



**NAILAH K. BYRD**  
**CUYAHOGA COUNTY CLERK OF COURTS**  
1200 Ontario Street  
Cleveland, Ohio 44113

**Court of Appeals**

**MOTION TO...**  
**March 27, 2017 10:28**

By: MATTHEW J. MARKLING 0068095

Confirmation Nbr. 1023481

STATE OF OHIO, EX. REL., BRIAN J. ESSI

CA 16 104659

vs.

CITY OF LAKEWOOD, OHIO

**Judge:**

**Pages Filed: 71**

**State of Ohio ex rel.  
BRIAN J. ESSI**

V.

Respondent.

## ORIGINAL ACTION IN MANDAMUS

Electronically Filed 03/27/2017 10:28 / MOTION / CA 16 104659 / Confirmation Nbr. 1023481 / CLEJK

Essi has been nothing if not a patient man<sup>2</sup> since it has also been 378 days and counting – **over one year** – since his March 15, 2016 public records requests were served upon Lakewood, 319 days and counting – **over 10 months** – since his May 13, 2016 public records requests were served upon Lakewood, and 189 days and counting – **over six months** – since his September 20, 2016 public records requests were served upon Lakewood.

Pursuant to Loc.R. 1(B) and Civ.R. 37(A), as well as the March 9, 2017 Judgment Entry mandate that “[a]ll parties shall cooperate to ensure that the schedule is maintained,” Essi respectfully requests that this Honorable Court order Lakewood to immediately respond to the First Request for the Production of Documents<sup>3</sup> as (1) the responses are now 54 days past due and counting – even after Essi extended Lakewood the professional courtesy of granting Lakewood’s request for an **additional 60 days** to submit its responses; (2) the requests seek the discovery of documents and electronically stored information that are relevant to the subject matter involved in this Ohio Public Records Act lawsuit (e.g., the existence, description, nature,

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<sup>2</sup> John Dryden – considered by many to be the greatest English political poet of the seventeenth century – wrote, “Beware the fury of a patient man.” In reviewing his Amended Complaint and the instant motion to compel, Essi respectfully asks this Honorable Court to take into consideration the fact that Lakewood has systematically been denying him access to the public’s records anywhere between over six months and over a year, and counting. Lakewood’s “conceal and delay” tactics with respect to Essi’s public records requests is consistent with its “conceal and delay” tactics with respect to his discovery requests, and underscores the necessity of filing both the underlying Ohio Public Records Act lawsuit and the instant motion.

<sup>3</sup> Pursuant to Civ.R. 34, the First Request for the Production of Documents requests the production of documents and electronically stored information including, but not limited to, writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations stored in any medium from which information can be obtained that are in the possession, custody, or control of Lakewood (including its employees, officers, officials, council members, representative, and agents – including, but not limited to, the Lakewood Hospital Association, Cleveland Clinic Foundation, Cleveland Clinic, MetroHealth System, Huron Consulting Group, Surgical Development Partners, and all others holding documents on behalf of Lakewood) and, as set forth herein, these documents and electronically stored information are relevant to the subject matter involved in this Ohio Public Records Act lawsuit and are reasonably calculated to lead to the discovery of admissible evidence under Civ.R. 26(B).

custody, condition and location of any books, documents, electronically stored information, or other tangible things and the identity and location of persons having knowledge of any discoverable matter) and are reasonably calculated to lead to the discovery of admissible evidence; (3) the requested documents and electronically stored information should already be readily available for production – notwithstanding the fact that the discovery requests have been outstanding for **nearly five months** – as they correlate to the public records requests that are the subject of this Ohio Public Records Act lawsuit, must have served as the basis for Lakewood’s admissions, denials, and defenses as set forth in both the Answer to the Complaint<sup>4</sup> and Answer to the Amended Complaint,<sup>5</sup> and must have served as the basis for Lakewood’s responses – or lack thereof – to the public records requests that are the subject of this Ohio Public Records Act

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<sup>4</sup> It cannot be overstated that the attorney who signed and filed the Answer to the Complaint is none other than **Lakewood Records Custodian Kevin M. Butler himself**. The signatures of Lakewood’s attorney – and records custodian – on the Answer to the Complaint constitutes a certificate by Lakewood’s attorney that he has read the Answer to the Amended Complaint; that to the best of the attorney’s knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. Lakewood most certainly knew, when it filed the Answer to the Complaint, what records have – and have not – been released to Essi by Lakewood – if for no other reason than the mere fact that the Answer to the Amended Complaint was filed by the actual records custodian himself. It simply should not take Lakewood **nearly five months** to respond to the First Request for the Production of Documents, which was properly served upon Lakewood on November 1, 2016.

<sup>5</sup> In its February 15, 2017 Judgment Entry, this Honorable Court ordered that: “The court directs the respondent to file its answer to the amended complaint by March 10, 2017, and the answer is to include what records have been released to the relator.” In addition to the law firm of Mazanec, Raskin & Ryder Co., L.P.A., **Lakewood Records Custodian Kevin M. Butler** remains an attorney in this lawsuit. The signatures of Lakewood’s attorneys on the Answer to the Amended Complaint constitute a certificate by Lakewood’s attorneys that they have read the Answer to the Amended Complaint; that to the best of the attorneys’ knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. Lakewood most certainly knew, when it filed the Answer to the Amended Complaint, what records have – and have not – been released to Essi by Lakewood – if for no other reason than the mere fact that the February 15, 2017 Judgment Entry mandates that Lakewood must know this information. Because Lakewood most certainly was complying with the February 15, 2017 Judgment Entry, it certainly should not take Lakewood **nearly five months** to respond to the First Request for the Production of Documents, which was properly served upon Lakewood on November 1, 2016.

lawsuit;<sup>6</sup> (4) Essi requires immediate production in order to timely engage in further discovery necessary to comply with the May 1, 2017 summary judgment deadline since it is essential to depose Lakewood's records custodian and other persons having knowledge of information reasonably calculated to lead to the discovery of admissible evidence in this Ohio Public Records Act lawsuit; and (5) to the extent any of the requested documents and electronically stored information are not "public records" as defined by R.C. 149.43(A)(1)(a)-(ff), they are certainly relevant to the subject matter involved in this pending Ohio Public Records Act lawsuit (e.g., whether Lakewood properly responded to Essi's public records requests, destroyed public and non-public records, or spoiled evidence<sup>7</sup>) and it simply is not ground for objection – nor has such

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<sup>6</sup> In its March 9, 2017 Judgment Entry, this Honorable Court ordered that: "By May 1, 2017, Lakewood shall comply with Essi's requests by preparing and releasing an 'Index of Records Supplied, Supplied with Redactions, or Withheld' along with the appropriate records to Essi and filing a copy of the Index with the court. The Index shall specify by record request each and all records released, released with redactions, or withheld." **It is presumed that this index must include all public and non-public records in order for Lakewood to satisfy the intent of this Judgment Entry.** Essi respectfully submits that, had Lakewood simply engaged in full compliance of the Ohio Public Records Act upon receipt of the March 15, 2016, May 13, 2016, and September 20, 2016 public records requests, Lakewood should not have to wait until May 1, 2017, to submit the judicially ordered index of all public records released and all non-public records withheld. In any event, assuming – for the sake of argument only – that Lakewood had been complying with the Ohio Public Records Act, it certainly should not take Lakewood **nearly five months** to respond to the First Request for the Production of Documents, which was properly served upon Lakewood on November 1, 2016.

<sup>7</sup> In its March 9, 2017 Judgment Entry, this Honorable Court ordered that: "Lakewood shall also certify the steps it undertook to locate the requested records and that they have either released or submitted under seal all records it could find coming within Essi's request." It is suspected that one of the many reasons Lakewood is outright refusing to respond to the First Request for the Production of Documents is because responding to this discovery request may support Essi's suspicion that Lakewood has destroyed public and non-public records, as well as spoiled evidence. And Essi must have the requested documents and electronically stored information in order to depose Lakewood's records custodian and any other persons having knowledge of any discoverable matters to independently determine "the steps [Lakewood's records custodian and any other persons] undertook to locate the requested records and that they have either released or submitted under seal all records it could find coming within Essi's request." March 9, 2017 Judgment Entry.

an objection ever been raised – that some documents and electronically stored information sought by Essi may be inadmissible, as all documents and electronically stored information sought in the First Request for the Production of Documents are reasonably calculated to lead to the discovery of admissible evidence in this Ohio Public Records Act lawsuit.<sup>8</sup>

In refusing to comply with the Ohio Public Records Act and Ohio Rules of Civil Procedures and, perhaps, destroying public and non-public records and spoiling evidence, Essi suspects that Lakewood is engaging in a “\$1,000 versus \$267,000” statutory damage cost-benefit analysis based upon Lakewood’s mistaken belief that its total exposure for Lakewood’s alleged and suspected misconduct is a mere \$1,000 in statutory damages for this one mandamus action filed by Essi, as opposed to \$1,000 in statutory damages for each of the 267 separate public records requests filed by Essi. *See, e.g.*, R.C. 149.43(C)(2) (providing that “[t]he amount of statutory damages shall be fixed at one hundred dollars for each business day during which the public office or person responsible for the requested public records failed to comply with an [Ohio Public Records Act] obligation [\* \* \*] beginning with the day on which the requester files a mandamus action to recover statutory damages, up to a maximum of one thousand dollars”).

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<sup>8</sup> Essi has never requested the production of documents or electronically stored information considered “privileged” under Civ.R. 26(B)(1). That being said, just because certain documents or electronically stored information may not be considered “public records” does not mean that such documents or electronically stored information are “privileged” under Civ.R. 26(B)(1). As a result, any “non-privileged” documents and electronically stored information must be produced regardless of whether they are public records because they are relevant to the subject matter involved in this Ohio Public Records Act lawsuit and are reasonably calculated to lead to the discovery of admissible evidence. While truly “privileged” documents and electronically stored information may exist, Essi has always submitted that Lakewood should simply provide Essi with a redactions log, submit any such “privileged” documents and electronically stored information to this Honorable Court for an in camera review, and provide Essi with the non-privileged documents and electronically stored information regardless of whether they are public records. While the March 9, 2017 Judgment Entry of this Honorable Court mandates an in camera review of all alleged non-public records, it does alleviate Lakewood of its duty to respond to the outstanding request for production of non-privileged documents and electronically stored information.

Essi also respectfully requests that this Honorable Court order Lakewood to pay the reasonable attorney fees and cost incurred in preparing this motion. Further basis for this motion and a proposed order are set forth below.

### **I. STATEMENT OF THE FACTS AND CASE**

On March 15, 2016, Essi sent a letter via certified U.S. mail, return receipt requested, as well as by hand delivery, containing various public records requests to Lakewood. *See* Amended Complaint ¶ 7 (alleging the same); Amended Complaint, Exhibit (“Ex.”) 1 (evidencing the same).

On May 13, 2016, Essi sent a second letter via certified U.S. mail, return receipt requested, as well as by hand delivery, containing various public records requests to Lakewood. *See* Amended Complaint ¶ 10 (alleging the same); Amended Complaint, Ex. 3 (evidencing the same).

Not having received any response from Lakewood to the bulk of his public records requests, on June 24, 2016, Essi filed a complaint for writ of mandamus with this Honorable Court, initiating the present original action. *See* Complaint (filing the same).

On July 19, 2016, Lakewood filed its answer to the Amended Complaint. *See* Answer to Complaint (filing the same). *See also* fn. 4, above (assuming obligations of candor and truthfulness).

