motion are attached as Exhibit B. Reading all of the

¹ Exhibit A.

² Exhibit A.

³ Exhibit A.

e-mails together it is clear that Respondents' counsel did not state that finding old payroll records was the only reason the task was time consuming.

Respondents' counsel told Relators' counsel about extracting data from an old payroll system and performing the necessary calculations.⁴

While the Respondents are working diligently and complying with the Court's Judgment Entry, Relators are diverting Respondents' attention in numerous time-consuming ways. Since the September 12, 2007 Motions filed with this Court, Relators have taken the following actions:

1. On September 12, 2007, under Ohio Revised Code 1333.09, Relators filed a Motion for an Order to Examine Debtors in Aid of Execution of Writs of Mandamus and Judgment Entry Issued by the Ohio Supreme Court with the Cuyahoga Common Pleas Court. The Court signed an Order and Judgment Entry the same day. On September 14, 2007, Relators' lawyer sent a schedule for three days' worth of depositions purportedly authorized by the Common Pleas Court's Order. Included among the deponents are the Mayor, the Council President and nine Councilmembers, the Council Clerk, the City's Finance Director, the Commissioner of Fiscal Control from the Public Utilities Department, the City Treasurer, the City Controller, and a budget manager in the Finance Department. See e-mail from Relators' counsel attached as Exhibit B.

⁴ Exhibit B.

2. On September 14, 2007, Relators' counsel signed six Common Pleas Court Subpoenas and delivered them to six City officials. Although the subpoenas are captioned as Common Pleas Court subpoenas, they cite to this Supreme Court case number. All but one of the subpoenas appears to have been improperly served. The six City officials to whom the subpoenas are directed are the Director of Law, the Director of Finance, the Commissioner of Accounts, the Commissioner of the Division of Information Technology and Services, the City Treasurer, and a Clerk in the Division of Accounts. A Motion to Quash will be filed separately.
3. On September 14, 2007, the Relators' counsel sent a Notice of Depositions by facsimile to Respondents' counsel setting the depositions of the same six City officials to whom the subpoenas were directed for Monday, September 24, 2007.
4. On September 14, 2007, Relators' counsel sent a Request for Production of Documents by facsimile to Respondents' counsel. This Request asks for payroll records for construction equipment operators and master mechanics for the period of May 1, 1994 through February 14, 2005; letters, e-mails, faxes and other communication from Relators' counsel and his clients to the City's Law Department; and other, non-privileged communications

between City employees from August 15, 2007 to the present regarding this Court's Judgment Entry.

5. Relators' counsel has sent to the City "Payment Instruction Memorandum" for 52 persons who claim to have been employed as construction equipment operators or master mechanics from May 1, 1994 through February 14, 2005, but who were not named in the Supreme Court case as relators. Relators' counsel has also sent "Payment Instruction Memorandum" for those individuals named as Relators.

Law and Argument

The mandamus provisions in the Ohio Revised Code contemplate actions for contempt and sanctions at Section 2731.16. As this Court has stated, "Contempt of court is defined as disobedience of an order of a court. It is conduct which brings the administration of justice into disrespect, or which tends to embarrass, impede or obstruct a court in the performance of its functions."⁵ The Court further stated, "The purpose of contempt proceedings is to secure the dignity of the courts and the uninterrupted and unimpeded administration of justice."⁶

Because the Respondents are currently complying with the Court's Judgment Entry by calculating the amount owed to each of the individually

⁵ *Windham Bank v. Tomaszczyk* (1971), 27 Ohio St.2d 55, paragraph one of the syllabus.

⁶ *Id.* at paragraph two of the syllabus.

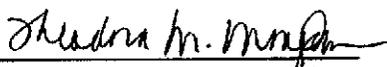
named Relators and because Respondents' counsel has told Relators' counsel that it is complying with the Judgment Entry, there is no disobedience of a court order, and no disrespect or obstruction of the Court in the performance of its functions. Furthermore, because this process is further along than it was when Relators demanded a date certain for full compliance from the Respondents, the City is able to estimate that, barring any unforeseen problems, it will have checks ready for each individually named Relator by October 5, 2007. Thus, the Motions of the Relators must be denied.

CONCLUSION

For the reasons stated above, the Respondents respectfully request the Court to deny the Motions of the Relators.

