

ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE OF OHIO EX REL.
WAYNE T. DONER, ET AL.

Relators,

v.

SEAN D. LOGAN, DIRECTOR
OHIO DEPARTMENT OF
NATURAL RESOURCES, ET AL.

Respondents.

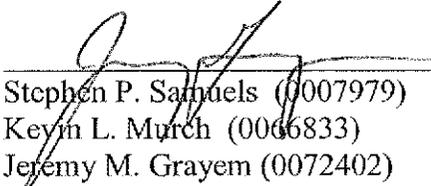
Case No.: 2009-1292

MOTION OF CASE LEASING & RENTAL, INC.
TO INTERVENE FOR A LIMITED PURPOSE

Pursuant to Ohio Civil Rule 24(A), Case Leasing & Rental, Inc. ("Case Leasing") seeks to intervene in this action for the limited purpose of objecting to the document subpoena issued by Respondent Ohio Department of Natural Resources ("ODNR") to Pressley Campbell and Conestoga-Rovers and Associates, Inc. (collectively "CRA"), served on or about February 9, 2010. Case Leasing seeks to intervene in order to protect privileged material contained in CRA's files related to CRA's work on behalf of Case Leasing in a different lawsuit pending before the Ohio Court of Claims. The grounds for this Motion are more fully set forth in the attached Memorandum.

FILED
FEB 25 2010
CLERK OF COURT
SUPREME COURT OF OHIO

Respectfully submitted,



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Attorneys for Case Leasing & Rental, Inc.

MEMORANDUM IN SUPPORT

I. INTRODUCTION AND BACKGROUND

Case Leasing is the owner of property located in Celina, Ohio, approximately 500 yards from Grand Lake St. Mary's ("GLSM" or "Grand Lake"). GLSM is owned and controlled by ODNR. In 2005, Case Leasing sued ODNR in the Ohio Court of Claims in connection with a flood that occurred in July, 2003, in the Grand Lake area. Case Leasing alleged that ODNR's redesign of the spillway on the western side of GLSM, and its (mis)management of lake levels, was negligent and caused severe flooding and damage to Case Leasing's property. In connection with that lawsuit—which is pending in the Ohio Court of Claims on remand from the 10th District Court of Appeals—Case Leasing hired CRA as its consulting and testifying expert.

On February 15, 2010, Case Leasing's counsel was contacted by Relators' counsel in this action and informed of a document subpoena issued by ODNR to CRA on or about February 9, 2010. That subpoena, which is attached as Exhibit A, seeks documents and information from

CRA related to CRA's work for Case Leasing and its counsel in the pending lawsuit before the Court of Claims. Case Leasing attempted to file its Objections to the subpoena on February 19, 2010, but were not officially filed because the Court clerk determined: (1) Case Leasing is not a party to this action; and (2) there was no record of the subpoena on file with the Court.¹ A copy of Case Leasing's Objections, stamped "Received" on February 19, 2010, is attached as Exhibit B.

II. LAW AND ARGUMENT

It is well-settled that Ohio Civil Rule 24(A) should be liberally construed to permit intervention. *State ex rel. LTV Steel Co. v. Gwin* (1992), 64 Ohio St. 3d 245, 247. A party seeking to intervene must satisfy four conditions: (1) the intervenor must claim an interest relating to the property or transaction that is subject to the action; (2) the intervenor must be so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest; (3) the existing parties do not adequately represent his interest; and (4) the motion to intervene must be timely. *Blackburn v. Hamoudi* (1986), 29 Ohio App.3d 350, 352.

Case Leasing's Motion to Intervene satisfies all of these conditions. It has a substantial interest in protecting privileged materials contained in CRA's file related to the ongoing Court of Claims lawsuit against ODNR. Case Leasing, a non-party to this action, will not be able to protect its interest in preventing the disclosure of these privileged materials if not allowed to intervene for this purpose. Obviously, Case Leasing's interests in this regard are not represented by ODNR, which is seeking the documents. Nor is Case Leasing's position adequately represented by Relators. Their interest is in advancing the merits of their claims, which interest may, conceivably, even be advanced by the disclosure of Case Leasing's privileged information.

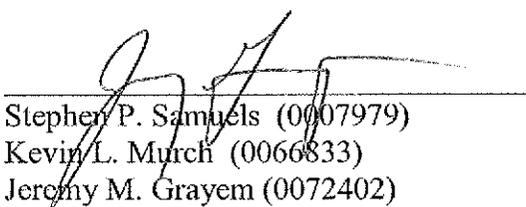
¹ It is Case Leasing's understanding that ODNR has not yet served a valid subpoena on CRA. This Court's docket shows no Return of Service for the February 9, 2010, subpoena.