On September 20, 2016, Essi served a third letter on Lakewood via certified U.S. mail, return receipt requested, as well as by hand delivery, containing additional public records requests. *See* Amended Complaint ¶ 13 (alleging the same); Amended Complaint, Ex. 5 (evidencing the same).

On October 7, 2016, and pursuant to the parties' mediation agreement, Essi sought leave to amend his complaint to incorporate the September 20, 2016 public records requests. *See* Motion for Leave (requesting the same).

On November 1, 2016, and pursuant to the parties' mediation agreement, Essi began the discovery process by serving his First Request for the Production of Documents upon Lakewood. *See* Notice of Service of Discovery (evidencing the same). The documents and electronically stored information requested in the First Request for the Production of Documents correlate to the public records requests made on March 15, 2016, May 13, 2016, and September 20, 2016; are relevant to the subject matter involved in this Ohio Public Records Act lawsuit and reasonably calculated to lead to the discovery of admissible evidence; and should be readily available for production by Lakewood. *See* Ex. A (evidencing the same). *See also* fns. 4-6, 8, above (asserting the same).

On November 28, 2016, and axiomatic that "no good deed goes unpunished," Essi generously consented to Lakewood's requested **60-day extension** of the deadline for Lakewood to respond to the First Request for the Production of Documents – even though the documents and electronically stored information requested in the First Request for the Production of Documents correlate to the public records requests Essi made on March 15, 2016, May 13, 2016, and September 20, 2016, and should already be readily available to Lakewood. *See* Notice of Service of Discovery (evidencing the same). *See also* fns. 4-6, 8, above (asserting the same).

On January 30, 2017, **the deadline expired** for Lakewood to respond to the First Request for the Production of Documents, which Essi generously – and perhaps imprudently – extended by 60 additional days. *See* Notice of Service of Discovery (evidencing the same).



On February 15, 2017, this Honorable Court directed Lakewood to answer the Amended Complaint and “include what records have been released to the relator.” February 15, 2017 Journal Entry.

On March 9, 2017, this Honorable Court issued a case management schedule setting May 1, 2017, as the deadline for Lakewood to submit (1) its responses to all of Essi’s public records requests; (2) an index of all public records and non-public records produced and withheld;<sup>9</sup> and (3) a summary judgment motion. *See* March 9, 2017 Journal Entry (ordering the same).

On March 10, 2017, Lakewood filed its Answer to the Amended Complaint, which did not include either an index or copies of the public records allegedly released to Essi. *See* Answer to Amended Complaint (omitting the same). *See also* fn. 5, above (assuming obligations of candor and truthfulness).

As of March 27, 2017, Lakewood has yet to produce even one – not even one – document or electronically stored information in response to the First Request for the Production of Documents, which was served upon Lakewood **nearly five months ago**. It has been 147 days and counting to be exact.

## II. LAW & ARGUMENT

Civ.R. 37(A) provides that if “a party, in response to a request for inspection submitted under Rule 34, fails to respond [\* \* \*] the discovering party may move for an order compelling an answer.” Civ.R. 37(A)(4) further provides that “[i]f the motion is granted, the court shall, after opportunity for hearing, require the party [\* \* \*] who opposed the motion [\* \* \*] to pay to the moving party the reasonable expenses incurred in obtaining the order, including attorney fees.”

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<sup>9</sup> *See* fn. 6, above (presuming that this index must include all public and non-public records in order for Lakewood to satisfy the intent of the March 9, 2017 Judgment Entry).

Consistent with Civ.R. 37(A), Essi moves this Honorable Court for an order compelling an answer to the First Request for the Production of Documents, which are now 54 days past due and counting from the deadline Essi already generously extended by 60 days. Lakewood's failure to respond to the First Request for the Production of Documents is consistent with its ongoing "conceal and delay" tactics exhibited prior to, and throughout, this Ohio Public Records Act lawsuit. Lakewood's obstructionist conduct also justifies Essi's suspicion that Lakewood may have both destroyed public and non-public records and spoiled evidence.<sup>10</sup>

While the First Request for the Production of Documents contains 267 separate requests for documents and electronically stored information, all of these discovery requests correlate to the 267 separate public records requests Essi submitted to Lakewood, which are the subject of the instant Ohio Public Records Act lawsuit. Since the First Request for the Production of Documents seeks documents and electronically stored information that correlate to the public records requests, they fall squarely within the scope of allowable discovery under Civ.R. 26(B). Specifically, Civ.R. 26(B) provides that:

Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, electronically stored information, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

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<sup>10</sup> See fn. 8, above (explaining why the discovery requests must be produced in order to discover whether destruction and spoliation facts exist that may contradict any certification submitted by Lakewood pursuant to the March 9, 2017 Judgment Entry).

Here, the First Request for the Production of Documents seeks documents and electronically stored information which are relevant to the subject involved in the instant Ohio Public Records Act lawsuit including, but not limited to, the existence, description, nature, custody, condition and location of any books, documents, electronically stored information, or other tangible things reasonably calculated to lead to the discovery of admissible evidence. Simply stated, this is an Ohio Public Records Act lawsuit. Discovery regarding public and non-public records in an Ohio Public Records Act lawsuit is relevant to the subject involved in the pending action. It is not a ground for objection – nor has any objection ever been raised as evidenced by the fact that Lakewood has outright refused to respond to the discovery request in its entirety – that the documents and electronically stored information sought may be inadmissible at the trial – and they most certainly will be admissible – as the documents and electronically stored information sought are clearly reasonably calculated to lead to the discovery of admissible evidence.

It is also not ground for objection that the First Request for the Production of Documents contains numerous requests for documents and electronically stored information. Since the discovery request seeks documents and electronically stored information that correlate with the public records requests, the documents and electronically stored information responsive to the First Request for the Production of Documents should be readily available for production at this late stage in the proceedings. Indeed, the documents and electronically stored information responsive to the First Request for the Production of Documents should have been available for immediate production (1) on July 19, 2016, when Lakewood filed its Answer to the Complaint;<sup>11</sup> (2) after Essi provided Lakewood an additional 60 days to respond to the discovery requests; and

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<sup>11</sup> See fn. 4, above (assuming obligations of candor and truthfulness).

(3) when Lakewood filed its Answer to the Amended Complaint on March 10, 2017, since Lakewood allegedly represented to this Honorable Court what records were – and presumably were not – provided to Essi in response to the public records requests.<sup>12</sup> And, as stated above, responding to the First Request for the Production of Documents should have been a mere clerical task had Lakewood actually been in full compliance with the Ohio Public Records Act when responding to the public records requests that were properly served upon Lakewood on March 15, 2016 (378 days ago and counting), May 13, 2016 (319 days ago and counting), and September 20, 2016 (189 days ago and counting). There is simply no justification for Lakewood's continued delay in the production of documents and electronically stored information responsive to the First Request for the Production of Documents.

Immediate production of the documents and electronically stored information responsive to the First Request for the Production of Documents is essential to the continued prosecution of this case as this Honorable Court set a May 1, 2017 deadline for Lakewood to submit public records, an index of all public records and non-public records produced and withheld,<sup>13</sup> and a summary judgment motion. *See* March 9, 2017 Journal Entry. *See* fns. 4-6, 8, above (explaining why responses can now be easily produced by Lakewood).

Essi requires the production of the documents and electronically stored information requested in order to take the documents and electronically stored information produced during discovery and compare them, side-by-side, with all the public and non-public records that will finally be produced (along with the corresponding index<sup>14</sup>) on the May 1, 2017 judicially

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<sup>12</sup> *See* fn. 5, above (assuming obligations of candor and truthfulness).

<sup>13</sup> *See* fn. 6, above (presuming that this index must include all public and non-public records in order for Lakewood to satisfy the intent of the March 9, 2017 Judgment Entry).

<sup>14</sup> *Id.*

mandated deadline in order to independently assess whether Lakewood complied with its obligations under the Ohio Public Records Act. Essi must have these documents and electronically stored information produced in an organized fashion, with a redaction log similar to the judicially ordered index, **prior to the summary judgment deadline**. Quite simply, Essi cannot possibly respond to the summary judgment motion without the ability to compare the documents and electronically stored information produced in discovery with the public and non-public records (and corresponding index) that Lakewood is judicially ordered to produce on May 1, 2017.

Essi also requires the production of these documents and electronically stored information as they will reveal the identity and location of persons having knowledge of any discoverable matters, which is a permissible subject of discovery under Civ.R. 26. Essi must have the documents and electronically stored information requested in the First Request for the Production of Documents in his possession when he deposes Lakewood's records custodian and any other persons having knowledge of any discoverable matters. For example, Essi must depose Lakewood's records custodian on a variety of issues relating to Essi's public records requests, including, without limitation, steps undertaken to locate the public records; verification of the documents and electronically stored information produced in discovery; and Essi's belief that there may be issues relating to both the destruction of public and non-public records and the spoliation of evidence in this Ohio Public Records Act lawsuit. And the deposition of Lakewood's records custodian is essential to determine whether Lakewood complied with the March 9, 2017 Judgment Entry, which orders that: "Lakewood shall also certify the steps it undertook to locate the requested records and that they have either released or submitted under seal all records it could find coming within Essi's request." *See, infra*, at fn. 8 (explaining why

the discovery requests must be produced in order to discover whether destruction and spoliation facts exist that may contradict any certification submitted by Lakewood pursuant to the March 9, 2017 Judgment Entry).

Discovery under Civ.R. 30 (depositions), Civ.R. 33 (interrogatories), Civ.R. 34 (documents and electronically stored information), and Civ.R. 36 (admissions) is explicitly provided for under both Civ.R. 26(B) and the March 9, 2017 Journal Entry, which states that the “parties may submit with their filings any evidentiary materials pursuant to Civ.R. 56 that they believe necessary to support their positions.” And this Honorable Court made sure to order that: “All parties shall cooperate to ensure that the schedule is maintained.” March 9, 2017 Journal Entry.

In spite of this Honorable Court’s clear directive in its March 9, 2017 scheduling order, Essi has been unable to commence with (1) the depositions of Lakewood’s records custodian and any other persons having knowledge of any discoverable matters and (2) the collection of evidentiary materials as a direct result of Lakewood’s continued delay and obfuscation in responding to the First Request for the Production of Documents. Lakewood is outright refusing to cooperate with Essi to ensure that this Honorable Court’s scheduling order is maintained, which is in clear violation of the March 9, 2017 Journal Entry. It cannot be overstated that the immediate production of all requested documents and electronically stored information is essential due to the extremely limited period of time between now and the May 1, 2017 deadline.

### **III. RULE 37(A) CERTIFICATION**

Pursuant to Civ.R. 37(A) and the March 9, 2017 Journal Entry, the undersigned certifies that he has, in good faith, conferred or attempted to confer with counsel for Lakewood in an effort to obtain discovery without court action. Specifically, on November 28, 2016, Essi consented to a generous 60-day extension of Lakewood's deadline – i.e., until January 30, 2017 – to respond to the First Request for Production of Documents.

On February 6, 2017, the undersigned submitted an email to opposing counsel stating that: "The deadline to respond [\* \* \*] came and went on January 30, 2017, and was answered with complete silence by your client. I ask that you extend us the professional courtesy of advising us of when you plan on responding to the outstanding discovery requests so we can avoid judicial intervention." Ex. B.

On that same date, opposing counsel stated that "I do not have a date certain for you. We will commit to renewing our efforts to answer the requests, both public and discovery as soon as possible." Ex. B.

On February 16, 2017, Essi filed a notice with the Court specifying that the deadline for responding to the First Request for the Production of Documents expired on January 30, 2017, and noting that Lakewood had "not responded to the First Request for the Production of Documents." Notice of Service of Discovery at 2.