Respectfully submitted,

ROBERT J. TRIOZZI
Director of Law

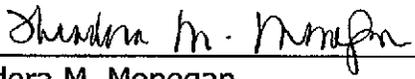
By: 
Theodora M. Monegan (0039357)
Chief Assistant Director of Law
601 Lakeside Avenue, Room 106
Cleveland, Ohio 44114
(216) 664-2800; fax: (216) 664-2663
tmonegan@city.cleveland.oh.us

ATTORNEYS FOR RESPONDENTS

CERTIFICATE OF SERVICE

Respondents mailed a copy of this Respondents' Brief in Opposition to Relators' Motions for Orders (1) to Require Respondents to Show Cause Why They Should Not be Deemed to be Contemnors of this Court, and (2) for Sanctions Until Their Compliance with this Court's Judgment Entry and Writs of Mandamus on the 19th day of September, 2007 to the attorney for Relators at the following address:

Stewart D. Roll
Persky, Shapiro & Arnoff Col., L.P.A.
Signature Square II
25101 Chagrin Blvd., Suite 350
Cleveland, Ohio 44122-5687



Theodora M. Monegan

29143

AFFIDAVIT OF RICHARD SENSENBRENNER

STATE OF OHIO)
) **ss:**
COUNTY OF CUYAHOGA)

I, Richard Sensenbrenner, being competent to testify and duly sworn,
state as follows based on personal knowledge:

1. I am the Commissioner of Accounts for the City of Cleveland.
2. As the Commissioner of Accounts, I direct the Division of Accounts in the Department of Finance.
3. The Division of Accounts processes the payroll for City of Cleveland employees.
4. The City's Law Department gave me a copy of the Supreme Court opinion in the case *State ex rel. Municipal Construction Equipment Operators' Labor Council et al. v. City of Cleveland et al.*, Case No. 2006-2056 decided August 15, 2007.
5. I read the opinion and discussed its meaning with lawyers from the Law Department.
6. I sent the opinion to OPERS for review to determine pension applicability.
7. I gathered and coordinated the City personnel required to calculate the wages due under the opinion.

8. I considered, with other City personnel, whether to calculate the wages manually using paper print outs of payroll data or whether to extract and calculate the data using the computer. I decided that the most efficient and reliable method would be to extract and calculate the data using the computer and then to verify the data with the paper print outs of payroll data.

9. One of the City personnel assigned to this task is an employee in the Division of Information Technology and Services. He was assigned to extract the data from the Ceridian Payroll System that holds the data from 1994 through 2003. He had to define the needs, which included job codes and pay codes; create new dictionary items to ensure that the data extracted was consistent from year-to-year; and try several times to overcome application limitations to capture the required data. Each year of data required about two hours worth of work to process and convert to Excel.

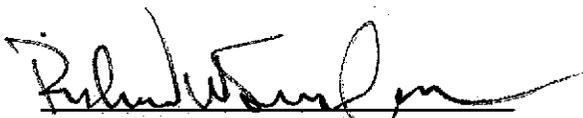
10. Another employee from the Division of Accounts extracted the required data from the ADP Payroll System that holds the data from 2004 through 2005.

11. Another employee calculated and confirmed the rates at which the employees were actually paid for each job classification during the relevant time period. He also determined whether the time was paid as regular time, overtime, or double overtime.

12. This employee is currently creating a worksheet for each employee and calculating the pay rate differences and balances due.

13. Once the tasks in paragraph 12 are completed, City personnel will compare the balance due to the paper reports of pay histories and estimates based on those histories; distribute the information to the payroll clerks for the divisions to which the various employees are or were assigned to review and approve the calculated information; forward the information to the appropriate commissioners and directors for approval; process the checks; perform special processing functions for those employees who are deceased; and calculate pensions and submit them to OPERS.

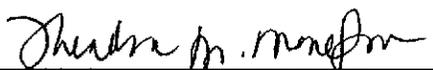
14. During the short work week beginning on Labor Day, September 3, 2007 and up to September 7, 2007, I was not able to estimate when this process would be finished. Now that the process is farther along, I am able to make a reasonable estimate. Given no unforeseen difficulties, the City should be in a position to issue paychecks to the employees by October 5, 2007. The City will also calculate the post judgment interest and issue checks for those amounts.