Finally, the Motion to Intervene is timely since Case Leasing did not learn of ODNR's document subpoena until February 15, 2010, attempted to file its Objections only four days later, and, as of the filing of this Motion, there is still no record of the subpoena itself on the Court's website.

III. CONCLUSION

Case Leasing is not seeking to intervene on the merits of this action. Case Leasing simply seeks to protect privileged materials that are contained in CRA's file related to Case Leasing's lawsuit against ODNR. Accordingly, Case Leasing respectfully requests that its Motion to Intervene for a Limited Purpose be granted.

Respectfully submitted,



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Attorneys for Case Leasing & Rental, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was served upon the following, via electronic mail and U.S. Mail, postage pre-paid, this 25th day of February, 2010:

William J. Cole
Mindy Worly
Jennifer S.M. Croskey
Assistant Attorneys General
30 East Broad Street, 26th Floor
Columbus, Ohio 43215

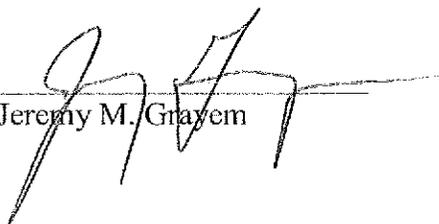
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Attorneys for Relators


Jeremy M. Grayem

IN THE SUPREME COURT OF OHIO, 65 S. FRONT STREET, COLUMBUS, OHIO 43215
[[[[[CIVIL CASE SUBPOENA]]]]]

STATE OF OHIO EX REL. WAYNE T. DONER, ET AL.,

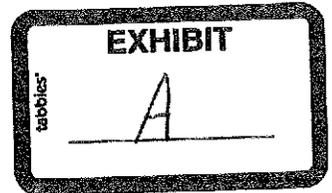
Case No. 2009-1292

Relators,

v.

SEAN D. LOGAN, DIRECTOR OHIO DEPARTMENT
OF NATURAL RESOURCES, ET AL.,

Respondents.



TO: PRESSLEY CAMPBELL
CONESTOGA-ROVERS AND ASSOCIATES, INC.
4875 SOUTH SHERWOOD FOREST BLVD.
BATON ROUGE, LA 70816-4640

YOU ARE HEREBY COMMANDED TO:

- _____ ATTEND AND GIVE TESTIMONY AT A (TRIAL) (HEARING) (DEPOSITION) ON THE DATE, TIME AND AT THE PLACE SPECIFIED BELOW.
- _____ ATTEND AND PRODUCE (DOCUMENTS) (TANGIBLE THINGS) AT A (TRIAL) (HEARING) (DEPOSITION) ON THE DATE, TIME AND AT THE PLACE SPECIFIED BELOW.
- X PRODUCE, AND PERMIT INSPECTION AND COPYING, ON THE DATE AND AT THE TIME AND PLACE SPECIFIED BELOW, OF ANY DESIGNATED DOCUMENTS THAT ARE IN YOUR POSSESSION, CUSTODY OR CONTROL.
- _____ PRODUCE AND PERMIT INSPECTION AND COPYING, TESTING OR SAMPLING, ON THE DATE AND AT THE TIME AND PLACE SPECIFIED BELOW, OF ANY TANGIBLE THINGS THAT ARE IN YOUR POSSESSION, CUSTODY OR CONTROL.
- _____ PERMIT ENTRY UPON THE FOLLOWING DESCRIBED LAND OR OTHER PROPERTY, FOR THE PURPOSES DESCRIBED IN CIV. R 34(A)(3), ON THE DATE AND AT THE TIME SPECIFIED BELOW. *DESCRIPTION OF LAND OR OTHER PREMISES:* _____

Day Friday DATE February 19, 2010 TIME 9:00 am

PLACE Office of the Attorney General, 30 East Broad Street, 26th Floor, Executive Agencies Section, Columbus, OH 43215

DESCRIPTION OF ITEMS TO BE PRODUCED: See Exhibit A attached.

THE STATE OF OHIO

Franklin County, ss:

To the Sheriff of N/A

County, Ohio Greetings:

YOU ARE HEREBY COMMANDED TO SUBPOENA THE ABOVE NAMED PERSON.
WITNESS MY HAND AND SEAL OF SAID COURT THIS 9TH OF FEBRUARY, 2010.
KRISTINA D. FROST, CLERK OF THE SUPREME COURT OF OHIO

BY: _____

SIGNATURE OF ATTORNEY FOR RESPONDENTS

REQUESTING PARTY INFORMATION

NAME RACHEL H. STELZER

ATTORNEY FOR RESPONDENTS

ATTORNEY CODE 0081124

TELEPHONE NUMBER:

(614) 265-6944

CIVIL RULE 45 (C) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A PARTY OR AN ATTORNEY RESPONSIBLE FOR THE ISSUANCE AND SERVICE OF A SUBPOENA SHALL TAKE REASONABLE STEPS TO AVOID IMPOSING UNDUE BURDEN OR EXPENSE ON A PERSON SUBJECT TO THAT SUBPOENA.