On February 17, 2017, the undersigned sent opposing counsel a letter again referencing the outstanding discovery requests, a copy of which is not attached to this motion as it contains Evid.R. 408 settlement communication.

On March 10, 2017, the undersigned had a very lengthy telephone conversation with opposing counsel again demanding production of Essi's requested documents and electronically stored information in order to prepare for the deposition of Lakewood's records custodian and any other persons having knowledge of any discoverable matters and to comply with the March 9, 2017 Journal Entry. **In that telephone conference, the undersigned explained that he had no further option but to file a motion to compel by March 17, 2017, and opposing counsel did not object.** Rather, in that same telephone conference, opposing counsel stated that, because he had an oral argument before the United States Court of Appeals for the Sixth Circuit during the week of March 13, 2017, opposing counsel would provide a status update to the undersigned no later than March 17, 2017. Out of professional courtesy, the undersigned waited an additional week to file the instant motion in the hope that either a status update or discovery responses would be forthcoming. All too predictably, opposing counsel has not provided any status update to the undersigned nor has Lakewood in any way responded to the First Request for the Production of Documents.

To date, Lakewood has not specified when, if ever, it intends to respond to the outstanding discovery requests. *See Watkins v. Holderman*, 10th Dist. Franklin No. 11AP-491, 2012-Ohio-1707, ¶ 17 (holding that the trial court did not act unreasonably in opining that "appellees met their Civ.R. 37(E) burden by making a reasonable attempt to resolve the discovery dispute extra-judicially" in agreeing to an extension of time and sending a series of emails inquiring as to the status of the outstanding discovery).



#### IV. CONCLUSION

Based upon the foregoing, Relator Brian J. Essi respectfully requests an order compelling Respondent City of Lakewood, Ohio to answer the First Request for the Production of Documents. Relator Brian J. Essi further respectfully requests an order requiring Respondent City of Lakewood, Ohio to pay his reasonable attorney fees and costs in preparing this motion.

Respectfully submitted,

/s/ Matthew John Markling

Matthew John Markling (0068095) Lead Counsel

Sean Koran (0085539)

Patrick Vrobel (0082832)

McGown & Markling Co., L.P.A.

1894 North Cleveland-Massillon Road

Akron, Ohio 44333

Telephone: 1.330.670.0005

Facsimile: 1.330.670.0002

Email: mmarkling@mcgownmarkling.com

skoran@mcgownmarkling.com

pvrobel@mcgownmarkling.com

*Attorneys for Relator Brian J. Essi*

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing will be sent via email and the court's electronic filing system, on March 27, 2017, to the following:

John T. McLandrich  
Alix M. Nouredine  
Mazanec, Raskin & Ryder Co., L.P.A.  
34305 Solon Road  
100 Franklin's Row  
Cleveland, Ohio 44139  
jmclandrich@mrrlaw.com

Kevin M. Butler (0074204)  
City of Lakewood, OH — Law Director  
Jennifer L. Swallow (0069982)  
City of Lakewood, OH — Chief Assistant Law Director  
12650 Detroit Road  
Lakewood, Ohio 44107  
kevin.butler@lakewoodoh.net  
jennifer.swallow@lakewoodoh.net

*Attorneys for Respondent City of Lakewood, Ohio*

/s/ Matthew John Markling  
Matthew John Markling (0068095)

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**IN THE COURT OF APPEALS  
EIGHTH APPELLATE DISTRICT  
CUYAHOGA COUNTY, OHIO**

**State of Ohio ex rel.  
BRIAN J. ESSI**

Relator,

v.

**CITY OF LAKEWOOD, OHIO**

Respondent.

CASE NO. CA-16-104659

**ORIGINAL ACTION IN MANDAMUS**

**RELATOR’S FIRST REQUEST FOR THE PRODUCTION OF DOCUMENTS**

Pursuant to App.R. 1(B) and Civ.R. 34, Relator Brian J. Essi (“Relator”) requests that Respondent City of Lakewood (“Lakewood”) respond to the following document requests. Relator requests that Lakewood respond within twenty-eight (28) days of service. Documents requested are to be produced at the offices of McGown & Markling Co., L.P.A., 1894 North Cleveland-Massillon Road, Akron, OH 44333.

**I. DEFINITIONS**

As used herein, the following terms shall mean:

1. “City of Lakewood” and “Lakewood City” refers to the City of Lakewood, its employers, officers, officials, council members, representative, and agents.
2. “LHA” refers to the Lakewood Hospital Association.
3. “Cleveland Clinic” refers to the Cleveland Clinic Foundation or Cleveland Clinic.
4. “MetroHealth” refers to the MetroHealth System.
5. “Huron Consulting” refers to the Huron Consulting Group.

6. “Preemptory Bids” has the same meaning described by Mayor Michael Summers in the public record: <https://youtu.be/SyRzqzOuFGA?t=1h12m9s>.
7. “EMS” means emergency medical services.
8. “SDP” refers to Surgical Development Partners.
9. “FHC” generally refers to family health clinic.
10. The pronouns “you” or “your” refer to the party to whom these requests are addressed.
11. “Document” shall mean each and every document, however produced or reproduced, in the possession, custody or control of Plaintiff, regardless of the origin or location, whether an original, identical, copy, draft, or non-identical copy, whether an official or unofficial document, including, but not limited to: minutes, notes, comments, worksheets, summaries, records or other reports concerning meetings, conferences, visits, surveys inspections, statements, interviews or telephone conversations; inter-office and intra-office memorandum; books, manuals, pamphlets, bulletins, circulars, instructions, work-sheets, invoices, contracts, journals, logs, files; statistical records, diaries, calendars, travel and telephone logs, and appointed books; correspondence and telegrams, envelopes and other wrappers and packaging; graphs, charts and maps; transcripts of verbal testimony or statements; checks, check stubs and money orders, travel vouchers, receipts, returns; reports of experts; affidavits; balance sheets, profit and loss statements, books of account, statements of account, and other financial data; financial data, analyses, statistical and other forecasts, projections or budgets; teletypes, telefax; printouts or other stored information from computers or other information retrieval systems; photographic matter or sound reproduction, however produced or reproduced, including, but not limited to, photographs, microfiche, microfilm, videotapes, recordings, motion pictures, tapes, cassettes, and discs; and any other written, printed, recorded or graphic matter.  
  
The term “document” shall also be construed so as to include in each document request a request for every document that revises, amends, changes, modifies, supersedes, replaces or otherwise alters any document identified by Plaintiff.
12. “Relating” means referring to, being evidence of, memorializing, or concerning in any way all or any portion of the specified facts or allegations.

## II. INSTRUCTIONS

- A. Where the identity of a person is requested, state the full name, home address, and business address, if known.
- B. Where knowledge or information in possession of a party is requested, such a request includes knowledge of the party’s agents, representatives, and employees.

- C. In responding, please provide all information available to you, however it was obtained, including hearsay, and any and all information in your actual or constructive possession, or the knowledge of your attorneys, agents, or representatives.
1. You are bound by the following duties in responding:
    - a. To conduct a reasonable investigation in order to respond.
    - b. To state objections in as specific a manner as possible.
    - c. To timely withdraw, amend, or supplement a response if you obtain subsequent information which tends to indicate that the response was, or became, inaccurate or incomplete.
    - d. If, after exercising due diligence to secure complete and full information, you are unable to provide a complete answer to: (1) provide an answer to the extent possible; (2) set forth in detail the reason for your inability to complete the answer; (3) state whatever information or knowledge you have concerning the portion which is unanswered; and (4) specifically state what was done in an attempt to secure the unknown information.
- D. If there is an objection to the production of any document or part thereof, as to each such document state:
- (a) its name or title or describe it in detail;
  - (b) its author(s);
  - (c) the person to whom it was sent;
  - (d) its date;
  - (e) the subject matter of the writing;
  - (f) its present location;
  - (g) the basis for your objection.
- E. The same document or documents may be responsive to more than one request. The presence of such duplication is not to be considered as narrowing or limiting each individual request. Where a document is requested by more than one numbered paragraph of this request, only one copy of the document need be produced, unless copies are different because of markings, deletions, notations or marginal notes.
- F. If any document responsive to any request is no longer in your possession or control, or no longer in existence, then for each such document state whether it:

- (a) has been destroyed; or
- (b) is missing or lost;
- (c) has been sent to another person or entity.

Also, please explain the circumstances surrounding the disposition of the document and state the date it was disposed of.

- G. This request is continuing in nature. You are under a duty to supplement your response consistent with the Rules of Civil Procedure.

### **III. REQUEST FOR PRODUCTION OF DOCUMENTS**

1. All records, notes, and communications – electronic or otherwise – signed by Mayor Michael Summers (“Mayor Summers”), Former City Council President Mary Louise Madigan (“Madigan”), and/or Councilmember Tom Bullock (“Bullock”) in which they agreed to keep any information or trade secrets of the LHA private.

#### **RESPONSE:**

2. All records, notes, and communications – electronic or otherwise – signed by Mayor Summers, Madigan, and/or Bullock regarding the LHA.

#### **RESPONSE:**

3. All records, notes, and communications – electronic or otherwise – signed by Mayor Summers, Madigan, and/or Bullock in which they agreed to keep any information or trade secrets of the Cleveland Clinic private.

#### **RESPONSE:**

4. All records, notes, and communications – electronic or otherwise – signed by Mayor Summers, Madigan and/or Bullock regarding the Cleveland Clinic.

#### **RESPONSE:**

5. All records, notes, and communications – electronic or otherwise – signed or agreed to by Mayor Summers, Madigan and/or Bullock as trustees of the LHA including, but not limited to, the Cleveland Clinic Code of Conduct, or any similar document.

**RESPONSE:**

6. All records, notes, and communications – electronic or otherwise – provided by the LHA to Mayor Summers, Madigan, and/or Bullock by the LHA from May 4, 2015, to the present.

**RESPONSE:**

7. All correspondence and communications – electronic or otherwise – between or among Mayor Summers and Michael Meehan (“Meehan”) that refers or relates to Mayor Summers’ May 18, 2015 letter to Dr. Akram Boutros (“Dr. Boutros”) and/or MetroHealth.

**RESPONSE:**

8. All correspondence and communications – electronic or otherwise – between or among Mayor Summers and Meehan.

**RESPONSE:**

9. All correspondence and communications – electronic or otherwise – between or among Mayor Summers and any employee of the Cleveland Clinic that refers or relates to Mayor Summers’ May 18, 2015 letter to Dr. Boutros and/or MetroHealth.

**RESPONSE:**

10. All correspondence and communications – electronic or otherwise – between or among Mayor Summers and any employee of the Cleveland Clinic from January 1, 2015, to the present.

**RESPONSE:**



11. All correspondence and communications – electronic or otherwise – between or among Mayor Summers and any individual that refers or relates to Mayor Summers’ May 18, 2015 letter to Dr. Boutros and/or MetroHealth.

**RESPONSE:**

12. All records, notes, and communications – electronic or otherwise – relating the “power point” presentation or proposal by MetroHealth to the LHA provided in September of 2014.

**RESPONSE:**

13. All quarterly or other financial reports, of any kind or nature, audited or unaudited, for the LHA for the period of January 1, 2014, to the present.

**RESPONSE:**

14. The materials and handouts provided by the LHA to Mayor Summers, Madigan, and/or Bullock at any LHA trustee meeting from January 1, 2015, to the present.

**RESPONSE:**

15. The materials and handouts provided by the LHA to Mayor Summers, Madigan, and/or Bullock from January 1, 2015, to the present.