Richard Sensenbrenner

Sworn to and subscribed before me this 19th day of September, 2007.



THEODORA M. MONEGAN
Attorney At Law
NOTARY PUBLIC
STATE OF OHIO
My Commission Has
No Expiration Date
Section 147.03 O.R.C.


Notary Public

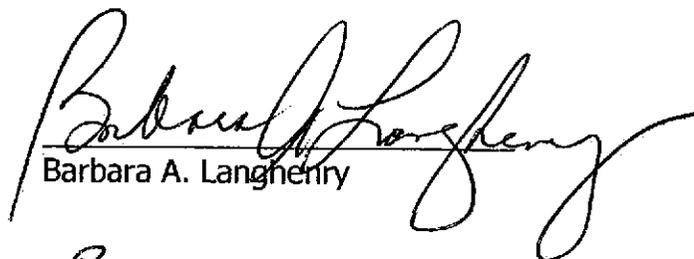
AFFIDAVIT OF BARBARA A. LANGHENRY

STATE OF OHIO)
) **SS:**
COUNTY OF CUYAHOGA)

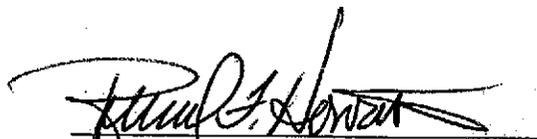
I, Barbara A. Langhenry, being competent to testify and duly sworn, state as follows based on personal knowledge:

1. I am the Chief Counsel in the City of Cleveland's Law Department.
2. The attached e-mail correspondence between me and Stewart D. Roll dating from September 7, 2007 at 6:37 p.m. to September 10, 2007 at 3:31 p.m. are true and accurate copies of all of the e-mails between me and Mr. Roll up to September 12, 2007 regarding Mr. Roll's demand for payment under the Ohio Supreme Court's Judgment Entry of August 15, 2007.
3. There are two sets of e-mails between these dates because one e-mail was not part of the continuous chain.
4. Since September 12, 2007, there have been e-mails between City lawyers and Mr. Roll regarding his notice of depositions, request for production of documents, and Motion for an Order to Examine Debtors.
5. The attached e-mail to me from Stewart D. Roll dated September 14, 2007 at 4:23 p.m. regarding pending depositions he scheduled as a result of the Motion for an Order to Examine Debtors filed in Cuyahoga Common Pleas

Court and assigned Case No. SD07 076306 is a true and accurate copy of
the e-mail and attachment sent by Mr. Roll to me on that date and at that time.


Barbara A. Langhenry

Sworn to and subscribed before me this 18 day of September, 2007.


Notary Public

RICHARD F. HORVATH, Attorney
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date;
Section 147.03 R.C.

Langhenry, Barbara

From: Stewart D. Roll [sdanl@msn.com]
Sent: Monday, September 10, 2007 3:31 PM
To: 'Langhenry, Barbara'; rtriozzi@city.cleveland.oh.us; 'Monegan, Theodora'
Cc: sdanl@msn.com; 'Eva Potter'; 'Stewart D. Roll'
Subject: RE: Ohio Supreme Court Case No. 2006-2056

Dear Ms. Langhenry:

I am pleased that you were able determine that your clients determined that they already had in their possession the records described in your email. Additional payroll records were produced in the Consolo case. If Cleveland is not going to use our spreadsheets to perform in accord with the subject judgment, there is no need to share them with you. If Cleveland will use them, we'll share. In either case, I am proceeding as described in my earlier email because Cleveland has failed and refused to commit to a date to pay what it knows it owes.

Sincerely,
Stewart D. Roll

From: Langhenry, Barbara [mailto:BLanghenry@city.cleveland.oh.us]
Sent: Monday, September 10, 2007 2:57 PM
To: Stewart D. Roll
Cc: 'Eva Potter'; Triozzi, Robert; Monegan, Theodora
Subject: RE: Ohio Supreme Court Case No. 2006-2056

Mr. Roll:

I received your phone message and this e-mail. This return e-mail is a response to both. Thank you for your offer to make arrangements to review the payroll records that you have. That may not be necessary because I think that I have located the records that we gave to you. I have the evidence that you submitted to the Supreme Court in Case No. 90-1780. Are these the payroll records that you have been talking about? Please confirm this.