(2) (A) A PERSON COMMANDED TO PRODUCE UNDER DIVISIONS (A)(1)(B)(II), (III), (IV), OR (V) OF THIS RULE NEED NOT APPEAR IN PERSON AT THE PLACE OF PRODUCTION OR INSPECTION UNLESS COMMANDED TO ATTEND AND GIVE TESTIMONY AT A DEPOSITION, HEARING, OR TRIAL.

(B) SUBJECT TO DIVISION (D)(2) OF THIS RULE, A PERSON COMMANDED TO PRODUCE UNDER DIVISIONS (A)(1)(B)(II), (III), (IV), OR (V) OF THIS RULE MAY, WITHIN FOURTEEN DAYS AFTER SERVICE OF THE SUBPOENA OR BEFORE THE TIME SPECIFIED FOR COMPLIANCE IF SUCH TIME IS LESS THAN FOURTEEN DAYS AFTER SERVICE, SERVE UPON THE PARTY OR ATTORNEY DESIGNATED IN THE SUBPOENA WRITTEN OBJECTIONS TO PRODUCTION. IF OBJECTION IS MADE, THE PARTY SERVING THE SUBPOENA SHALL NOT BE ENTITLED TO PRODUCTION EXCEPT PURSUANT TO AN ORDER OF THE COURT BY WHICH THE SUBPOENA WAS ISSUED. IF OBJECTION HAS BEEN MADE, THE PARTY SERVING THE SUBPOENA, UPON NOTICE TO THE PERSON COMMANDED TO PRODUCE, MAY MOVE AT ANY TIME FOR AN ORDER TO COMPEL THE PRODUCTION. AN ORDER TO COMPEL PRODUCTION SHALL PROTECT ANY PERSON WHO IS NOT A PARTY OR AN OFFICER OF A PARTY FROM SIGNIFICANT EXPENSE RESULTING FROM THE PRODUCTION COMMANDED.

(3) ON TIMELY MOTION, THE COURT FROM WHICH THE SUBPOENA WAS ISSUED SHALL QUASH OR MODIFY THE SUBPOENA, OR ORDER APPEARANCE OR PRODUCTION ONLY UNDER SPECIFIED CONDITIONS, IF THE SUBPOENA DOES ANY OF THE FOLLOWING:

(A) FAILS TO ALLOW REASONABLE TIME TO COMPLY;

(B) REQUIRES DISCLOSURE OF PRIVILEGED OR OTHERWISE PROTECTED MATTER AND NO EXCEPTION OR WAIVER APPLIES;

(C) REQUIRES DISCLOSURE OF A FACT KNOWN OR OPINION HELD BY AN EXPERT NOT RETAINED OR SPECIALLY EMPLOYED BY ANY PARTY IN ANTICIPATION OF LITIGATION OR PREPARATION FOR TRIAL AS DESCRIBED BY CIV.R. 26(B)(4), IF THE FACT OR OPINION DOES NOT DESCRIBE SPECIFIC EVENTS OR OCCURRENCES IN DISPUTE AND RESULTS FROM STUDY BY THAT EXPERT THAT WAS NOT MADE AT THE REQUEST OF ANY PARTY;

(D) SUBJECTS A PERSON TO UNDUE BURDEN.

(4) BEFORE FILING A MOTION PURSUANT TO DIVISION (C)(3)(D) OF THIS RULE, A PERSON RESISTING DISCOVERY UNDER THIS RULE SHALL ATTEMPT TO RESOLVE ANY CLAIM OF UNDUE BURDEN THROUGH DISCUSSIONS WITH THE ISSUING ATTORNEY. A MOTION FILED PURSUANT TO DIVISION (C)(3)(D) OF THIS RULE SHALL BE SUPPORTED BY AN AFFIDAVIT OF THE SUBPOENAED PERSON OR A CERTIFICATE OF THAT PERSON'S ATTORNEY OF THE EFFORTS MADE TO RESOLVE ANY CLAIM OF UNDUE BURDEN.