**RESPONSE:**

16. Any and all notes or recordings made by Mayor Summers, Madigan, and/or Bullock during any LHA trustee meetings from January 1, 2015, to the present.

**RESPONSE:**

17. All records, notes, and communications – electronic or otherwise – relating to the resignation of Joseph Gibbons (“Gibbons”) as a trustee of the LHA.

**RESPONSE:**

18. All records, notes, and communications – electronic or otherwise – relating to any individual(s) considered as a candidate or successor to Gibbons.

**RESPONSE:**

19. All records, notes, and communications – electronic or otherwise – relating to landscaping design plans prepared by David Stein (“Stein”), or any business owned or operated by Stein, concerning the Lakewood Hospital property or any future plan involving the Lakewood Hospital.

**RESPONSE:**

20. All records, notes, and communications – electronic or otherwise – relating to landscaping design plans prepared by Stein, or any business owned or operated by Stein.

**RESPONSE:**

21. Any contract, agreement, or understanding with Stein, or any business owned or operated by Stein, concerning landscape design plans for the Lakewood Hospital property or any future plan involving the Lakewood Hospital.

**RESPONSE:**

22. All correspondence and communications – electronic or otherwise – between or among Stein and any employee or official of the City of Lakewood from December 1, 2015, to the present.

**RESPONSE:**

23. All correspondence and communications – electronic or otherwise – between or among Mayor Summers and any representative of the City of Rocky River (“Rocky River”) that refer or relate to the transportation of patients, or the failure to transport potential patients, to the Lakewood Hospital, Fairview Hospital, Lutheran Hospital, or any other local area hospital from January 1, 2015, to the present.

**RESPONSE:**

24. All correspondence and communications – electronic or otherwise – between or among Mayor Summers and any representative of Rocky River from January 1, 2015, to the present.

**RESPONSE:**

25. All correspondence and communications – electronic or otherwise – between or among Mayor Summers and any representative of the City of Fairview Park (“Fairview Park”) that refer or relate to the transportation of patients or failure to transport potential patients to Lakewood Hospital, Fairview Hospital, Lutheran Hospital, or any other local area hospital from January 1, 2015, to the present.

**RESPONSE:**

26. All correspondence and communications – electronic or otherwise – between or among Mayor Summers and any representative of Fairview Park from January 1, 2015, to the present.

**RESPONSE:**

27. All correspondence and communications – electronic or otherwise – between or among Mayor Summers and any representative of the City of Cleveland that refer or relate to the transportation of patients or failure to transport potential patients to Lakewood Hospital, Fairview Hospital, Lutheran Hospital, or any other local area hospital from January 1, 2015, to the present.

**RESPONSE:**

28. All correspondence and communications – electronic or otherwise – between or among Mayor Summers and any representative of the City of Cleveland from January 1, 2015, to the present.

**RESPONSE:**

29. All correspondence and communications – electronic or otherwise – between or among Mayor Summers and any Lakewood Hospital Service Area paramedic, EMS, or emergency response providers that refer or relate to the transportation of patients or failure to transport potential patients to Lakewood Hospital, Fairview Hospital, Lutheran Hospital, or any other local area hospital from January 15, 2015, to the present.

**RESPONSE:**

30. All correspondence and communications – electronic or otherwise – between or among Mayor Summers and any Lakewood Hospital Service Area paramedic, EMS, or emergency response providers from January 15, 2015, to the present.

**RESPONSE:**

31. The visitor log and/or any related log that documents which individual(s) visited Mayor Summers' office from January 1, 2015, until the present.

**RESPONSE:**

32. All records, notes, and communications – electronic or otherwise – indicating how and when the City of Lakewood, or any employee or official, came into possession of and posted to onelakewood.com the following electronic documents and records:  
<http://www.onelakewood.com/pdf/Lakewood%20Hospital/LHA/Subsidium%20Slides%201%20of%202.pdf>.

**RESPONSE:**

33. All records, notes, and communications – electronic or otherwise – relating to Subsidium Healthcare's slides, letters, reports, emails, and documents that have not posted on onelakewood.com.

**RESPONSE:**

34. The Cleveland Clinic's 2014 Shared Administrative Service Allocation (Lakewood Brief) Presentation.

**RESPONSE:**

35. All records, notes, and communications – electronic or otherwise – relating to the Cleveland Clinic's 2014 Shared Administrative Service Allocation Presentation.

**RESPONSE:**

36. The Cleveland Clinic's LHA 2014 Administrative Services Details and Allocation Methodology Excel File.

**RESPONSE:**

37. All records, notes, and communications – electronic or otherwise – relating to the Cleveland Clinic’s LHA 2014 Administrative Services Details and Allocation Methodology Excel File.

**RESPONSE:**

38. All records, notes, and communications – electronic or otherwise – relating to the Subsidiary Healthcare’s Lakewood Hospital Data Book.

**RESPONSE:**

39. The patient day data for the fiscal years December 31, 2010, through 2014, and the year-to-date period ending June 30, 2015.

**RESPONSE:**

40. The Subsidiary Healthcare’s Lakewood Hospital Association Board of Trustees Strategic Options Evaluation Process, dated January 12, 2015.

**RESPONSE:**

41. All records, notes, and communications – electronic or otherwise – relating to the Subsidiary Healthcare’s Lakewood Hospital Association Board of Trustees Strategic Options Evaluation Process, dated January 12, 2015.

**RESPONSE:**

42. All records, notes, and communications – electronic or otherwise – relating to key performance metrics for the Lakewood Hospital for the year-to-date period ending November 30, 2013, and the fiscal year ending December 31, 2014.

**RESPONSE:**

43. All records, notes, and communications – electronic or otherwise – relating to any claim by the Cleveland Clinic that it does not have a general obligation to fund operating losses for the LHA or Lakewood Hospital.

**RESPONSE:**

44. All correspondence and communications – electronic or otherwise – between or among the law firm of Thompson Hine (“Thompson Hine”) and Huron Consulting L.L.C. (“Huron Consulting”), or their representatives, regarding the Lakewood Hospital.

**RESPONSE:**

45. All correspondence and communications – electronic or otherwise – between or among Thompson Hine and Huron Consulting, or their representatives, regarding Thompson Hine’s engagement as attorneys for the City of Lakewood.

**RESPONSE:**

46. All records, notes, and communications – electronic or otherwise – relating to any interviews of representatives of the LHA conducted by Thompson Hine.

**RESPONSE:**

47. All records, notes, and communications – electronic or otherwise – relating to any interviews of representatives of the LHA conducted by Huron Consulting.

**RESPONSE:**

48. All records, notes, and communications – electronic or otherwise – relating to any interviews of representatives of the Cleveland Clinic conducted by Thompson Hine.

**RESPONSE:**

49. All records, notes, and communications – electronic or otherwise – relating to any interviews of representatives of the Cleveland Clinic conducted by Huron Consulting.

**RESPONSE:**

50. Any confidentiality agreement(s) signed by Huron Consulting, or any of its representatives, relating to proprietary or confidential documentation provided by the Cleveland Clinic regarding specific fees incurred and the allocation of those fees with respect to the LHA or Lakewood Hospital.

**RESPONSE:**

51. All records, notes, and communications – electronic or otherwise – relating to any confidentiality agreement(s) signed by Huron Consulting, or its representatives, relating to proprietary or confidential documentation provided by the Cleveland Clinic regarding specific fees incurred and the allocation of those fees with respect to the LHA or Lakewood Hospital.

**RESPONSE:**

52. All records, notes, and communications – electronic or otherwise – relating to any confidentiality agreement(s) signed by Huron Consulting, or its representatives.

**RESPONSE:**

53. All records, notes, and communications – electronic or otherwise – relating to documentation provided by the Cleveland Clinic to Huron Consulting regarding specific fees incurred and the allocation of those fees with respect to the LHA or Lakewood Hospital.

**RESPONSE:**

54. All records, notes, and communications – electronic or otherwise – reviewed by Huron Consulting in preparing the Huron Report.

**RESPONSE:**

55. All records, notes, and communications – electronic or otherwise – relating to clinical and administrative service fees that are incurred by the Cleveland Clinic and allocated to the Lakewood Hospital.

**RESPONSE:**

56. All records, notes, and communications – electronic or otherwise – relating to clinical and administrative service fees that are direct costs incurred by the Cleveland Clinic and allocated to the Lakewood Hospital.

**RESPONSE:**

57. All records, notes, and communications – electronic or otherwise – relating to any informed consent given by Mayor Summers, the City of Lakewood, Lakewood City Council, or any member of City Council to Law Director Kevin Butler (“Law Director Butler”).

**RESPONSE:**

58. All records, notes, and communications – electronic or otherwise – relating to any informed consent, confirmed in writing, given by Mayor Summers, the City of Lakewood, Lakewood City Council, or any member of City Council to Law Director Butler with respect to the 2010 ordinance/resolution.

**RESPONSE:**

59. All records, notes, and communications – electronic or otherwise – relating to any informed consent given by Mayor Summers, the City of Lakewood, Lakewood City Council, or any member of City Council to Law Director Butler with respect to allegations against Mayor Summers for conspiracy.

**RESPONSE:**

60. All records, notes, and communications – electronic or otherwise – relating to any engagement letter concerning representation of the City of Lakewood and/or Mayor Summers by Thompson Hine or any lawyer employed by Thompson Hine.

**RESPONSE:**

61. All records, notes, and communications – electronic or otherwise – relating to any conflict of interest concerning the representation of the City of Lakewood and/or Mayor Summers by Thompson Hine or any lawyer employed by Thompson Hine.

**RESPONSE:**

62. All records, notes, and communications – electronic or otherwise – relating to any informed consent, and/or waiver of a conflict of interest concerning the representation of the City of Lakewood and/or Mayor Summers by Thompson Hine or any lawyer employed by Thompson Hine.

**RESPONSE:**



63. All records, notes, and communications – electronic or otherwise – relating to legal bills presented to the City of Lakewood by Thompson Hine from January 1, 2015, to the present.

**RESPONSE:**

64. All records, notes, and communications – electronic or otherwise – relating to any records of payment of legal bills presented to the City of Lakewood by Thompson Hine from January 1, 2015, to the present.

**RESPONSE:**

65. All records, notes, and communications – electronic or otherwise – relating to the engagement letter or contract with Hennes Communications, or any other public relations or consulting firm, from January 1, 2015, to the present.

**RESPONSE:**

66. All records, notes, and communications – electronic or otherwise – relating to any services rendered or bills or charges for services rendered to the City of Lakewood by Hennes Communications, or any other public relations or consulting firm or public relations person, from January 1, 2015, to the present.

**RESPONSE:**

67. All records, notes, and communications – electronic or otherwise – relating to any records of payment of bills or charges for services rendered to the City of Lakewood by Hennes Communications, or any other public relations or consulting firm or public relations person, from January 1, 2015, to the present.

**RESPONSE:**

68. All records, notes, and communications – electronic or otherwise – related to businesses that have closed or left Lakewood since Mayor Summers has been mayor.

**RESPONSE:**

69. Any draft, signed, or unsigned agreement or proposal concerning the Lakewood Hospital that was, or may have been, discussed, approved, or agreed to by the LHA, or any committee of the LHA, and/or the Cleveland Clinic on November 30, 2015.

**RESPONSE:**

70. All records, notes, and communications – electronic or otherwise – related to any agreements concerning the Lakewood Hospital discussed, approved, or agreed to by the LHA or any committee of the LHA.

**RESPONSE:**

71. All records, notes, and communications – electronic or otherwise – related to any agreements concerning the Lakewood Hospital discussed, approved, or agreed to by the Cleveland Clinic.

