

ORIGINAL

IN THE SUPREME COURT OF OHIO

<p><b>Jean A. Anderson</b></p> <p style="padding-left: 40px;"><b>Appellant,</b></p> <p><b>v.</b></p> <p><b>City of Vermilion c/o Brian Huff,</b> <b>Finance Director</b></p> <p style="padding-left: 40px;"><b>Appellee.</b></p>	<p>: <b>On Appeal from the Erie County</b></p> <p>: <b>Court of Appeals,</b></p> <p>: <b>Sixth Appellate District</b></p> <p>:</p> <p>: <b>Court of Appeals Case No. E-10-0040</b></p> <p>:</p> <p>: <b>Supreme Court Case No. 12-0943</b></p> <p>:</p> <p>:</p> <p>:</p>
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**APPELLANT JEAN A. ANDERSON'S REPLY TO APPELLEE, CITY OF VERMILION'S MERIT BRIEF**

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Andrew D. Bemer, Esq. (#0015281)  
 Seeley, Savidge, Ebert & Gourash Co., LPA  
 26600 Detroit Road  
 Cleveland, Ohio 44145  
 (216) 566-8200  
 Fax No. (216) 566-0213  
 adbemer@sseg-law.com

COUNSEL FOR RELATOR-APPELLANT, JEAN A. ANDERSON

Shawn W. Maestle (#0063779)  
 Timothy Obringier (#0055999)  
 Weston Hurd LLP  
 The Tower at Erieview  
 1301 East 9<sup>th</sup> Street, Suite 1900  
 Cleveland, Ohio 44114  
 (216) 241-6602  
 Fax No. (216) 621-8369  
 SMAestle@westonhurd.com  
 TObringier@westonhurd.com

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SEP 24 2012

CLERK OF COURT  
 SUPREME COURT OF OHIO

COUNSEL FOR RESPONDENT-APPELLEE, City of Vermilion

**RECEIVED**

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## BRIEF IN SUPPORT

### I. SUMMARY OF REPLY

In its response, Respondent appears to confuse and even obfuscate the issues before this Court. The clear issue on appeal as presented by Relator's Proposition of Law Number 1 is a review of the Appellate Court's denial of summary judgment, and that:

as mandated by RC 149.43(B), the Court should have ordered a redaction of privileged attorney/client communications from Respondent's fee billing statements and further ordered a disclosure of the non-excepted portions of the statements as public records. Relator's Merit Brief pg. 6.

Contrary to Respondent's assertion on page 1 of its Merit Brief that Relator Anderson is "not challenging this Court's decision in *Bloom-Carroll*", Relator submits the Lower Court erred in failing to recognize the distinction of facts in the instant matter from those in *State ex rel. Dawson v. Bloom Carroll* (131 Ohio St.3d 10, 2011-Ohio-6009). In *Dawson*, the school district provided a summary of the attorney fee billings requested by identifying the name of attorney, general legal matter involved and the total fees. No such summary or substitute documentation was provided by Respondent in the matter at hand. Relator takes issue with the direction taken by the High Court in *Dawson*, as the mandates of RC §149.43(B) for "redaction and release" are ignored; the following excerpt from Relator's Merit Brief (pg. 20) bear repeating:

While the *Dawson* decision as it applied to those particular parties was "no harm no foul", the Supreme Court's decision in *Dawson* was an explicit modification of the specific language mandated by the General Assembly in subsection (B)(1). The *Dawson* Court in effect side-stepped the basic rules of statutory construction, in that the mandate of subsection(B)(1) in its use of "shall" provides no basis for judicial authority to modify, enlarge, supply, expand, or otherwise revise the provision of this statute. *Vought Industries, Inc., supra*. It is submitted that this Court may clarify and limit *Dawson* to the situation where the release of identical information satisfies the directives of §149.43(B)(1)...