These records may be helpful to us, but they do not relieve us of all of our work. We must still calculate the amount owed to each individual employee. That is a time-consuming task that the staff members in the Division of Accounts have started. I do not know whether your spread sheets would be helpful in this effort. Is it possible to send the spread sheet to me electronically?

Sincerely,

Barbara Langhenry

From: Stewart D. Roll [mailto:sdanl@msn.com]
Sent: Monday, September 10, 2007 11:22 AM
To: 'Langhenry, Barbara'
Cc: sdanl@msn.com; 'Eva Potter'

9/17/2007

Subject: Ohio Supreme Court Case No. 2006-2056

Dear Ms. Langhenry:

Nothing is preventing Respondents from complying with its obligations by Friday, September 14, 2007 for those persons for whom and to the extent that records are readily available except Respondents desire to stretch out for as long as possible its compliance with the Supreme Court's order. Today's 12:00 p.m. deadline stands for committing to pay those persons those amounts by September 14, 2007 further to my email of this morning. You are welcome to make arrangements with me to review your own records that are in my possession. I will also share with you the spreadsheets that we prepared using those records. I telephoned you about 5 minutes ago to confirm this offer.

Sincerely,
Stewart D. Roll

From: Langhenry, Barbara [mailto:BLanghenry@city.cleveland.oh.us]
Sent: Monday, September 10, 2007 11:07 AM
To: Stewart D. Roll
Cc: Monegan, Theodora; Triozzi, Robert
Subject: RE: Ohio Supreme Court Case No. 2006-2056

Mr. Roll:

The City cannot promise to pay the money due to your clients by Friday, September 14, 2007. The City has an obligation both to your clients and to the public to make sure that it accurately determines the amounts due to your clients. You have stated that you have payroll records for most of the affected employees. We would be happy to look at what you have. Even if what you have is accurate and complete, we will still have to determine the amounts for the employees for whom you do not have payroll records.

As I stated on Friday, the City is working diligently to determine the amounts owed. The City intends to comply with the Supreme Court's order as fast as reasonably possible.

Sincerely,

Barbara Langhenry

From: Stewart D. Roll [mailto:sdanl@msn.com]
Sent: Monday, September 10, 2007 6:09 AM
To: blanghenry@city.cleveland.oh.us
Cc: Monegan, Theodora; rtriozzi@city.cleveland.oh.us
Subject: Ohio Supreme Court Case No. 2006-2056

Dear Ms. Langhenry:

Good morning. Please convey my good morning wishes to Mayor Jackson, Mr. Triozzi and Ms. Monegan. You and they should know that if Cleveland does not agree by 12:00 p.m. today by return email to pay no later than Friday, September 14, 2007 the monies known to be due to my clients, based upon Cleveland's previously produced payroll records, in accord with their payment instructions that I delivered to Mr. Triozzi on August 28, 2007, that I will be filing a motion to show cause why Respondents should not be deemed contemptors of the Ohio Supreme Court, as well as taking other legal action to effect collection.

9/17/2007

Sincerely,
Stewart D. Roll

----- Original Message -----

From: Stewart D. Roll
To: Langhenry, Barbara
Cc: Monegan, Theodora ; Triozzi, Robert
Sent: Friday, September 07, 2007 11:27 PM
Subject: Ohio Supreme Court Case No. 2006-2056

Dear Ms. Langhenry:

This note further responds to your September 7, 2007 email and memorializes the following advice to Ms. Monegan during our August 28, 2007 meeting. I have in my possession and would be happy to share with Cleveland its own payroll records for most of the affected employees for all but the last year and 6 weeks of the period of time described in the subject order. Cleveland produced those documents to me during the course of our litigation. Ms. Monegan did not seem to be interested in reviewing this data. For the record, my August 28, 2007 correspondence and attached exhibits to Mr. Triozzi included a summary of this data, payment instructions from most of these current and former Cleveland employees and, my request for Cleveland to produce its payroll records for the last year and 6 weeks of this period. Mr. Triozzi has failed to respond and failed to produce that information.