**RESPONSE:**

72. Any draft, signed, or unsigned agreement or proposal concerning the Lakewood Hospital that was, or may have been, discussed, approved, or agreed to by the LHA, or any committee of the LHA, and/or the Cleveland Clinic during the week of November 29, 2015.

**RESPONSE:**

73. Any draft, signed, or unsigned agreement or proposal concerning the Lakewood Hospital that was, or may have been, the subject of the Lakewood City Council Meeting held on December 7, 2015.

**RESPONSE:**

74. Any draft, signed, or unsigned agreement or proposal concerning the Lakewood Hospital that was, or may have been, discussed, approved, or agreed to by the LHA, or any committee of LHA, and/or the Cleveland Clinic during the week of December 6, 2015.

**RESPONSE:**

75. All records, notes, audio recordings or records of conversations between Mayor Summers and any representative of SDP.

**RESPONSE:**

76. All records, notes, and communications – electronic or otherwise – delivered to Lakewood City Councilmembers on December 6, 2015.

**RESPONSE:**

77. All records, notes, and communications – electronic or otherwise – relating to the “survey,” including drafts, referred to in the footnote on page G-1 of the FHC Site Sale Agreement.

**RESPONSE:**

78. All records, notes, and communications – electronic or otherwise – reflecting valuation or appraisals of assets used in the operation of the Lakewood Hospital belonging to the LHA and/or the City of Lakewood.

**RESPONSE:**

79. All liability insurance policies covering Mayor Summers, Madigan and Bullock as required by the Master Agreement.

**RESPONSE:**

80. All correspondence and communications – electronic or otherwise – between or among any Lakewood City employee or official and First American Title Company, or its employees, concerning the planning and/or preparation for the transactions contemplated by the FHC Site Sale Agreement including the Lot Split Approval.

**RESPONSE:**

81. All correspondence and communications – electronic or otherwise – between or among any Lakewood City employee or official and First American Title Company, or its employees.

**RESPONSE:**

82. All correspondence and communications – electronic or otherwise – between or among any Lakewood City employee or official and any Cuyahoga County employee or official concerning the planning and/or preparation for the transactions contemplated by the FHC Site Sale Agreement including the Lot Split Approval.

**RESPONSE:**

83. All correspondence and communications – electronic or otherwise – between or among any Lakewood City official or employee, the LHA, any LHA trustee, and any LHA employee or official concerning Section 9.9 of the 1996 Lease between the LHA and City of Lakewood.

**RESPONSE:**

84. All correspondence and communications – electronic or otherwise – between or among Law Director Butler, Mayor Summers, Bullock, Paul Colarusso (“Colarusso”), and/or John Bodine (“Bodine”) from January 1, 2015, to the present.

**RESPONSE:**

85. All correspondence and communications – electronic or otherwise – from and/or to Law Director Butler from January 1, 2015, to the present.

**RESPONSE:**

86. All correspondence and communications – electronic or otherwise – from and/or to Mayor Summers from January 1, 2011, to the present.

**RESPONSE:**

87. All correspondence and communications – electronic or otherwise – from and/or to Bullock from January 1, 2015, to the present.

**RESPONSE:**

88. All correspondence and communications – electronic or otherwise – from and/or to Colarusso from June 1, 2015, to the present.

**RESPONSE:**

89. All correspondence and communications – electronic or otherwise – from and/or to Bodine from June 1, 2015, to the present.

**RESPONSE:**

90. All records, notes, and communications – electronic or otherwise – relating to invoices and time records submitted by Huron Consulting.

**RESPONSE:**

91. All records, notes, and communications – electronic or otherwise – relating to engagement letters or contracts with Huron Consulting.

**RESPONSE:**

92. All records, notes, and communications – electronic or otherwise – relating to any representation by the LHA, or any representative of the LHA, regarding bankruptcy.

**RESPONSE:**

93. All correspondence and communications – electronic or otherwise – by the LHA, or any representative of the LHA, to any Lakewood City official or elected leader regarding public bidding, listing, requests for proposal, and/or marketing of any or all of the assets used in connection with the Lakewood Hospital.

**RESPONSE:**

94. All correspondence and communications – electronic or otherwise – by any Lakewood City employee or official regarding bidding, listing, requests for proposal, and/or marketing concerning the Lakewood Hospital or any or all of the assets used in the conduct of Lakewood Hospital.

**RESPONSE:**

95. All correspondence and communications – electronic or otherwise – in which the LHA, or any representative, responded to any communication requesting that the LHA conduct a bidding, listing, request for proposal and/or marketing concerning the Lakewood Hospital or any or all of the assets used in the conduct of the Lakewood Hospital.

**RESPONSE:**

96. All records, notes, and communications – electronic or otherwise – concerning the LHA filing for bankruptcy or the potential thereof.

**RESPONSE:**

97. All records, notes, and communications – electronic or otherwise – relating to plans, drawings, financial analysis, costs analysis, and other analysis of the costs and expenses of City Hall operations and/or relocation of City Hall operations.

**RESPONSE:**

98. All records, notes, and communications – electronic or otherwise – relating to financial or performance results for the LHA from October 1, 2015, to the present. This request includes all records, notes, and communications – electronic or otherwise – in the files of Law Director Butler, Thompson Hine, its attorneys, and Robert Cahill who were all agents of the City of Lakewood.

**RESPONSE:**

99. All correspondence and communications – electronic or otherwise – from Madigan to Mayor Summers from January 1, 2015, to the present.

**RESPONSE:**

100. All correspondence and communications – electronic or otherwise – from Mayor Summers to Madigan from January 1, 2015, to the present.

**RESPONSE:**

101. Mayor Summer's complete personnel file.

**RESPONSE:**

102. Law Director Butler's complete personnel file.

**RESPONSE:**

103. All records, notes, and communications – electronic or otherwise – relating to any preemptory bids received by the City of Lakewood, its employees, or officials.

**RESPONSE:**

104. All records, notes, and communications – electronic or otherwise – that discuss or evaluate whether the City of Lakewood had an obligation to conduct a public bidding process with respect to the Lakewood Hospital.

**RESPONSE:**

105. All records, notes, and communications – electronic or otherwise – that discuss or evaluate any private bidding process with respect to the Lakewood Hospital conducted by an entity other than the City of Lakewood.

**RESPONSE:**

106. All records, notes, and communications – electronic or otherwise – relating to any public, private or other selection process with respect to future lessees, future owners or future delivery of health services with respect to the Lakewood Hospital or the LHA.

**RESPONSE:**

107. All records, notes, and communications – electronic or otherwise – that reflect any request for proposal(s) issued by the City of Lakewood with respect to the Lakewood Hospital or the LHA.

**RESPONSE:**

108. All records, notes, and communications – electronic or otherwise – that reflect the drafting or preparation for any request for proposals with respect to the Lakewood Hospital or the LHA.

**RESPONSE:**

109. All records, notes, and communications – electronic or otherwise – that reflect the development of guidelines or criteria for any request for proposals with respect to the Lakewood Hospital or the LHA.

**RESPONSE:**

110. All records, notes, and communications – electronic or otherwise – that reflect any review by any City of Lakewood employee or official of any proposal received by Subsidium in response to any request for proposal(s) issued by Subsidium related to the Lakewood Hospital or the LHA, its programs, services, or assets.

**RESPONSE:**

111. All records, notes, and communications – electronic or otherwise – that reflect any review by any individual or entity of any proposal received by Subsidium Healthcare in response to any request for proposal issued by Subsidium Healthcare related to the Lakewood Hospital or the LHA, its programs, services, or assets.

**RESPONSE:**

112. All records, notes, and communications – electronic or otherwise – that reflect any review by any individual or entity of any proposal received by Subsidium Healthcare in response to the Preliminary Memorandum issued by Subsidium Healthcare related to the Lakewood Hospital or the LHA, its programs, services, or assets.

**RESPONSE:**

113. All records, notes, and communications – electronic or otherwise – that reflect any review by any City of Lakewood employee or official of any proposal received by such employee or official with respect to the Lakewood Hospital, its programs, services, or assets.

**RESPONSE:**

114. All records, notes, and communications – electronic or otherwise – regarding discussions, meetings or negotiations between any City of Lakewood employee or official with Subsidium Healthcare.

**RESPONSE:**

115. All records, notes, and communications – electronic or otherwise – regarding discussions, meeting, or negotiations between any City of Lakewood council member with Subsidium Healthcare.

**RESPONSE:**



116. All records, notes, and communications – electronic or otherwise – regarding discussions, meetings or negotiations between any City of Lakewood employee or official with the LHA, its board members, the Cleveland Clinic, and/or its board members or trustees, related to the Lakewood Hospital or LHA.

**RESPONSE:**

117. All records, notes, and communications – electronic or otherwise – regarding discussions, meetings, or negotiations between any City of Lakewood council member with the LHA, its board members, the Cleveland Clinic, and/or its board members or trustees, related to the Lakewood Hospital or LHA.

**RESPONSE:**

118. All records, notes, and communications – electronic or otherwise – in which any party to the Master Agreement discusses whether any of the parties are required to file a Hart-Scott-Rodino pre-merger filing notice.

**RESPONSE:**

119. All records, notes, and communications – electronic or otherwise – in which any party to the Master Agreement discusses whether any of the parties are not required to file a Hart-Scott-Rodino pre-merger filing notice.

**RESPONSE:**

120. All records, notes and communications—electronic or otherwise—regarding preemptory bids issued by any person or entity which preemptory bids relate to Lakewood Hospital and were communicated to or received by the City of Lakewood or any elected or public official of the City of Lakewood.

**RESPONSE:**

121. All records and communications – electronic or otherwise--from LHA and/or the Cleveland Clinic to the City of Lakewood on or after January 1, 2015 through the present containing a certificate of Authorized Lessee Representative stating that to the best of his/her knowledge, the Lessee (LHA) and the Member (The Cleveland Clinic Foundation) are in compliance with all the material terms and conditions of the Lease and Definitive Agreement.

**RESPONSE:**

122. All records and communications – electronic or otherwise – of the March 23, 2015 email from Madigan to Law Director Butler showing the email account of all recipients of that email. Note this email was produced to me on March 10, 2015.

**RESPONSE:**

123. All records, notes and communications by Bullock to any person regarding the Colarusso email responses of September 29, 2015, at 5:10 p.m.

**RESPONSE:**

124. All records and communications – electronic or otherwise – of the signed Master Agreement and all ancillary agreements signed by any city official regarding the execution or performance of the Master Agreement.

**RESPONSE:**

125. All records and communications – electronic or otherwise – between and among Law Director Butler and Jeff Huntsberger (“Huntsberger”).

**RESPONSE:**

126. All records and communications – electronic or otherwise – between and among Thompson Hine and Huntsberger.

**RESPONSE:**

127. All records and communications – electronic or otherwise – between and among Law Director Butler and Meehan.

**RESPONSE:**

128. All correspondence and communications – electronic or otherwise – between any Lakewood City employee or official and any employee or official of the Cuyahoga County government regarding the Lakewood Hospital or its assets during 2014, 2015 and 2016. This request includes any communication between any ex officio LHA official and any employee or official of the Cuyahoga County government.

**RESPONSE:**

129. All correspondence and communications – electronic or otherwise – between any Lakewood City employee or official and any employee or official of the Cuyahoga County government with respect to any proposal regarding the Lakewood Hospital or its assets during 2014, 2015 and 2016. This request includes any communication between any ex officio LHA official and any employee or official of the Cuyahoga County government.