Secondly, Respondent is mistaken concerning the standard of review to be applied in the instant matter. (Respondent's Merit Brief pg. 7-8) He asserts an abuse of discretion standard should be applied, which would be accurate if the issue upon review was the factual determination of attorney/client privilege exemption from disclosure, but that is not the case. As identified in Proposition Number 1 by Relator, the issue is the denial of summary judgment to Relator based upon the failure of the lower court to order redaction of the privileged attorney/client communications, and further order to disclose the non-excepted portions of the attorney fee billing statements. Accordingly, the standard of review of the summary judgment order is *de novo*.

Thirdly, Respondent's position of the "inextricably intertwined" concept as a basis for failure to order a redaction and release of public records (Respondent's Merit Brief pg. 12) is a concept that has and should only be recognized when there is alternative methods of securing public records or adequate substitutes, i.e., summaries of legal billings. Nothing of the sort was provided in the instant matter, even though it has been publicized subsequent to the appellate decision that Respondent through its law director Ken Stumphouser provides the City with two bills, one with the case name, hours spent, and total amount, and a second bill which is a detailed breakdown of the legal work involved. (Exhibit "A" attached)<sup>1</sup>

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<sup>1</sup> Exhibit "A" is a copy of the May 10, 2012 article from the Vermilion Photo Journal which states the following: "According to Stumphouser of Stumphouser/O'Toole, he provides the City with two bills. The first is a general one with the case name, the hours spent, and the total amount which is public record. Concurrently he files a second bill which is a detailed breakdown of the legal work as far as what was involved, who was involved, who was deposed etc....which includes information that would be attorney/client privileged."

Fourthly, the monthly detail of check reports and the copies of the checks regarding the payment of attorney fees that were disclosed to Relator do not serve as a legitimate summary or a substitute of the attorney fee billings which had been requested. (Exhibits "B", "C", "D", "E" and "F" attached.) The documents that had been produced provide no information regarding the attorney providing services, nor the general nature of the legal matter involved, and the fee amount is undeterminable from these records.

Next, Respondent misidentifies Relator's new public records request for attorney fee billings and/or summaries thereof, initially made June 8, 2012 (The sequence of the June 2012 record request is attached as Exhibits G1-G8"). This request is for a new period of time of June 2010 through May 2012; this is a different period of time than the period of January/April 2010, which is the subject of this litigation. Respondent's argument that this production somehow moots Relator's subject request, or is a waiver thereof, is clearly misplaced and in error. (See Respondent's Merit Brief pgs. 5, 6 and 15.)

Finally, attorney fees should have been ordered according to ORC 149.43(C)(ii)(c)(i) and (ii), as the facts demonstrate Respondents have not acted in good faith and have been unreasonable in their denial of any redacted attorney fee billings, or of the summaries which apparently have long been in existence for the periods requested of January through April 2010. (The February 16, 2010 summary billing has always been acknowledged as having been received.) There can be no dispute that the public is benefitted by being able to examine government activity in the expenditure of public funds for legal activities, as well as the general nature of the activities.

## II. ARGUMENT OF LAW ON REPLY

### A. **The Lower Court Clearly Erred In Failing To Recognize The Fact Distinction Of *Dawson v. Bloom-Carroll*, In That No Alternative Record Has Been Made Available To Appellant.**

As previously stated, Appellant submits that this High Court may clarify and limit its opinion in *Dawson* to situations where the release of identical information satisfies the directives of ORC 149.43(B)(1). The *Dawson* decision is a departure from the long standing precedent established by this Court in *State ex rel. National Broadcasting Co. Inc. v. Cleveland*, 38 Ohio St.3d 79, 526 N.E.2d 786 (1988), paragraph 4 of the syllabus, and restated in *State ex rel. Master v. Cleveland*, 75 Ohio St.3d 23, 661 N.E.2d 180 (1996), which held that:

If the court finds that these records contain excepted information, this information must be redacted and any remaining information must be released. *Master* at 31.

It is therefore submitted that this High Court should return to the strict application of §149.43(B)(1), in the recognition that no statutory construction is required, and adhere to the clear legislative mandate of “shall” in this statutory directive:

....If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the public office or the person responsible for the public record shall make available all the information within the public record that is not exempt.

*Id.* It is therefore submitted that this Court must direct a return to the mandate of ¶149.43(B)(1) that all records to be released with redaction of excepted information.