(5) IF A MOTION IS MADE UNDER DIVISION (C)(3)(C) OR (C)(3)(D) OF THIS RULE, THE COURT SHALL QUASH OR MODIFY THE SUBPOENA UNLESS THE PARTY IN WHOSE BEHALF THE SUBPOENA IS ISSUED SHOWS A SUBSTANTIAL NEED FOR THE TESTIMONY OR MATERIAL, THAT CANNOT BE OTHERWISE MET WITHOUT UNDUE HARDSHIP AND ASSURES THAT THE PERSON TO WHOM THE SUBPOENA IS ADDRESSED WILL BE REASONABLY COMPENSATED.

CIVIL RULE 45(D) DUTIES IN RESPONDING TO SUBPOENA.

(1) A PERSON RESPONDING TO A SUBPOENA TO PRODUCE DOCUMENTS SHALL, AT THE PERSON'S OPTION, PRODUCE THEM AS THEY ARE KEPT IN THE USUAL COURSE OF BUSINESS OR ORGANIZED AND LABELED TO CORRESPOND WITH THE CATEGORIES IN THE SUBPOENA. A PERSON PRODUCING DOCUMENTS OR ELECTRONICALLY STORED INFORMATION PURSUANT TO A SUBPOENA FOR THEM SHALL PERMIT THEIR INSPECTION AND COPYING BY ALL PARTIES PRESENT AT THE TIME AND PLACE SET IN THE SUBPOENA FOR INSPECTION AND COPYING.

(2) IF A REQUEST DOES NOT SPECIFY THE FORM OR FORMS FOR PRODUCING ELECTRONICALLY STORED INFORMATION, A PERSON RESPONDING TO A SUBPOENA MAY PRODUCE THE INFORMATION IN A FORM OR FORMS IN WHICH THE INFORMATION IS ORDINARILY MAINTAINED IF THAT FORM IS REASONABLY USEABLE, OR IN ANY FORM THAT IS REASONABLY USEABLE, UNLESS ORDERED BY THE COURT OR AGREED TO BY THE PERSON SUBPOENAED, A PERSON RESPONDING TO A SUBPOENA NEED NOT PRODUCE THE SAME ELECTRONICALLY STORED INFORMATION IN MORE THAN ONE FORM.

(3) A PERSON NEED NOT PROVIDE DISCOVERY OF ELECTRONICALLY STORED INFORMATION WHEN THE PRODUCTION IMPOSES UNDUE BURDEN OR EXPENSE. ON MOTION TO COMPEL DISCOVERY OR FOR A PROTECTIVE ORDER, THE PERSON FROM WHOM ELECTRONICALLY STORED INFORMATION IS SOUGHT MUST SHOW THAT THE INFORMATION IS NOT REASONABLY ACCESSIBLE BECAUSE OF UNDUE BURDEN OR EXPENSE. IF A SHOWING OF UNDUE BURDEN OR EXPENSE IS MADE, THE COURT MAY NONETHELESS ORDER PRODUCTION OF ELECTRONICALLY STORED INFORMATION IF THE REQUESTING PARTY SHOWS GOOD CAUSE. THE COURT SHALL CONSIDER THE FACTORS IN CIV. R. 26(B)(4) WHEN DETERMINING IF GOOD CAUSE EXISTS. IN ORDERING PRODUCTION OF ELECTRONICALLY STORED INFORMATION, THE COURT MAY SPECIFY THE FORMAT, EXTENT, TIMING, ALLOCATION OF EXPENSES AND OTHER CONDITIONS FOR THE DISCOVERY OF THE ELECTRONICALLY STORED INFORMATION.

(4) WHEN INFORMATION SUBJECT TO A SUBPOENA IS WITHHELD ON A CLAIM THAT IT IS PRIVILEGED OR SUBJECT TO PROTECTION AS TRIAL PREPARATION MATERIALS, THE CLAIM SHALL BE MADE EXPRESSLY AND SHALL BE SUPPORTED BY A DESCRIPTION OF THE NATURE OF THE DOCUMENTS, COMMUNICATIONS, OR THINGS NOT PRODUCED THAT IS SUFFICIENT TO ENABLE THE DEMANDING PARTY TO CONTEST THE CLAIM.