**RESPONSE:**

130. All correspondence and communications – electronic or otherwise – between any Lakewood City employee or official and any employee or official of the MetroHealth with respect to any proposal or discussion regarding the Lakewood Hospital or its assets during 2014, 2015 and 2016. This request includes any communication between any ex officio LHA official and any employee or official of the MetroHealth.

**RESPONSE:**

131. All correspondence and communications – electronic or otherwise – between any Lakewood City employee or official and any employee or official of the MetroHealth with respect to any proposal or discussion during the period January 1, 2011 through the date of this request regarding the MetroHealth's desire to open and/or operate a family health center in Lakewood. This request includes any communication between any ex officio LHA official and any employee or official of the MetroHealth.

**RESPONSE:**

132. All correspondence and communications – electronic or otherwise – between any Cleveland Clinic employee or official and any Lakewood City employee or official with respect to any proposal submitted by the MetroHealth or any of its employees regarding the Lakewood Hospital or its assets during 2014, 2015 and 2016. This request includes any correspondence or communication between any ex officio LHA official and any employee or official of Cleveland Clinic.

**RESPONSE:**

133. All correspondence and communications – electronic or otherwise – between any LHA official and any Lakewood City employee or official regarding any proposal submitted by the MetroHealth or any of its employees or officials with respect to the Lakewood Hospital or its assets during 2014, 2015 and 2016. This request includes any correspondence or communication between any ex officio LHA official and any employee or official of the Cleveland Clinic and LHA.

**RESPONSE:**

134. All correspondence and communications – electronic or otherwise – between any CCF employee or official and any Lakewood City employee or official with respect to any proposal submitted by Surgical Development Partners regarding the Lakewood Hospital or its assets during 2014, 2015 and 2016. This request includes any correspondence or communication between any ex officio LHA official and any employee or official of Cleveland Clinic and LHA.

**RESPONSE:**

135. All correspondence and communications – electronic or otherwise – between any LHA official and any Lakewood City employee or official with respect to any proposal submitted by Surgical Development Partners regarding the Lakewood Hospital or its assets during 2014, 2015 and 2016. This request includes any correspondence or communication between any ex officio LHA official and any employee or official of the Cleveland Clinic and LHA.

**RESPONSE:**

136. All correspondence and communications – electronic or otherwise – between any Cleveland Clinic official and any Lakewood City employee or official regarding any filing under the Hart-Scott-Rodino Act.

**RESPONSE:**

137. All correspondence and communications – electronic or otherwise – between any LHA official and any Lakewood City employee or official regarding any filing under the Hart-Scott-Rodino Act.

**RESPONSE:**

138. The complete personnel file of Bryce Sylvester.

**RESPONSE:**

139. The complete personnel file for Michele Nochta.

**RESPONSE:**

140. The complete personnel file for Dru Siley ("Siley").

**RESPONSE:**

141. The electronic calendar of Siley from January 1, 2013, through the date of the response.

**RESPONSE:**

142. All correspondence and communications – electronic or otherwise – to or from Siley and any potential purchaser and/or developer of the Lakewood Hospital site January 1, 2013, through the date of the response.

**RESPONSE:**

143. All correspondence and communications – electronic or otherwise – to or from Bryce Sylvester and any potential purchaser and/or developer of the Lakewood Hospital site January 1, 2013, through the date of the response.

**RESPONSE:**

144. The electronic calendar of Colin McEwen from January 1, 2013, through the date of the response.

**RESPONSE:**

145. The electronic calendar of Jennifer Pae ("Pae") from January 1, 2013, through the date of the response.

**RESPONSE:**

146. All correspondence and communications – electronic or otherwise – between the law firm of Thompson Hine, or its attorneys, and any LHA representative.

**RESPONSE:**

147. All correspondence and communications – electronic or otherwise – between Thompson Hine, or its attorneys, and any CCF representative concerning the City of Lakewood and/or Lakewood Hospital.

**RESPONSE:**

148. All correspondence and communications – electronic or otherwise – between Thompson Hine, or its attorneys, and Jim Wooley (“Wooley”) concerning the City of Lakewood and/or Lakewood Hospital.

**RESPONSE:**

149. All correspondence and communications – electronic or otherwise – between Law Director Butler and Wooley concerning the City of Lakewood and/or Lakewood Hospital.

**RESPONSE:**

150. All correspondence and communications – electronic or otherwise – between Robert Cahill and Wooley concerning the City of Lakewood and/or Lakewood Hospital.

**RESPONSE:**

151. All correspondence and communications – electronic or otherwise – between Law Director Butler and any LHA official.

**RESPONSE:**

152. All correspondence and communications – electronic or otherwise – between David Anderson and Tom Gable.

**RESPONSE:**

153. A copy of the “written report” of the Select Committee referred to on page 5 of the minutes of LHA Special Meeting of the Board of Trustees, dated December 12, 2013.

**RESPONSE:**

154. All records, emails, notes, and communications – electronic or otherwise – of any statement presented at any LHA meeting regarding compliance with state or federal antitrust laws during the years 2013, 2014 and 2015.

**RESPONSE:**

155. All records, emails, notes, and communications – electronic or otherwise – of any notes made at any LHA meeting regarding compliance with the state or federal antitrust laws during the years 2013, 2014 and 2015.

**RESPONSE:**

156. All correspondence and communications – electronic or otherwise – regarding compliance with state or federal antitrust laws during the years 2013, 2014 and 2015.

**RESPONSE:**

157. All records, emails, notes, and communications – electronic or otherwise – documenting Richard Uldricks (“Uldricks”) use of any City of Lakewood computer to access the websites LakewoodCitizen.com, Lakewood Citizen Facebook, Lakewoodbuzz.com and/or Lakewoodoserver.com/forum.

**RESPONSE:**

158. All correspondence and communications – electronic or otherwise – between Colin McEwen (“McEwen”) and any member of the Lakewood City Council from December 1, 2015, through December 22, 2015.

**RESPONSE:**

159. All records, emails, notes, and communications – electronic or otherwise – regarding the statements given by McEwen to any member of the Lakewood City Council on December 6, 2015, and/or December 7, 2015.

**RESPONSE:**

160. All records, emails, notes, and communications – electronic or otherwise – regarding statements given by Eileen Korey, Mayor Summers, and/or any member of the Lakewood City Council on December 6, 2015 and/or December 7, 2015.

**RESPONSE:**

161. The first quarter 2016 financial statements for LHA.

**RESPONSE:**

162. All records, emails, notes, and communications – electronic or otherwise – documenting Pae's use of any City of Lakewood computer to access the websites Build Lakewood Facebook site, Save Lakewood Hospital Facebook site, LakewoodCitizen.com, Lakewood Citizen Facebook site, Lakewoodbuzz.com and/or Lakewoodoserver.com/forum.

**RESPONSE:**

163. All records, emails, notes, and communications – electronic or otherwise – documenting Law Director Butler's use of any City of Lakewood computer to access the websites Build Lakewood Facebook site, Save Lakewood Hospital Facebook site, LakewoodCitizen.com, Lakewood Citizen Facebook site, Lakewoodbuzz.com and/or Lakewoodoserver.com/forum.

**RESPONSE:**

164. All records, emails, notes, and communications – electronic or otherwise – documenting McEwen's use of any City of Lakewood computer to access the websites Build Lakewood Facebook site, Save Lakewood Hospital Facebook site, LakewoodCitizen.com, Lakewood Citizen Facebook site, Lakewoodbuzz.com and/or Lakewoodoserver.com/forum.

**RESPONSE:**

165. All records, emails, notes, and communications – electronic or otherwise – documenting Bruce Sylvester's use of any City of Lakewood computer to access the websites Build Lakewood Facebook site, Save Lakewood Hospital Facebook site, LakewoodCitizen.com, Lakewood Citizen Facebook site, Lakewoodbuzz.com and/or Lakewoodoserver.com/forum.

**RESPONSE:**



166. All records, emails, notes, and communications – electronic or otherwise – documenting Mayor Summers’ use of any City of Lakewood computer to access the websites Build Lakewood Facebook site, Save Lakewood Hospital Facebook site, LakewoodCitizen.com, Lakewood Citizen Facebook site, Lakewoodbuzz.com and/or Lakewoodoserver.com/forum.

**RESPONSE:**

167. All records, emails, notes, and communications – electronic or otherwise – documenting Siley’s use of any City of Lakewood computer to access the websites Build Lakewood Facebook site, Save Lakewood Hospital Facebook site, LakewoodCitizen.com, Lakewood Citizen Facebook site, Lakewoodbuzz.com and/or Lakewoodoserver.com/forum.

**RESPONSE:**

168. All records, emails, notes, and communications – electronic or otherwise – regarding any communication or interaction by and/or among Senator Mike Skindell, MetroHealth, any employee of MetroHealth, Mayor Summers and/or any of them from January 15, 2015 through the date of this request.

**RESPONSE:**

169. A copy of the “updated meeting schedule” referred to Law Director Butler in his July 17, 2015 email to City Council at 3:37PM as being provided by Monique. Specifically, the “tightened” scheduled referred to under the heading “Master Agreement” in that email.

**RESPONSE:**

170. All records, correspondence, emails and communications – electronic or otherwise – from Law Director Butler to City Council members, or to any one City Council member, from March 1, 2015, through September 20, 2016, containing the term “communications strategy.”

**RESPONSE:**

171. All records, correspondence, emails and communications – electronic or otherwise – from Law Director Butler to City Council from January 14, 2015 through September 20, 2016 containing the subject “Re: Hospital matters: a general update.”

**RESPONSE:**

172. All records, correspondence, emails and communications – electronic or otherwise – from any City Council member to any other City Council member from March 1, 2015, through September 20, 2016 containing the term “communications strategy,” including those emails in response to or discussing Law Director Butlers’ emails to City Council dated June 22, 2015, at 12:22PM, July 10, 2015, at 2:39PM, and July 17, 2015, at 3:37 PM.

**RESPONSE:**

173. All records, correspondence, emails and communications – electronic or otherwise – from any City Council member to any other City Council member from March 1, 2015, through September 20, 2016, which forwards an email containing the term “communications strategy,” including, but not limited to, those in response to, or discussing, Law Director Butler’s emails to City Council dated June 22, 2015, at 12:22PM, July 10, 2015, at 2:39PM, and July 17, 2015, at 3:37 PM.

**RESPONSE:**

174. All records, correspondence, emails and communications – electronic or otherwise – from Law Director Butler to City Council members, or any one City Council member, from March 1, 2015, through September 20, 2016, containing the term “master agreement,” including, but not limited to, those similar to Law Director Butler’s emails dated June 22, 2015, at 12:22PM, July 10, 2015 at 2:39PM, and July 17, 2015, at 3:37 PM.

**RESPONSE:**

175. All records, correspondence, emails and communications – electronic or otherwise – from any City Council member to any other City Council member from March 1, 2015, through September 20, 2016, containing the term “master agreement,” including, but not limited to, those in response to or discussing Law Director Butler’s emails to City Council dated June 22, 2015 at 12:22PM, July 10, 2015, at 2:39PM, and July 17, 2015, at 3:37 PM.

**RESPONSE:**

176. All records, correspondence, emails and communications – electronic or otherwise – from any City Council member to any other City Council member from March 1, 2015, through December 7, 2015, containing the term “draft definitive agreement.”

**RESPONSE:**

177. All records, correspondence, emails and communications – electronic or otherwise – from any City Council member to any other City Council member from March 1, 2015, through December 7, 2015, containing the term “new definitive agreement”

**RESPONSE:**

178. All email responses or replies to Law Director Butler from any member of City Council from March 1, 2015, through December 7, 2015, which are responses or replies to Law Director Butler’s email to City Council dated July 17, 2015, at 3:37 PM.