**B. The Standard Of Review Of This Matter Is *De Novo*, Not Abuse Of Discretion.**

The Lower Court's decision was rendered on summary judgment motions, and as such, any appellate review concerning summary judgment is *de novo* without any deference to the trial court. *State ex rel. Zimmerman v. Tompkins*, 75 Ohio St.3d 447, 1996-Ohio-211; *State ex rel. Davila v. City of Bellefontaine*, Logan County App. No. 8-11-01, 2001-Ohio-4890. In effect, the appellate court must stand in the shoes of the trial court in reviewing summary judgment on the same standard and evidence as the trial court. *Smiddy v. The Wedding Party Inc.*, 30 Ohio St.3d 35 (1987).

The standard of abuse of discretion is to be applied in review of a factual determination concerning whether public records are exempt from disclosure under §149.43(A). *State ex rel. Vindicator Printing Company v. Watkins*, 66 Ohio St.3d 129 (1993); *State ex rel. Williams v. City of Cleveland*, 64 Ohio St.3d 544 (1992). That is not the case here.<sup>2</sup> The Lower Court's determination that privileged exempted information is contained in the public records is not in dispute; Relator's argument is that the Court should have simply ordered the redaction of the privileged information from the public records and ordered the balance of the record released. The summary judgment that the Lower Court had issued to Respondent is entirely on review, and as the reviewing Court, the *de novo* standard must be applied by this High Court.

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<sup>2</sup> It is recognized that an award of attorney fees in such a matter under §149.43(C) is discretionary, and a review of the same by a higher court is an abuse of that discretion. *State ex rel. Cranford v. Cleveland*, 103 Ohio St.3d 196, 2004-Ohio-4884; *State ex rel. Doe v. Smith*, 123 Ohio St.3d 44, 2009-Ohio-4149.

**C. The Concept Of Privileged Communications Being "Inextricably Intertwined" With Non-Excepted Information Was Not Presented Nor Identified As A Foundation For The Lower Court's Opinion.**

The Lower Court made no finding that attorney client privileged information was so intertwined with non-privileged and disclosable information, so as to render the entire documents requested exempt from disclosure under the Public Records Act. The Lower Court found attorney-client communications in the narrative descriptions of legal services performed by counsel for the City of Vermilion pursuant to the *in camera* inspection of those records. (Sixth App. Dist. Opinion pg. 8.) Thereupon, the Lower Court's finding in this regard are as follows:

The invoices submitted to the City by Marcie & Butler state the date, description of the professional service rendered, the time spent on each service and the hourly rate, and the total amount due for each date listed. The invoices submitted to the City by Stumphouser & O'Toole state under separate headings which identify the general matter or case involved, detailed descriptions of the professional services rendered, the time spent on those services and the legal fees associated with each matter. Consistent with *Dawson*, we must hold that the subject itemized legal billings are protected by the attorney/client privilege and are therefore exempt from disclosure under the Public Records Act. *Id.*

The Lower Court's finding that the entire record was exempt from disclosure is inconsistent with both ORC §149.43(B)(1), together with this Court's opinion in *Dawson*. The Lower Court noted that the Bloom-Carroll school district did respond to Dawson's request for itemized invoices of law firms "by providing her with summaries of the invoices, which included the attorney's name, the fee total and the general matter involved. Accordingly that information does fall within the realm of matters that are subject to disclosure under the Public Records Act." *Id.* pgs. 7-8. The Lower Court's obvious error was in failing to adhere to the directives of redaction and disclosure under

§149.43(B)(1), together with the distinction in *Dawson* that a substitute summary of the non-excepted information was provided to the requestor.

This Court is urged to acknowledge the failures of the Lower Court in not complying with the statutory requirement of redaction and release of non-privileged information as had occurred in the cases of *State ex rel Beacon Journal Publishing Co. v. Bodiker*, 134 Ohio App.3d 415 (10<sup>th</sup> Dist. 1999); *State ex rel. Alley v. Kouchois*, Second Dist. No. 94-CA-30, 1995 WL 559973, September 20, 1995; *State ex rel. Sun Newspapers v. Westlake BOA*, 76 Ohio App.3d 170 (8<sup>th</sup> Dist 1991). No reasonable contention can be made that narrative portions of legal advice on fee billings cannot be segregated from such other portions of the billing records such as the name of the attorney performing work or the dates of work performed, the nature of the general matter, and the fee charged.