(5) IF INFORMATION IS PRODUCED IN RESPONSE TO A SUBPOENA THAT IS SUBJECT TO A CLAIM OF PRIVILEGE OR OF PROTECTION AS TRIAL-PREPARATION MATERIAL, THE PERSON MAKING THE CLAIM MAY NOTIFY ANY PARTY THAT RECEIVED THE INFORMATION OF THE CLAIM AND THE BASIS FOR IT. AFTER BEING NOTIFIED, A RECEIVING PARTY MUST PROMPTLY RETURN, SEQUESTER, OR DESTROY THE SPECIFIED INFORMATION AND ANY COPIES WITHIN THE PARTY'S POSSESSION, CUSTODY OR CONTROL. A PARTY MAY NOT USE OR DISCLOSE THE INFORMATION UNTIL THE CLAIM IS RESOLVED. A RECEIVING PARTY MAY PROMPTLY PRESENT THE INFORMATION TO THE COURT UNDER SEAL FOR A DETERMINATION OF THE CLAIM OF PRIVILEGE OR OF PROTECTION AS TRIAL-PREPARATION MATERIAL. IF THE RECEIVING PARTY DISCLOSED THE INFORMATION BEFORE BEING NOTIFIED, IT MUST TAKE REASONABLE STEPS TO RETRIEVE IT. THE PERSON WHO PRODUCED THE INFORMATION MUST PRESERVE THE INFORMATION UNTIL THE CLAIM IS RESOLVED.

CIVIL RULE 45 (E) SANCTIONS.

FAILURE BY ANY PERSON WITHOUT ADEQUATE EXCUSE TO OBEY A SUBPOENA SERVED UPON THAT PERSON MAY BE DEEMED A CONTEMPT OF THE COURT FROM WHICH THE SUBPOENA ISSUED. A SUBPOENAED PERSON OR THAT PERSON'S ATTORNEY WHO FRIVOLOUSLY RESISTS DISCOVERY UNDER THIS RULE MAY BE REQUIRED BY THE COURT TO PAY THE REASONABLE EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, OF THE PARTY SEEKING THE DISCOVERY. THE COURT FROM WHICH A SUBPOENA WAS ISSUED MAY IMPOSE UPON A PARTY OR ATTORNEY IN BREACH OF THE DUTY IMPOSED BY DIVISION (C)(1) OF THIS RULE AN APPROPRIATE SANCTION, WHICH MAY INCLUDE, BUT IS NOT LIMITED TO, LOST EARNINGS AND REASONABLE ATTORNEY'S FEES.

EXHIBIT A

DEFINITIONS

1. "AND" and "OR" as used herein are both conjunctive and disjunctive;
2. "DOCUMENT" means all original writings of any nature whatsoever and all non-identical copies thereof, in your possession, custody or control, or the possession, custody or control of any agent, officer, employee, independent contractor, representative or any person acting in concert with you regardless of where located, and includes, but is not limited to, contracts, agreements, memoranda, records, tape recordings, letters, correspondence, communications, diary entries, reports, financial statements and reports, contact sheets, studies, summaries, minutes, notes, pencil notes, jottings, agendas, bulletins, notices, announcements, instructions, charts, manuals, brochures, schedules, price lists, invoices, client lists, telephone logs, telephone toll records, telegrams, teletypes, computer generated data, whether printed or stored on computer disc or tape and other documents as defined in Civ. R. 34. In all cases, where original and/or nonidentical copies are not available, "DOCUMENT" also means identical copies of such original documents and copies of non-identical copies;
3. "IDENTIFY" and "IDENTITY" have the following meanings:
 - (a) when used in reference to a natural person means to state the person's full name, title, telephone number and current business and residence addresses. If the current business or residence addresses are unobtainable, then state the last known business or residence address and the last known date on which each such address was current;
 - (b) when used in reference to a document means to provide, with respect to the document, the following information:
 - (i) information sufficient to enable the State to identify the document or writing, including such matters as its date, the name of the addressee or addressees, the name of the sender or senders, the title or headings of the document, and the number of pages it contains;
 - (ii) the identity and address or addresses of the person or persons to whom copies were sent;
 - (iii) the present or last known location of the possessor of the original of the document (or, if that is unavailable, the most legible copy);
 - (iv) the identity of the natural person from whose file or possession the document was taken to permit production of the document;
4. "PERSON" and the possessives thereof, means an individual, corporation, proprietorship, partnership, professional corporation, association, business trust, estate, trust, cooperative, group, governmental agency or agent and any other entity;
5. "YOU" or "YOUR" means Pressley L. Campbell and Conestoga-Rovers & Associates, and any other companies or entities with which you are associated and/or affiliated and any employees, agents, representatives, attorneys, accountants, and any

other persons or entities representing you and/or directly or indirectly employed by or connected with you;

6. "LAWSUIT" or "LAWSUITS" means the case entitled *State of Ohio ex rel. Wayne T. Doner, et al. v. Sean D. Logan, Director Ohio Department of Natural Resources, et al.*, Ohio Supreme Court, Case No. 2009-1292 and the case entitled *Case Leasing & Rental, Inc. v. Ohio Department of Natural Resources*, Ohio Court of Claims, Case. No. 2005-08034;

7. "RELATORS" means and refers to any and all of the Relators in *State of Ohio ex rel. Wayne T. Doner, et al. v. Sean D. Logan, Director Ohio Department of Natural Resources, et al.*, Ohio Supreme Court, Case No. 2009-1292, see Attachment 1, and includes any employee, agent, contractor, subcontractor, representative, surveyor, or attorney or other person acting on behalf of the Relators in this action.