**RESPONSE:**

179. All email responses or replies to Law Director Butler from any member of City Council from March 1, 2015, through December 7, 2015, which are responses or replies to Law Director Butler’s email to City Council dated July 10, 2015, at 2:39 PM.

**RESPONSE:**

180. All email responses or replies to Law Director Butler from any member of City Council from March 1, 2015, through December 7, 2015, which are responses or replies to Law Director Butler’s email to City Council dated June 22, 2015, at 12:22 PM.

**RESPONSE:**

181. All email responses or replies to Law Director Butler from any City of Lakewood employee which are responses or replies to Law Director Butler’s email to City Council dated July 17, 2015, at 3:37 PM.

**RESPONSE:**

182. All email responses or replies to Law Director Butler from any City of Lakewood employee which are responses or replies to Law Director Butler’s email to City Council dated July 10, 2015, at 2:39 PM.

**RESPONSE:**

183. All email responses or replies to Law Director Butler from any City of Lakewood employee which are responses or replies to Law Director Butler's email to City Council dated June 22, 2015, at 12:22 PM.

**RESPONSE:**

184. All records, correspondence, emails and communications – electronic or otherwise – containing the names of the “new people involved” in the “communications strategy” and/or “initiative” referred to in Law Director Butler's email to City Council dated July 10, 2015, at 2:39 PM.

**RESPONSE:**

185. All records, correspondence, emails and communications – electronic or otherwise – containing the “emerging ideas” referred to in Law Director Butler's email to City Council dated July 10, 2015, at 2:39 PM.

**RESPONSE:**

186. All records, correspondence, emails and communications – electronic or otherwise containing, or referring to, Siley's “progress of visioning the hospital site” referred to in Law Director Butler's email to City Council dated July 10, 2015, at 2:39 PM.

**RESPONSE:**

187. All records, correspondence, emails and communications – electronic or otherwise – of “the proposal” referred to in Law Director Butler's email to City Council dated July 10, 2015, at 2:39 PM.

**RESPONSE:**

188. All records, correspondence, emails and communications – electronic or otherwise – containing the “follow-up email from [Law Director Butler] later that attaches the documents [Law Director Butler]” referenced in the second to last sentence of Law Director Butler's email to City Council dated July 10, 2015, at 2:39 PM.

**RESPONSE:**

189. All “documents [Law Director Butler] reference[d]” in Law Director Butler’s email to City Council dated July 10, 2015, at 2:39 PM.

**RESPONSE:**

190. All drafts of the “‘facts as we know them’ piece” which were “circulated” to City Council and referred to in Law Director Butler’s email to City Council July 17, 2015, at 3:37 PM.

**RESPONSE:**

191. All drafts of the document that were provided to City Council which document was subsequently placed on the web page: <http://www.onelakewood.com/frequently-asked-questions-about-lakewood-hospital/>. These drafts were specifically referred to in Law Director Butler’s email to City Council on July 17, 2015, at 3:37 PM under the heading “Communications Strategy.”

**RESPONSE:**

192. All drafts of the document that were provided to City Council which document was subsequently placed on the web page <http://www.onelakewood.com/frequently-asked-questions-about-lakewood-hospital/>.

**RESPONSE:**

193. All drafts of the document that were provided to City Council which document was subsequently submitted by Law Director Butler to the Lakewood Observer and posted to the Lakewood Observer website: <http://lakewoodobserver.com/read/2015/09/15/qa-with-the-citys-law-director-about-lakewood-hospital>. These drafts were specifically referred to in Law Director Butler’s email to City Council July 17, 2015, at 3:37 PM.

**RESPONSE:**

194. All drafts of the document that was provided to City Council which document was subsequently submitted by Law Director Butler to the Lakewood Observer and posted to the Lakewood Observer website: <http://lakewoodobserver.com/read/2015/09/15/qa-with-the-citys-law-director-about-lakewood-hospital>.

**RESPONSE:**

195. All records, emails, notes, and communications – electronic or otherwise – of any discussion among Council members, Law Director Butler and /or any city employee about the print or online version of the article on page 5 the Lakewood Observer dated September 15, 2015  
[http://media.lakewoodobserver.com/issue\\_pdfs/Observer\\_Vol\\_11\\_Issue\\_19.pdf](http://media.lakewoodobserver.com/issue_pdfs/Observer_Vol_11_Issue_19.pdf) and posted as follows: <http://lakewoodobserver.com/read/2015/09/15/citys-rights-will-be-determined-by-the-court>.

**RESPONSE:**

196. All records of the “updates to the master agreement” referred to in Law Director Butler’s email to City Council dated June 22, 2015, at 12:22 PM.

**RESPONSE:**

197. All records of the “strategic negotiating points” referred to in Law Director Butler’s email to City Council dated July 17, 2015, at 3:37 PM, which were provided by David Anderson to any member of City Council or city employee from July 17, 2015, to December 10, 2015.

**RESPONSE:**

198. All records of the “strategic negotiating points” referred to in Law Director Butler’s email to City Council dated July 17, 2015, at 3:37 PM, which were provided by Cindy Marx to any member of City Council or city employee from July 17, 2015, to December 10, 2015.

**RESPONSE:**

199. All records of the “strategic negotiating points” referred to in Law Director Butler’s email to City Council dated July 17, 2015, at 3:37 PM, which were provided by Shawn Juris to any member of City Council or city employee from July 17, 2015, to December 10, 2015.

**RESPONSE:**

200. All records of the “strategic negotiating points” referred to in Law Director Butler’s email to City Council dated July 17, 2015, at 3:37 PM, which were provided by Madigan to any member of City Council or city employee from July 17, 2015, to December 10, 2015.

**RESPONSE:**

201. All records of the “strategic negotiating points” referred to in Law Director Butler’s email to City Council dated July 17, 2015, at 3:37 PM, which were provided by Ryan Nowlin to any member of City Council or city employee from July 17, 2015, to December 10, 2015.

**RESPONSE:**

202. All records of the “strategic negotiating points” referred to in Law Director Butler’s email to City Council dated July 17, 2015, at 3:37 PM, which were provided by Bullock to any member of City Council or city employee from July 17, 2015, to December 10, 2015.

**RESPONSE:**

203. All records of the “strategic negotiating points” referred to in Law Director Butler’s email to email to City Council dated July 17, 2015, at 3:37 PM, which were provided by Sam O’Leary (“O’Leary”) to any member of City Council or city employee from July 17, 2015, to December 10, 2015.

**RESPONSE:**

204. All correspondence and communications – electronic or otherwise – from Robyn Smyers and/or any Thompson Hine attorney to Paul Calorusso and/or John Bodine from June 1, 2015, through December 1, 2015, limited to the services Huron Consulting LLC rendered to the City of Lakewood in 2015.

**RESPONSE:**

205. All correspondence and communications – electronic or otherwise – from John Bodine and/or Paul Calorusso to Robyn Smyers and/or any Thompson Hine attorney from June 1, 2015, through December 1, 2015, limited to the services Huron Consulting LLC services rendered to the City of Lakewood in 2015.

**RESPONSE:**

206. The electronic calendar of Law Director Butler from January 1, 2010, through the date of the response to this request.

**RESPONSE:**

207. The electronic calendar of Mayor Summers from January 1, 2010 through December 31, 2013.

**RESPONSE:**

208. All correspondence and communications – electronic or otherwise – to or from Law Director Butler and any member of City Council in the months of November and December 2015.

**RESPONSE:**

209. All records, emails, notes, and communications – electronic or otherwise – regarding Mayor Summers' resignation as a trustee of the LHA.

**RESPONSE:**

210. All records, emails, notes, and communications – electronic or otherwise – of Bullock's resignation or termination as a trustee of LHA.

**RESPONSE:**

211. All records, emails, notes, and communications – electronic or otherwise – of Madigan's resignation or termination as a trustee of LHA.

**RESPONSE:**

212. All records, emails, notes, and communications – electronic or otherwise – regarding Mayor Summers' Thursday, October 22, 2015. 4:15PM - 4:45PM private meeting referred to on his calendar.

**RESPONSE:**



213. All records, emails, notes, and communications – electronic or otherwise – of Mayor Summers' Thursday, October 22, 2015 5:30PM - 7:00PM private meeting referred to on his calendar.

**RESPONSE:**

214. All records, emails, notes, minutes and communications of any meeting or discussion of any "communications strategy" by or among members of City Council from March 1, 2015, though the date of your response to this request.

**RESPONSE:**

215. The records of training provided to Dan O'Malley as a member of City Council pursuant to R.C. 109.43(B) and 149.43(E)(1) that require that officials elected to local office receive three hours of Public Records training for each term of office.

**RESPONSE:**

216. The records of training provided to Shawn Juris as a member of City Council pursuant to R.C. 109.43(B) and 149.43(E)(1) that require that officials elected to local office receive three hours of Public Records training for each term of office.

**RESPONSE:**

217. The records of training provided to Cindy Marx as a member of City Council pursuant to R.C. 109.43(B) and 149.43(E)(1) that require that officials elected to local office receive three hours of Public Records training for each term of office.

**RESPONSE:**

218. The records of training provided to David Anderson as a member of City Council pursuant to R.C. 109.43(B) and 149.43(E)(1) that require that officials elected to statewide or local office receive three hours of Public Records training for each term of office.

**RESPONSE:**

219. The records of training provided to O'Leary as a member of City Council pursuant to R.C. 109.43(B) and 149.43(E)(1) that require that officials elected to local office receive three hours of Public Records training for each term of office.

**RESPONSE:**

220. The records of training provided to John Litton as a member of City Council pursuant to R.C. 109.43(B) and 149.43(E)(1) that require that officials elected to local office receive three hours of Public Records training for each term of office.

**RESPONSE:**

221. The records of training provided to Ryan Nowlin as a member of City Council pursuant to R.C. 109.43(B) and 149.43(E)(1) that require that officials elected to local office receive three hours of Public Records training for each term of office.

**RESPONSE:**

222. The records of training provided to Madigan as a member of City Council pursuant to R.C. 109.43(B) and 149.43(E)(1) that require that officials elected to statewide or local office receive three hours of Public Records training for each term of office.

**RESPONSE:**

223. The records of training provided to Law Director Butler as a member of City Council pursuant to R.C. 109.43(B) and 149.43(E)(1) that require that officials elected to local office receive three hours of Public Records training for each term of office.

**RESPONSE:**

224. The records of training provided to Bullock as a member of City Council pursuant to R.C. 109.43(B) and 149.43(E)(1) that require that officials elected to statewide or local office receive three hours of Public Records training for each term of office.

**RESPONSE:**

225. The records of training provided to Mayor Summers as a member of City Council and as Mayor of Lakewood pursuant to R.C. 109.43(B) and 149.43(E)(1) that require that officials elected to statewide or local office receive three hours of Public Records training for each term of office.

**RESPONSE:**

226. Records of certifications by the Ohio Attorney General of the training received R.C. 109.43(B) and 149.43(E)(1) for City of Lakewood elected officials from January 1, 2009 through September, 2016.

**RESPONSE:**

227. Records of the City of Lakewood income tax collections for January 1, 2015 through August 31, 2015.

**RESPONSE:**

228. Records of the City of Lakewood income tax collections for January 1, 2016, through August 31, 2016.

**RESPONSE:**

229. All records, emails, notes, and communications – electronic or otherwise – including spreadsheets or calculations that estimate or establish the economic and/or financial value of the Letter of Intent or the Master Agreement.

**RESPONSE:**

230. All records, emails, notes, and communications – electronic or otherwise – including spreadsheets or calculations created by or provided to any public relations firm that estimate or establish the economic and/or financial value of the Letter of Intent or the Master Agreement.