Moreover, the case law that has adopted the “inextricably intertwined” concept involved matters where the public records in issue were available through other means, or summaries of the non-excepted material were available, as in *Dawson*. In *State ex rel. Toledo Blade Company v. Toledo-Lucas County Port Authority*, 121 Ohio St.3d 537, 2009-Ohio-1767, the documents requested involved an investigative report prepared by counsel, which contained attorney/client privileged information. The court noted that the Port Authority had already responded to 18 public records requests by the newspaper, and made available thousands of documents, including the documents that the attorneys who prepared the investigative report had reviewed.

Investigative reports appear to be the norm for the adoption of the “intertwined” concept. In *State ex rel. McGee v. Ohio State Board of Psychology*, 49 Ohio St.3d 59

(1990), an investigative report was again in issue, with a finding that confidential law enforcement investigation records (CLEIR'S) were excepted. The court also noted that McGee "has alternative remedies available to him in connection with any criminal investigation." *Id.* at 61. Similarly, in *State ex rel. Polovischik v. Mayfield*, 50 Ohio St.3d 51 (1990), the CLEIR'S exception was again applied to an investigative record because release of the record would create a high probability of disclosure of the identity of an information source, which was protected under §149.43(A)(2). In *State ex rel. Strothers v. McFaul*, 122 Ohio App.3d 327 (8<sup>th</sup> Dist. 1997), the CLEIR'S twelve page investigative report was deemed entirely excepted; but the court again noted that the requester was provided a copy of the summary of the investigation.

Contrary to the alternative provision of a summary or other consistent documents, Respondent clearly violated its responsibility under Ohio's Public Records Law not to release the "summary bill" when requested by Relator on May 25, 2010 for the months requested, January through April 2010. Due exception has been made for the summary billing dated February 16, 2010 which Relator has consistently represented had been received through other sources, and which was identified three times during the appellate court briefing process (attached as Exhibit "A" to Respondent's Motion for Summary Judgment filed on April 13, 2011; also, Exhibit "A" to Relator's Notice of Filing to Supplement the Record filed on March 26, 2012; and again filed as Exhibit "A" to Relator's Motion for Reconsideration which was filed on May 2, 2012).

Arguably, Respondent had the means and methods of complying with the public records request by merely releasing the "summary bill" that Respondent contends was

prepared for the City of Vermilion but was not disclosed until after the Lower Court's ruling on summary judgment. (See Exhibit "A" attached.)

Indeed, Respondent violated the basic tenants of §149.43(B)(2) which provides as follows:

"If a requester makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records under this section such that the public office or the person responsible for the requested public record cannot reasonably identify what public records are being requested, the public office or the person responsible for the requested public record may deny the request but shall provide the requester with an opportunity to revise the request by informing the requester of the manner in which the records are maintained by the public office and accessed in the ordinary course of the public office's or the person's duties."

While there is no assertion that Relator's request was ambiguous, this statutory provision stands for the proposition that a "spirit of mutual cooperation" should be reasonably exercised in order to assure that the public is not frustrated in its ability to scrutinize public activity through the request of public records. *State ex. rel Morgan v. Strickland*, 121 Ohio St.3d 600, 604, 2009-Ohio-1901. Respondent in turn, in its obvious failure to release the summary billings, chose to frustrate Relator's efforts to learn about the legal matters and the costs involved pertaining to the City of Vermilion, for which she was the former chief administrator.