INSTRUCTIONS

1. If a requested document is claimed to be objectionable only in part, such objection should be so limited and any otherwise responsive document should be redacted accordingly.

2. If anything has been redacted, deleted, detached or otherwise removed from a document produced in response to a document request:

- (a) specify the reason for the redaction, deletion, detachment or other removal;
- (b) specify the nature of the material redacted, deleted, detached or otherwise removed;
- (c) state the date the redaction, deletion, detachment or other removal was made; and
- (d) identify the person responsible for making the redaction, deletion, detachment or other removal.

3. If you claim privilege as a ground for refusing to produce a document for Respondents' examination, furnish a list at the time of production identifying each document so withheld together with the following information:

- (a) the reason for withholding;
- (b) a statement of facts constituting the basis for any claim of privilege or other ground of nondisclosure; and
- (c) A brief description of the document, including:
 - (i) the date of the document;
 - (ii) the name of its author, authors, or preparer and an identification by employment and title of each such person;
 - (iii) the names of each person who was sent or has had access to, or custody of the document, together with an identification by employment and title of each such person;
 - (iv) the paragraph of this request to which the document relates; and

(v) in the case of any document relating in any way to a meeting or conversation, identification of such meeting or conversation and persons attending or participating in such meeting or conversation.

4. If any documentary material responsive to any paragraph of this request was, but is no longer, in your possession, custody or control, for each such item state whether:

- (a) it is missing or lost;
- (b) it has been destroyed;
- (c) it has been transferred, voluntarily or involuntarily to another, or
- (d) it has been otherwise disposed of.

Identify all such documentary materials by listing for each item: type of documentary material (letter, memorandum, photograph, etc.), date, author, recipient, persons to whom copies were furnished or who otherwise obtained or saw copies, job titles and employers of each of these persons, subject matter of the documentary material, present location and custodian if known, and whether the documentary material or any copies are still in existence.

DOCUMENTS REQUESTED

1. All documents that reflect, refer, or relate in any way to the Lawsuits.
2. All documents that reflect, refer, or relate in any way to hydrology or hydraulics review and analysis you have performed or rendered to Relators or Case Leasing & Rental, Inc. from July 2003 to the present including, but not limited to, all raw and processed data used in your hydrology or hydraulics modeling with documentation of the sources of that data as well as your HEC-RAS model and all other hydrologic or hydraulic models you have developed that relate to the Lawsuits.
3. All reports, draft reports, draft documents of any kind, files or notes of any kind, and/or review documents of any kind that in any way reflect, refer, or relate to the Lawsuits or any hydrology or hydraulics review and analysis you have performed or rendered to Relators or Case Leasing & Rental, Inc. from July 2003 to the present.
4. All notes, correspondence, email, or other documents that reflect, refer, or relate in anyway to communications between you and Relators or Case Leasing & Rental, Inc. related to the Lawsuits or any hydrology or hydraulics analysis you have performed or rendered to Relators or Case Leasing & Rental, Inc. from July 2003 to the present.
5. All documents given to Relators or Case Leasing & Rental, Inc. by you or received by you from Relators or Case Leasing & Rental, Inc. that reflect, refer, or relate in any way to communications between you and Relators or Case Leasing & Rental, Inc. related to the Lawsuits or any hydrology or hydraulics analysis you have performed or rendered to Relators or Case Leasing & Rental, Inc. from July 2003 to the present.
6. All documents that reflect, refer, or relate in anyway to any contract or agreements between you and Relators or Case Leasing & Rental, Inc. related in anyway to the Lawsuits or any hydrology or hydraulics analysis you have performed or rendered to Relators or Case Leasing & Rental, Inc. from July 2003 to the present.
7. All documents that identify or describe any and all instances and matters in which Pressley L. Campbell has previously served or currently serves as an expert witness, including any and all instances and matters in which he has served or currently serves as an expert witness for Relators or Case Leasing & Rental, Inc.
8. Any trial or deposition transcripts in which Pressley L. Campbell provided expert testimony that you have in your possession.
9. Any written or electronic articles, books or chapters thereof, treatises, journal articles or any other publication authored or edited by Pressley L. Campbell.

