

ORIGINAL

IN THE SUPREME COURT OF OHIO

Original action in mandamus; case no. 2010-2029

STATE ex rel. DATA TRACE INFORMATION SERVICES, LLC, et al.,

Relators,

-v-

RECORDER OF CUYAHOGA COUNTY, OHIO,

Respondent.

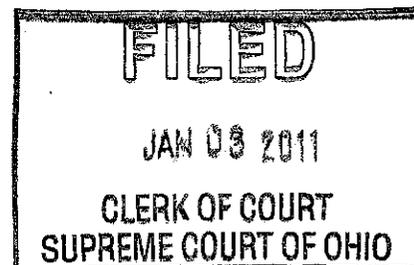
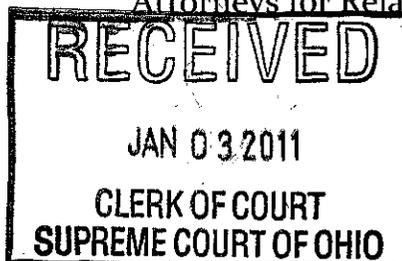
**Relator Carsella's Response To Motion To Dismiss Him As A Relator For
Lack of Standing**

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Preliminary Statement

Relator Michael Carsella's memorandum adopts most of the memorandum of relator Michael Stutzman in opposing dismissal for alleged lack of standing.

Citing no authority, respondent Cuyahoga County Recorder says this Court should dismiss relators Carsella and Stutzman because they were performing duties for their employers in making the requests that this suit seeks to enforce. Because a wealth of unbroken authority from this Court over the past 16 years establishes Carsella's and Stutzman's standing to sue to enforce their requests, regardless of whatever purpose each has, this Court must deny the respondent's motion to dismiss them as relators.

Statement of Facts & Procedural Posture

The complaint by relator Carsella.

The complaint alleges that, on October 5, 2010, relator Michael Carsella asked the respondent county recorder to provide electronic copies of certain public records that the respondent keeps in electronic form. Carsella made the request in writing, a copy of which accompanies the complaint in this suit as Exhibit 2.¹

Carsella is the Vice President of Midwest Plant Operations for relator

¹ Complaint, ¶ 20.

Property Insight LLC.² Carsella earns his living in part by ensuring that Property Insight's collection of copies of records filed with the county recorder is accurate.³ He made his request "to facilitate [his] performance of his responsibilities and duties as Property Insight's Vice President of Midwest Plant Operations."⁴

Carsella and Property Insight base their claims in this suit on Carsella's request, Exhibit 2 to the complaint.

Argument

- 1. Any person acting on another's behalf may seek public records and sue to enforce the request.**

Carsella adopts all of section 1 of the argument in relator Stutzman's memorandum opposing dismissal.

- 2. Relator Carsella has standing as an aggrieved party to enforce his own request.**

Here, the complaint avers that Carsella personally asked the county recorder to comply with the Public Records Act; that he did so to try to satisfy his obligation to his employer, Property Insight, to maintain accurate copies of the recorder's records; and that he is aggrieved because the county recorder's failure to comply with his request impedes his ability to fully do his job.⁵ For those reasons, the

² Complaint, ¶ 20.

³ See Complaint, ¶s 20, 30.

⁴ Complaint, ¶ 20.

⁵ See Complaint, ¶s 8, 9, 20, 30.

complaint alleges specifically that Carsella is “aggrieved” under the Public Records Act. (Complaint, ¶ 30.)

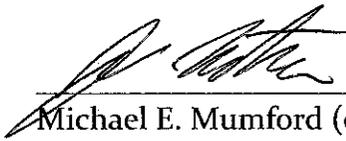
Moreover, Carsella’s personal interest in excelling in the performance of his duties as Vice President of Midwest Plant Operations partly distinguishes his interest in pursuing his request from that of Property Insight, although he needs no such personal stake to be “aggrieved.”

Carsella, therefore, is an aggrieved person under the Public Records Act with standing to sue to enforce his request.

For the same reasons that Stutzman’s presence as a relator can’t multiply either the proceedings or the attorneys’ fees, Carsella’s presence as a relator can’t do that either. It is the recorder’s wasteful litigation strategies in needlessly moving to dismiss Carsella and Stutzman that are revving up the proceedings and the attorneys’ fees.

For all of the forgoing reasons, the Court should deny the county recorder’s motion to dismiss Michael Carsella as a relator.

Respectfully submitted,



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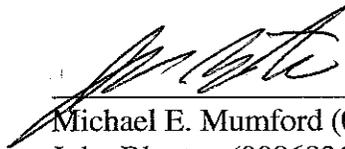
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Certificate of Service

Relator Carsella's Response to Motion to Dismiss Him as a Relator For Lack of Standing
was sent VIA UPS OVERNIGHT DELIVERY on this 31st day of December, 2010 to:

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