**D. The Documents That Had Been Provided By Respondent Were Inadequate Alternatives To Attorney Fee Billing Information, In That No Information Regarding The Attorney's Name, Or The General Matter Involved, Were Included.**

Respondent's assertions that substitute documents were made available to Relator which provided the non-excepted information of attorney's name, general matter involved, and fee total, is not correct. The documents that were provided by Respondent

to Relator on or about November 3, 2010 were the monthly detail of check reports for the months ending June through September 2010, and copies of three checks made payable to Stumphouser & O'Toole (attached as Exhibit "B1-B3") between February 16 and April 15, 2010, and ten checks made payable to the law firm of Marcie & Butler from December 9, 2008 through December 31, 2009 (attached as Exhibit "C1-C10") , even though they were not requested, and four checks made payable to Marcie & Butler from January 14, 2010 through June 1, 2010 (attached as Exhibit "D1-D4"). The detailed check reports which were provided for the months ending June 30, 2010 and September 30, 2010 included the reference to checks made payable to Stumphouser & O'Toole. (Attached as Exhibits "E1-E4") Also, the detailed check report for the months ending June 30, 2010 and July 30, 2010 reference the payments made to Marcie & Butler. (Attached as Exhibits "F1-F2")

With the exception of the Marcie & Butler check numbers 60443 and 61137 (Ex. D-1, D-4, F-2) which provide a description of "Lagoons litigation", there is no other reference to the nature of the legal services presented by Marcie & Butler. The legal services provided by Stumphouser provide no reference other than "legal fees" or "legal services". No attorney names are provided; nor are the general description of the matter identified; and the total fees charged or paid are undeterminable. These records cannot be considered alternative documents or substitute summaries which identify non-expected or non-privileged information of the attorney's name, the general matter involved, and the fee total.

Again, contrary to Respondent's assertion that such information is "innocuous" (Respondent's Merit Brief pg. 13), such information is mandated by the Public Records

Act for providing transparency and scrutiny of government activity, including those of a financial nature concerning expenditure of taxpayer resources. No legitimate argument could be made that "legal fees" or "legal services" constitutes the general legal matter involved. The few Marcie & Butler checks that identified "Lagoons litigation" may suffice, but the expectation for municipal legal representation is to include all various matters, for example, from "Attendance at Board of Zoning Appeals" to "Representation in collective bargaining matters", not merely "legal fees" or "legal services". Such non-description provides the public with no information concerning the nature of legal matters which are being performed and confront a city and its coffers.

**E. Relator Has Not Waived Or Abandoned The Pursuit Of The Requested Public Records In The Form Of Attorney Fee Billings From January/April 2010, With Appropriate Redactions.**

Respondent attempts to again confuse the issue at hand by alleging that Relator is no longer requesting the public records which are the subject of the litigation. (Respondent's Merit Brief, pgs. 5, 6, and 16) Upon the revelation through the news media that indeed a summary of legal billings had always been in existence but were not made available to Relator, Relator requested the attorney fee billings and/or summaries for the additional period of time of June 2010 through May 2012. (See Exhibits G1-G8 attached.)<sup>3</sup> Respondent's attempt to cloud the salient issues at hand cannot succeed.

**F. Respondent's Gamesmanship Constitutes Bad Faith And Unreasonable Conduct, Thereby Mandating The Payment Of Relator's Attorney's Fees.**

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<sup>3</sup> A review of the letters by and between Relator and Respondent following the June 8, 2012 records request demonstrate the pattern of bad faith and gamesmanship exercised by Respondent throughout.

Respondent's failure to release the summaries of the attorney fee billings identified to the news media after the Lower Court rendered its opinion, is a clear dereliction of its duty to comply with the statutory obligation to serve the public policy of releasing records that allow the public to scrutinize the expenditure of taxpayer dollars and other government activity. *State ex rel. Multi Media Inc. v. Whallen*, 51 Ohio St.3d 99 (1990); *State ex rel. Beacon Journal Publishing Co. v. Maurer*, 91 Ohio St.3d 54 (2001); *Doe v. Smith, supra*. There is no exhibition of good faith or reasonableness by Respondent in this regard. As stated in Relator's Merit Brief, there can be no dispute that the public is benefitted by knowing how and why taxpayer funds have been expended on attorney fees. The loss of use of the documents requested prohibit the public from realizing what legal issues are confronting the City, and what are the legal costs in addressing those legal affairs. See *State ex rel. Bardwell v. Rocky River Police Department*, Eighth Dist No. 81236, 2009-Ohio-727. It is therefore submitted that this Court must find the Lower Court, in its erroneous conclusions, further abused their discretion in denying attorney fees to Relator. *Doe v. Smith, supra*.