IN THE SUPREME COURT OF OHIO

ORIGINAL

STATE OF OHIO EX REL.
WAYNE T. DONER,
1325 Doner Road, Celina, OH 45822

JANET K. DONER,
1325 Doner Road, Celina, OH 45822

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NANCY L. ADAMS
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VICKI L. EBBING
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JILL E. ELLIS
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Original Action in Mandamus

Case No.: 09-1292

FILED
JUL 17 2009
CLERK OF COURT
SUPREME COURT OF OHIO

Attachment 1

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:
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ROBERT E. HIGHLEY :
6888 Wabash Road, Celina, OH 45822 :
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PATRICIA L. HIGHLEY :
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:
JASON E. HINES :
6389 Meyer Road, Celina, OH 45822 :
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EMILY A. HINES :
6389 Meyer Road, Celina, OH 45822 :
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DANIEL W. JOHNSMAN :
4061 State Route 29, Celina, OH 45822 :
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DAVID A. JOHNSMAN :
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ANDREA M. KNAPKE :
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MARK L. KNAPKE :
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TIMOTHY A. KNAPKE :
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THOMAS L. KRICK :
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CANDACE L. KRICK :
1004 East Livingston Street, Celina, OH 45822 :
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2685 Oregon Road, Rockford, OH 45882

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and

Z-FARMS INC.
6612 Meyer Road, Celina, OH 45822

Relators,

v.

SEAN D. LOGAN, DIRECTOR
OHIO DEPARTMENT OF
NATURAL RESOURCES
2045 Morse Road.
Columbus, Ohio 43229-6693

and

OHIO DEPARTMENT OF
NATURAL RESOURCES
2045 Morse Road.
Columbus, Ohio 43229-6693

Respondents.

COMPLAINT FOR A WRIT OF MANDAMUS

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Attorneys for Relators

IN THE SUPREME COURT OF OHIO

STATE OF OHIO EX REL. :
WAYNE T. DONER, ET AL. :

Relators, :

v. :

SEAN D. LOGAN, DIRECTOR :
OHIO DEPARTMENT OF :
NATURAL RESOURCES, ET AL. :

Respondents. :

Case No.: 2009-1292



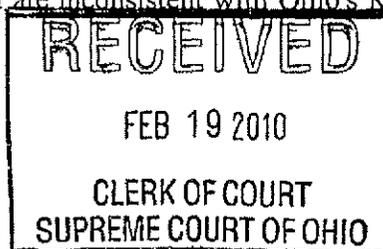
**CASE LEASING & RENTAL, INC.'S OBJECTIONS TO
THE OHIO DEPARTMENT OF NATURAL RESOURCES' DOCUMENT SUBPOENA
TO PRESSLEY CAMPBELL AND CONESTOGA-ROVERS AND ASSOCIATES, INC.**

Pursuant to Ohio Civil Rule 45(C)(2)(b), Case Leasing & Rental, Inc. ("Case Leasing"), as an interested party,¹ submits the following Objections to the Ohio Department of Natural Resources' ("ODNR") document subpoena to Pressley Campbell and Conestoga-Rovers and Associates, Inc. (collectively "CRA"), served on or about February 9, 2010.

GENERAL OBJECTIONS

The following General Objections may not be repeated in response to specific document requests, but each is applicable.

1. Case Leasing objects to ODNR's subpoena to the extent it imposes duties, obligations and burdens upon CRA and/or Case Leasing that are inconsistent with Ohio's Rules of Civil Procedure.



¹ Case Leasing is currently involved in litigation with ODNR before the Ohio Court of Claims, in which Case Leasing retained Mr. Campbell of CRA as an expert witness. ODNR has requested documents from Mr. Campbell and CRA related to his service as an expert in that lawsuit.

2. Case Leasing objects to ODNR's subpoena to the extent it seeks documents protected by the attorney work-product doctrine, the attorney-client privilege, and/or any other applicable privileges or immunities.

3. Case Leasing objects to ODNR's subpoena on to the extent it is overly broad, unduly burdensome and seeks documents beyond the power of subpoena.

4. Case leasing objects to ODNR's subpoena to extent its requests are vague, ambiguous and/or not susceptible to reasonable interpretation.

5. Case Leasing objects to ODNR's subpoena to the extent it seeks documents that are already in the custody or control of ODNR.

6. Nothing contained in the following objections and responses shall be deemed an admission that such requested documents exist.