Sincerely,
Stewart D. Roll

----- Original Message -----

From: Stewart D. Roll
To: Langhenry, Barbara
Cc: Monegan, Theodora ; Triozzi, Robert
Sent: Friday, September 07, 2007 10:49 PM
Subject: Ohio Supreme Court Case No. 2006-2056

Dear Ms. Langhenry:

I regret that Mr. Triozzi and Ms. Monegan are too busy to respond to my recent correspondence. It appears that my clients and your clients have a different understanding of what it means to undertake diligent efforts to comply with the Ohio Supreme Court's subject judgment and writ. Your clients' failure to reasonably respond to my inquiries, and failure to promise when Cleveland will comply with the order in the subject case will result in further legal action next week.

Have a lovely weekend.

Sincerely,
Stewart D. Roll

----- Original Message -----

From: Langhenry, Barbara
To: sdanl@msn.com
Cc: Monegan, Theodora ; Triozzi, Robert
Sent: Friday, September 07, 2007 6:37 PM
Subject: Ohio Supreme Court Case No. 2006-2056

Mr. Roll:

I am responding on behalf the Law Director to your letter of August 28, 2007 containing certain demands and to your subsequent e-mails. The City of Cleveland is working diligently to determine the

amount due to the CEO employees. The staff in the Division of Accounts must recover data from a payroll system that is no longer used to determine the hours worked by each employee in each of the relevant years. Because we are looking at old data, those staff people cannot give us a definite time by which they will complete their work. Please be assured that they are working very hard on this.

As to your demands that are unrelated to any payments due as a result of the mandamus order, we will respond as we make our decisions.

Barbara Langhenry
Chief Council
City of Cleveland

Langhenry, Barbara

From: Stewart D. Roll [sdanl@msn.com]
Sent: Monday, September 10, 2007 11:37 AM
To: 'Monegan, Theodora'; rtriozzi@city.cleveland.oh.us
Cc: 'Langhenry, Barbara'; 'Stewart D. Roll'; sdanl@msn.com; 'Eva Potter'
Subject: FW: Ohio Supreme Court Case No. 2006-2056

FYI.

SDR

From: Stewart D. Roll [mailto:sdanl@msn.com]
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To: 'Langhenry, Barbara'
Cc: 'sdanl@msn.com'; 'Eva Potter'
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Sincerely,
Stewart D. Roll

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Sincerely,

9/11/2007

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Dear Ms. Langhenry:

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Sincerely,
 Stewart D. Roll

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From: Stewart D. Roll
To: [Langhenry, Barbara](#)
Cc: [Monegan, Theodora](#) ; [Triozzi, Robert](#)
Sent: Friday, September 07, 2007 11:27 PM
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From: Stewart D. Roll
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Cc: [Monegan, Theodora](#) ; [Triozzi, Robert](#)
Sent: Friday, September 07, 2007 10:49 PM
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Dear Ms. Langhenry:

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9/11/2007

Cleveland will comply with the order in the subject case will result in further legal action next week.

Have a lovely weekend.

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Stewart D. Roll

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Cc: Monegan, Theodora ; Triozzi, Robert

Sent: Friday, September 07, 2007 6:37 PM

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As to your demands that are unrelated to any payments due as a result of the mandamus order, we will respond as we make our decisions.

Barbara Langhenry
Chief Council
City of Cleveland

Langhenry, Barbara

From: Stewart D. Roll [sdanl@msn.com]
Sent: Friday, September 14, 2007 4:23 PM
To: Langhenry, Barbara
Cc: Triozzi, Robert; 'Stewart D. Roll'; sdanl@msn.com; 'Eva Potter'
Subject: Pending Depositions - MCEOLC v. Cleveland, Frank Jackson and City Counsel - Case: SD 07076306
Attachments: _0914152411_001.pdf

Dear Ms. Langhenry:

Please find attached a courtesy copy of an Order and Judgment Entry signed and filed by the Honorable Nancy R. McDonnell, requiring noted depositions and production of documents. In that regard, I plan to depose the following persons on the dates and times indicated in this email. Please plan to produce the described documents in advance of the depositions. Please contact me if you have any questions. Please telephone me if you would like to discuss this email.