### III. CONCLUSION

This High Court must find that the Sixth District Court of Appeals erred in failing to order the release of non-exempted attorney fee billings for the period requested, following redaction of the privileged communications in the legal description portion of those bills. There is no basis to find that the non-excepted information of attorney's name, general nature of the matter involved, and total fee bill, were so "inextricably intertwined" as to be impossible or impractical to release the non-excepted information.

Nor had summaries or other adequate substitutions, even though available, been disclosed.

This High Court is thereby requested to reject the improper analysis of the Lower Court, and adopt the legal analysis of the Second, Eighth, and Tenth Districts in the cases of *Alley*, *Bodiker*, and *Sun Newspapers*. The non-excepted information would provide the Relator and the public with information concerning what legal affairs are confronting the City, and what the costs are of those particular legal affairs. The gamesmanship that had been ongoing by Respondent in its failure to disclose the very existence of the summary of legal billings to Relator, as well as the release of those billings, has caused this protracted two year litigation and the incurrence of legal fees by Relator. This could have been avoided had Respondent simply disclosed the four months of legal billing summaries upon Relator's public records request of May 25, 2010.

It is thereby submitted that the clear mandate of ORC §129.43(B) directs that privileged or excepted information be redacted, and non-privileged information be released. Additionally, the bad faith and unreasonable conduct by Respondent demands that Relator be afforded her attorney's fees in this matter. It is therefore submitted that the order of the Sixth District Court of Appeals in this matter be reversed and judgment be rendered to Relator as provided by law.

Respectfully submitted,  
Andrew D. Bemer



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Andrew D. Bemer

COUNSEL FOR RELATOR-APPELLANT,  
JEAN A. ANDERSON

**Certificate of Service**

I certify that a copy of this Appellant Jean A. Anderson's Reply to Appellee City of Vermilion's Merit Brief was sent by ordinary U.S. mail to counsel for respondent-appellee, Shawn W. Maestle, Esq. and Timothy Obringer, Esq., Weston Hurd LLP, The Tower at Erieview, 1301 East 9<sup>th</sup> Street, Suite, 1900, Cleveland, Ohio 44114-1862 on September 21, 2012.



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Andrew D. Bemer

COUNSEL FOR RELATOR-APPELLANT,  
JEAN A. ANDERSON

Jean A. Anderson

3240 Edgewater Dr., Vermilion, OH 44089

E-mail: jeansladybug@netscape.net

440-213-3058

June 8, 2012

Keri Angney, CPA, Finance Director

City of Vermilion

5511 Liberty Ave.

Vermilion, OH 44089

Re: Public Records Request

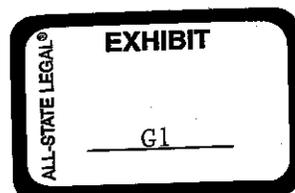
Dear Keri;

Pursuant to O.R.C. §149.43, request is hereby made for copies of attorney fee billings and/or summaries thereof, submitted to the City of Vermilion by or from the law firm of Stumphauer & O'Toole and/or any of its attorneys, which identifies the nature of the legal matter, the names of the attorneys who have provided legal service, the number of hours expended, and the total fee charged for each matter for each month from June 2010 through May 2012.

I prefer that you scan these and send them to my e-mail address: jeansladybug@netscape.net. If this is not possible I expect to pay the cost of these copies, and ask that you notify me when this request is ready for pick-up by calling my cell phone 440-213-3058.