7. Case Leasing reserves the right to supplement or amend these Objections in the future.

DOCUMENTS REQUESTED

1. All documents that reflect, refer, or relate in any way to the Lawsuits.

OBJECTION. Case Leasing objects to this request on the basis that it is vague, ambiguous, overly broad, unduly burdensome, and seeks documents that are subject to the attorney work-product doctrine and other applicable privileges. Further responding, this request, in whole or in part, seeks documents already within the custody or control of ODNR.

2. All documents that reflect, refer, or relate in any way to hydrology or hydraulics review and analysis you have performed or rendered to Relators or Case Leasing & Rental, Inc. from July 2003 to the present including, but not limited to, all raw and processed data used in your hydrology or hydraulics modeling with other hydrologic or hydraulic modes you have developed that relate to the Lawsuits.

OBJECTION. Case Leasing objects to this request on the basis that it is vague, ambiguous, overly broad, unduly burdensome, and seeks documents that are subject to the attorney work-product doctrine and other applicable privileges. Further responding, this request, in whole or in part, seeks documents already within the custody or control of ODNR.

3. All reports, draft reports, draft documents of any kind, files or notes of any kind, and/or review documents of any kind that in any way reflect, refer, or relate to the Lawsuits or any hydrology or hydraulics review and analysis you have performed or rendered to Relators or Case Leasing & Rental, Inc. from July 2003 to the present.

OBJECTION. Case Leasing objects to this request on the basis that it is vague, ambiguous, overly broad, unduly burdensome, and seeks documents that are subject to the attorney work-product doctrine and other applicable privileges. Further responding, this request, in whole or in part, seeks documents already within the custody or control of ODNR.

4. All notes, correspondence, email, or other documents that reflect, refer, or relate in any way to communications between you and Relators or Case Leasing & Rental, Inc. related to the Lawsuits or any hydrology or hydraulics analysis you have performed or rendered to Relators or Case Leasing & Rental, Inc. from July 2003 to the present.

OBJECTION. Case Leasing objects to this request on the basis that it is vague, ambiguous, overly broad, unduly burdensome, and seeks documents that are subject to the attorney work-product doctrine and other applicable privileges. Further responding, this request, in whole or in part, seeks documents already within the custody or control of ODNR.

5. All documents given to Relators or Case Leasing & Rental, Inc. by you or received by you from Relators or Case Leasing & Rental, Inc. that reflect, refer, or relate in any way to communications between you and Relators or Case Leasing & Rental, Inc. related to the Lawsuits or any hydrology or hydraulics analysis you have performed or rendered to Relators or Case Leasing & Rental, Inc. from July 2003 to the present.

OBJECTION. Case Leasing objects to this request on the basis that it is vague, ambiguous, overly broad, unduly burdensome, and seeks documents that are subject to the attorney work-product doctrine and other applicable privileges. Further responding, this request, in whole or in part, seeks documents already within the custody or control of ODNR.

6. All documents that reflect, refer, or relate in any way to any contract or agreements between you and Relators or Case Leasing & Rental, Inc. related in any way to the Lawsuits or any hydrology or hydraulics analysis you have performed or rendered to Relators or Case Leasing & Rental, Inc. from July 2003 to the present.

OBJECTION. Case Leasing objects to this request on the basis that it is vague, ambiguous, overly broad, unduly burdensome, and seeks documents that are subject to the attorney work-product doctrine and other applicable privileges. Further responding, this request, in whole or in part, seeks documents already within the custody or control of ODNR.

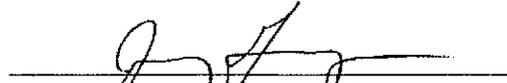
7. All documents that identify or describe any and all instances and matters in which Pressley L. Campbell has previously served or currently serves as an expert witness, including any and all instances and matters in which he has served or currently serves as an expert witness for Relators or Case Leasing & Rental, Inc.

OBJECTION. Case Leasing objects to this request on the basis that it is vague, ambiguous, overly broad and unduly burdensome. Further responding, this request, in whole or in part, seeks documents already within the custody or control of ODNR, as ODNR is the Defendant in the Case Leasing & Rental, Inc. litigation.

8. Any trial or deposition transcripts in which Pressley L. Campbell has provided expert testimony that you have in your possession.

OBJECTION. Case Leasing objects to this request on the basis that it seeks documents already in the possession of ODNR.

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was served upon the following, via electronic mail and U.S. Mail, postage pre-paid, this 19th day of February, 2010:

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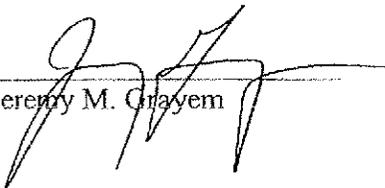
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