October 8, 2007

9:00 a.m. - City Council President and Finance Committee Chair Martin Sweeney.
 10:30 a.m. - Clerk of Council Emily Lipovan
 11:00 a.m. - Councilwoman Fannie Lewis
 1:00 p.m. - Mayor Frank Jackson
 2:00 p.m. - Commissioner, Dennis Nichols, Division of Public Utilities Fiscal Control, Department of Public Utilities

October 9, 2007

9:00 a.m. - Treasurer Algeron Walker
 11:00 a.m. - Operating Budget Manager Lee Carpenter, Department of Finance
 1:00 p.m. - Director Sharon Dumas, Department of Finance
 2:00 p.m. - City Controller James Gentile

October 10, 2007

9:00 a.m. - Councilman and Vice Chair of the Finance Committee
 10:00 a.m. - Councilwoman Dona Brady and Member of the Finance Committee
 11:00 a.m. - Councilman Anthony Brancatelli and Member of the Finance Committee
 1:00 p.m. - Councilwoman Patricia Britt and Member of the Finance Committee
 1:45 p.m. - Councilman Roosevelt Coats and Member of the Finance Committee
 2:30 p.m. - Councilman Jay Westbrook and Member of the Finance Committee
 3:15 p.m. - Councilman Matt Zone and Member of the Finance Committee
 4:00 p.m. - Councilwoman, Majority Leader Sabra Scott and Member of the Finance Committee

Sincerely,

Stewart D. Roll Esq.
 Persky, Shapiro & Arnoff Co., LPA
 25101 Chagrin Blvd. - Suite 350
 Beachwood, Ohio 44122
 Tel. (216) 360-3737
 Fax (216) 593-0921

9/17/2007

IN THE COURT OF COMMON PLEAS
FOR CUYAHOGA COUNTY, OHIO

STATE OF OHIO, ex rel.)
MUNICIPAL CONSTRUCTION)
EQUIPMENT OPERATORS')
LABOR COUNCIL, et al.)

CASE NO. *SD47076346*

JUDGE: *NANCY R. McDONNELL*

vs.)

**ORDER AND
JUDGMENT ENTRY**

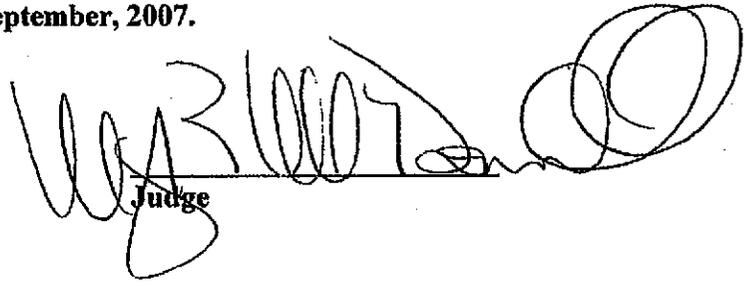
CITY OF CLEVELAND, OHIO)
MAYOR FRANK JACKSON)
CLEVELAND CITY COUNCIL)

After due consideration of the Motion of Relators in Ohio Supreme Court Case No. 2006-2056, for an Order to examine the Respondents in that case, the City of Cleveland, Ohio, Mayor Frank Jackson, and Members of Cleveland, Ohio's City Council, with respect to their assets, and to require production of their records with respect to those assets, the Court finds that Motion to be well taken.

Accordingly, pursuant to Ohio Revised Code Section 2333.09, this Court orders the City of Cleveland, Ohio to produce employees identified by counsel for Relators in Ohio Supreme Court Case No. 2006-2056, Mayor Frank Jackson, and Members of Cleveland, Ohio's City Council, to appear in the offices of Stewart D. Roll at 25101 Chagrin Blvd., Suite 350, in Beachwood, Ohio on October 8, 9 and 10, 2007 in the order and at the times specified by him to be examined with respect to the amount owed pursuant to that Judgment and their assets, and to produce records of where they conduct their banking and maintain their savings, where they maintain and to produce information with respect to all of their financial accounts, the amount of money deposited in and withdrawn from

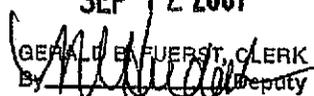
those accounts over the last 180 days, their receipts from their sale of water and power over the last 180 days, where those receipts are deposited, as well as a list of all assets, including but not limited to real property, computers, furniture and other items that might be sold to satisfy the Judgment and Writs of Mandamus issued by the Ohio Supreme Court in Case No. 2006-2056.

SO ORDERED this 12 day of September, 2007.


Judge

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SEP 12 2007

GERALD B. FUERST, CLERK
By  Deputy