Thank You,

Jean A. Anderson



# Stumphauzer ••• O'Toole

Stumphauzer, O'Toole, McLaughlin,  
McGlamery & Loughman Co., LPA  
Attorneys at Law  
5455 Detroit Road  
Sheffield Village, Ohio 44054  
Tel: 440.930.4001

June 11, 2012

Ms. Jean A. Anderson  
3240 Edgewater Drive  
Vermilion, Ohio 44089

Re: Public Records Request

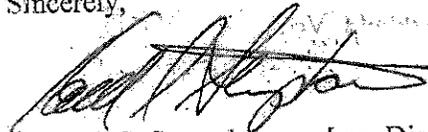
Dear Ms. Anderson:

Keri Angney, Finance Director for the City of Vermilion, has referred to me your letter of June 8, 2012, requesting certain documents purportedly pursuant to O.R.C. Section 149.43.

Although your letter refers to summaries of attorney fee billings, your letter makes it clear that what you are requesting are billings containing detailed information as to the legal services rendered. As you are aware, the Court has held that such detailed statements are subject to the attorney-client privilege and are thus not subject to disclosure pursuant to a public records request. See *State of Ohio, ex-rel. Jean A. Anderson v. City of Vermilion* (Ohio App. 6 Dist. 2012), 2012 Ohio 1868.

However, as you are aware, we have summary statements that we distribute to members of City Council. These statements indicate the amount billed for legal fees, but do not contain the detailed, privileged information that you requested. Should you wish us to provide you with those summary statements, please let us know, and we will do so.

Sincerely,



Kenneth S. Stumphauzer, Law Director  
City of Vermilion

cc: Mayor Eileen Bulan  
Keri Angney, CPA, Finance Director  
Shawn W. Maestle, Esq.  
Gwen Fisher, Clerk of Council (for distribution to all members of Council)

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Jean A. Anderson  
3240 Edgewater Dr., Vermilion, OH 44089  
E-mail: jeansladybug@netscape.net  
440-213-3058

June 25, 2012

Kenneth S. Stumphauzer, Law Director  
City of Vermilion  
5511 Liberty Ave.  
Vermilion, OH 44089

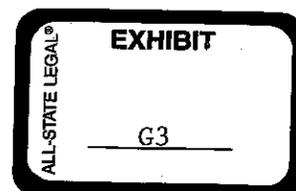
Re: Public Records Request

Dear Mr. Stumphauzer;

You are mistaken, in your June 11, 2012 response to my public records request, as I am NOT requesting any documentation of attorney/client privileged information. As the Court of Appeals has acknowledged that "summaries of the invoices, which included the attorney's name, the fee total and the general matter involved...does fall within the realm of matters that are subject to disclosure under the Public Records Act." Anderson v. Vermilion 6th Circuit Court of Appeals Decision Case No. No. E-10-0040 pages 7 & 8. I am requesting that information to whit "attorney's name, fee total and general matter involved", and also, the number of hours expended, in whatever document form the City keeps this information, either through summary or attorney fee billing or any other document form. If you contend a particular document contains attorney/client privileged information, you, I am sure, understand your obligation to redact such confidential information from the document you are disclosing.

Thank You,

Jean A. Anderson



June 27, 2012

Ms. Jean A. Anderson  
3240 Edgewater Drive  
Vermilion, Ohio 44089

Re: Public Records Request

Dear Ms. Anderson:

We have previously disclosed to you that we have summary bills of legal services rendered to the City of Vermilion. Those summary bills disclose the matters and the fees billed on account of such matters, costs advanced and amounts paid on account. They do not identify the attorneys involved nor the hours spent on such matters. The summary bills also do not describe the services rendered.

The Court of Appeals has held that the detailed bills are subject to the attorney-client privilege and are therefore not public records. It would be pointless for us to redact privileged information from the detailed billings, as the results would yield exactly the same information as contained in the summary bills. Moreover, the Court clearly indicated that redacted versions of detailed fee bills need not be produced.

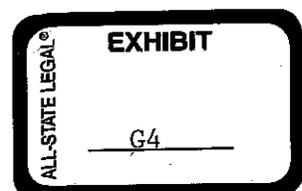
Should you wish us to provide you with copies of the summary bills, please advise us and we will do so promptly.

Sincerely,



Kenneth S. Stumphauzer, Law Director  
City of Vermilion

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Jean A. Anderson

3240 Edgewater Dr., Vermilion, OH 44089

E-mail: jeansladybug@netscape.net

440-213-3058

July 6, 2012

Kenneth S. Stumphauzer, Law Director

City of Vermilion

5511 Liberty Ave.

Vermilion, OH 44089

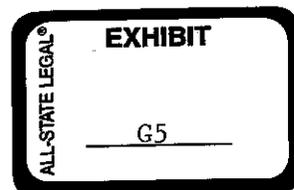
Re: Public Records Request

Dear Mr. Stumphauzer;

Consistent with my initial letter to you of June 8, 2012, together with my follow-up letter of June 26, 2012, please send the summaries of the attorney fee billings for the periods first identified in my letter of June 8, 2012.

Thank You,

Jean A. Anderson



July 10, 2012

Transmitted via Email to [jeansladybug@netscape.net](mailto:jeansladybug@netscape.net)  
(hard copy to follow by ordinary mail)

Ms. Jean A. Anderson  
3240 Edgewater Drive  
Vermilion, Ohio 44089

Re: Public Records Request

Dear Ms. Anderson:

Ken Stumphauzer is currently out of the country, and I have been asked to respond to your letter of July 6, 2012.

Notwithstanding your reference to your earlier letters, we interpret your most recent letter as a request for summary bills that do not contain detailed information subject to the attorney-client privilege. If that is correct, please confirm, and we will provide you with those summary bills.

Sincerely,



Abraham Lieberman

cc: Eileen Bulan, Mayor  
Kenneth S. Stumphauzer, Law Director

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DATE: 7/10/2012



Jean A. Anderson

8240 Edgewater Dr., Vermilion, OH 44089

E-mail: jeansladybug@netscape.net

440-213-3058

July 16, 2012

Kenneth S. Stumphauzer, Law Director: Hand Delivered

City of Vermilion

5511 Liberty Ave.

Vermilion, OH 44089

Re: Public Records Request

Dear Mr. Stumphauzer;

Consistent with my initial letter to you of June 8, 2012, together with my follow-up letters of June 25, 2012 and July 6, 2012, please send the summaries of the attorney fee billings for the periods first identified in my letter of June 8, 2012.

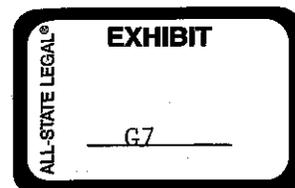
It has been over 30 days since the date of my first public records request, and no further delays will be tolerated. The summaries of the attorney fee billings requested in my June 8, 2012 letter are expected to be delivered according to my instructions stated in my June 8 letter, within 5 business days of this letter, as you have already had 30 days to compile the records.

Thank You,

Jean A. Anderson

cc: Keri Angney, CPA Finance Director: Hand Delivered

Abraham Lieberman: via email



# Stumphauzer ••• O'Toole

Stumphauzer, O'Toole, McLaughlin,  
McGlamery & Loughman Co., LPA  
Attorneys at Law  
5455 Detroit Road  
Sheffield Village, Ohio 44054  
Tel: 440.930.4001

July 18, 2012

*Transmitted via electronic mail to jeansladybug@netscape.net  
Hard copy by ordinary U.S. Mail*

Jean A. Anderson  
3240 Edgewater Drive  
Vermilion, Ohio 44089

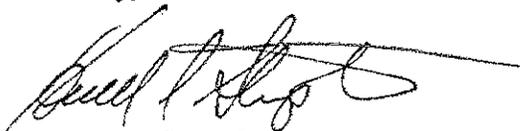
Re: Summary Fee Statements

Jean A. Anderson:

Contrary to the assertions made in your email of July 16, 2012, there has been no attempt by either myself or the City of Vermilion to deprive you of any public record. I have repeatedly stated that the summary statements provided to the City of Vermilion are public records and same would be provided to you within the time parameter contemplated under Ohio law. Either due to your misunderstanding of the law or as a ploy, you have repeatedly comingled your request for documents between those documents that are attorney/client privileged and the summary statements which are not.

The summary statements for the months indicated in your original request are now available through Mayor Bulan's office.

Sincerely,



Kenneth S. Stumphauzer

KSS/jh  
cc: Eileen Bulan, Mayor