**RESPONSE:**

231. All records, emails, notes, and communications – electronic or otherwise –including spreadsheets or calculations used by any city employee or elected city official for any purpose that estimate or establish the economic and/or financial value of the Letter of Intent or the Master Agreement.

**RESPONSE:**

232. All records, emails, notes, and communications – electronic or otherwise –including spreadsheets or calculations created by or used by City of Lakewood employees Pae and/or McEwen for any purpose that estimate or establish the economic and/or financial value of the Letter of Intent or the Master Agreement.

**RESPONSE:**

233. All records, emails, notes, and communications – electronic or otherwise –including spreadsheets or calculation created by or used by McEwen or Barbara Paynter for a Press Release issued on January 15, 2015, about Lakewood Hospital that estimate or establish the economic and/or financial value of the Letter of Intent.

**RESPONSE:**

234. All records, emails, notes, and communications – electronic or otherwise – of any communication between any city employee or elected city official that concerns the estimation of the economic and/or financial value of the Letter of Intent or the Master Agreement and any economic development benefits from those transactions.

**RESPONSE:**

235. All records, emails, notes, and communications – electronic or otherwise – including spreadsheets or calculations created or used by any city employee limited to the economic development functions or department of the City of Lakewood that estimate or establish the economic and/or financial value of the Letter of Intent or the Master Agreement and any economic development benefits from such transactions.

**RESPONSE:**

236. All records, emails, notes, and communications – electronic or otherwise – created by or used by any City employee or elected city official that describe, discuss or refer to any matter related to the Ohio Ethics Commission limited to Lakewood Hospital, LHA, Lakewood Hospital Foundation, the Letter of Intent, and/or the Master Agreement.

**RESPONSE:**

237. All records, emails, notes, and communications – electronic or otherwise – created by or used by any City employee or elected city official that describe, discuss or refer to any matter related to the Ohio Auditor of State limited to Lakewood Hospital, Lakewood Hospital Association, Lakewood Hospital Foundations, the Letter of Intent, and/or the Master Agreement.

**RESPONSE:**

238. All records, emails, notes, and communications – electronic or otherwise – created by or used by any City of Lakewood employee or elected city official that describe, discuss or refer to any legal complaints, legal process or legal action to be taken or actually taken against any person within the last year. This request is limited to legal actions where the City of Lakewood is not a party.

**RESPONSE:**

239. All records, emails, notes, and communications – electronic or otherwise – created by or used by any City of Lakewood employee or elected city official that describe, discuss or refer to the case of *Uldricks v. O'Bryan*, Cuyahoga No. CV-16-864146 (Judge Michael P. Donnelly). This request is limited to legal actions where the City of Lakewood is not a party.

**RESPONSE:**

240. All records, emails, notes, and communications – electronic or otherwise – from any city employee or elected city official to any Cuyahoga County employee or Cuyahoga County elected official regarding the Cleveland Clinic, the Lakewood Hospital Foundation or the Lakewood Hospital Foundation from January 1, 2014, through September 16, 2016.

**RESPONSE:**

241. All records that substantiate the detail of the \$11,842,752 of 2015 “Operating Grants and Contributions” on page 12 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015: [https://ohioauditor.gov/auditsearch/Reports/2016/City\\_Lakewood\\_15-Cuyahoga.pdf](https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf).

**RESPONSE:**

242. All records that substantiate the detail of the \$5,459,955 of 2014 “Operating Grants and Contributions” on page 12 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015: [https://ohioauditor.gov/auditsearch/Reports/2016/City\\_Lakewood\\_15-Cuyahoga.pdf](https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf).

**RESPONSE:**

243. All records that substantiate the detail of the \$5,553,183 of 2015 “Capital Grants and Contributions” on page 12 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015: [https://ohioauditor.gov/auditsearch/Reports/2016/City\\_Lakewood\\_15-Cuyahoga.pdf](https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf).

**RESPONSE:**

244. All records that substantiate the detail of the \$1,215,014 of 2014 “Capital Grants and Contributions” on page 12 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015: [https://ohioauditor.gov/auditsearch/Reports/2016/City\\_Lakewood\\_15-Cuyahoga.pdf](https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf).

**RESPONSE:**

245. All records that substantiate the \$3,286,870 increase that was “due to capital contributions from the master agreement with Lakewood Hospital Association” referred to on page 14 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015: [https://ohioauditor.gov/auditsearch/Reports/2016/City\\_Lakewood\\_15-Cuyahoga.pdf](https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf).

**RESPONSE:**

246. All records that substantiate the amount of “capital contributions from the master agreement with Lakewood Hospital Association” referred to on page 14 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015:  
[https://ohioauditor.gov/auditsearch/Reports/2016/City\\_Lakewood\\_15-Cuyahoga.pdf](https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf).

**RESPONSE:**

247. All records that substantiate the \$6,382,797 increase that was “due to receipts from the sale of Lakewood Hospital to Cleveland Clinic as recognition of early termination of lease agreements” referred to on page 14 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015:  
[https://ohioauditor.gov/auditsearch/Reports/2016/City\\_Lakewood\\_15-Cuyahoga.pdf](https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf).

**RESPONSE:**

248. All records that substantiate the “receipts from the sale of Lakewood Hospital to Cleveland Clinic as recognition of early termination of lease agreements” referred to on page 14 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015:  
[https://ohioauditor.gov/auditsearch/Reports/2016/City\\_Lakewood\\_15-Cuyahoga.pdf](https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf).

**RESPONSE:**

249. All records that substantiate the receipt of the “\$6.6 million as recognition of early termination of the 1996 lease” as an asset “transferred to the City from (LHA) on December 22, 2015” referred to on page 19 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015  
[https://ohioauditor.gov/auditsearch/Reports/2016/City\\_Lakewood\\_15-Cuyahoga.pdf](https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf).

**RESPONSE:**

250. All records that substantiate the detail of that portion of the \$11,770,174 of revenues of the Lakewood Hospital Fund that were “due to receipts from the sale of Lakewood Hospital to Cleveland Clinic as recognition of early termination of the 1996 lease agreements” referred to on page 16 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015  
[https://ohioauditor.gov/auditsearch/Reports/2016/City\\_Lakewood\\_15-Cuyahoga.pdf](https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf).

**RESPONSE:**

251. All records that substantiate that “[o]n December 22, 2015 the city received title from LHA for the medical office building located at 14601 Detroit Avenue, the parking garage located at 1422 Belle Avenue and the Community Health Center located at 1450 Belle Avenue” referred to on page 88 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015  
[https://ohioauditor.gov/auditsearch/Reports/2016/City\\_Lakewood\\_15-Cuyahoga.pdf](https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf).

**RESPONSE:**

252. All records that substantiate that “LHA returned control of seven residential properties on Belle Avenue and St. Charles Avenue to the City of Lakewood and these properties are recorded as an asset held for resale at year end.” referred to on page 88 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015  
[https://ohioauditor.gov/auditsearch/Reports/2016/City\\_Lakewood\\_15-Cuyahoga.pdf](https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf).

**RESPONSE:**

253. All title reports and title insurance policies created or received in 2015 or 2016 for the medical office building located at 14601 Detroit Avenue, the parking garage located at 1422 Belle Avenue and the Community Health Center located at 1450 Belle Avenue.”

**RESPONSE:**



254. All title reports or title insurance policies created or received in 2015 or 2016 evidencing “LHA returned control of seven residential properties on Belle Avenue and St. Charles Avenue to the City and these properties are recorded as an asset held for resale at year end.” referred to on page 88 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015 [https://ohioauditor.gov/auditsearch/Reports/2016/City\\_Lakewood\\_15-Cuyahoga.pdf](https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf).

**RESPONSE:**

255. All records that substantiate that “the City will retain ownership of the existing Lakewood Hospital site and all other property currently leased to LHA” referred to on page 88 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015 [https://ohioauditor.gov/auditsearch/Reports/2016/City\\_Lakewood\\_15-Cuyahoga.pdf](https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf).

**RESPONSE:**

256. All records that substantiate that the “existing Lakewood Hospital site and all other property currently leased to LHA” referred to on page 88 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015 [https://ohioauditor.gov/auditsearch/Reports/2016/City\\_Lakewood\\_15-Cuyahoga.pdf](https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf) is listed as an asset on the Independent Auditor’s Report in 2014 and 2015.

**RESPONSE:**

257. All records that substantiate the \$9,051,162 of “Actual” “Charges for Services” referred to on page 88 of the Independent Auditor’s report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015 [https://ohioauditor.gov/auditsearch/Reports/2016/City\\_Lakewood\\_15-Cuyahoga.pdf](https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf).

**RESPONSE:**

258. All records that substantiate or reconcile the discrepancy between the \$9,070,118 of “Total Revenues” referred to on page 88 of the Independent Auditor’s Report and the total revenues of \$11,770,174 referred to on page 16 of the Independent Auditor’s Report.

**RESPONSE:**

259. The list or schedule of property substantiating the \$6,217,842 of “Land” on page 18 of the Independent Auditor’s report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015  
[https://ohioauditor.gov/auditsearch/Reports/2016/City\\_Lakewood\\_15-Cuyahoga.pdf](https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf).

**RESPONSE:**

260. The list or schedule of property substantiating the total 2015 “Land Improvements” of \$6,240,503 on page 18 of the Independent Auditor’s report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015 [https://ohioauditor.gov/auditsearch/Reports/2016/City\\_Lakewood\\_15-Cuyahoga.pdf](https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf).

**RESPONSE:**

261. The list or schedule of property substantiating the total 2014 “Land Improvements” of \$3,347,296 on page 18 of the Independent Auditor’s report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015 [https://ohioauditor.gov/auditsearch/Reports/2016/City\\_Lakewood\\_15-Cuyahoga.pdf](https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf).

**RESPONSE:**

262. The list or schedule of property substantiating the total 2015 “Buildings and Improvements” of \$24,914,353 on page 18 of the Independent Auditor’s report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015  
[https://ohioauditor.gov/auditsearch/Reports/2016/City\\_Lakewood\\_15-Cuyahoga.pdf](https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf).

**RESPONSE:**

263. The list or schedule of property substantiating the total 2014 “Buildings and Improvements” of \$23,374,641 on page 18 of the Independent Auditor’s report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015  
[https://ohioauditor.gov/auditsearch/Reports/2016/City\\_Lakewood\\_15-Cuyahoga.pdf](https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf).

**RESPONSE:**

264. All records, emails, notes, and communications – electronic or otherwise – from any city employee or elected city official to Uldricks from May 13, 2016 to September 20, 2016.

**RESPONSE:**

265. All records, emails, notes, and communications – electronic or otherwise – from any city employee or elected city official to Uldricks regarding the substance or the content of the following post: <http://www.lakewoodcitizen.com/?s=nastiness>.

**RESPONSE:**

266. All records of use of public computers by Uldricks.

**RESPONSE:**

267. All records of use of public computers by Richard Uldricks to create and post the following: <http://www.lakewoodcitizen.com/?s=nastiness>

**RESPONSE:**

Respectfully submitted,



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Matthew John Markling (0068095) Lead Attorney  
Patrick Vrobel (0082832)  
Sean Koran (0085539)  
McGown & Markling Co., L.P.A.  
1894 North Cleveland-Massillon Road  
Akron, OH 44333  
Telephone: 1.330.670.0005  
Facsimile: 1.330.670.0002  
Email: mmarkling@mcgownmarkling.com  
pvrobel@mcgownmarkling.com  
skoran@mcgownmarkling.com

*Attorneys for Relator Brian J. Essi*

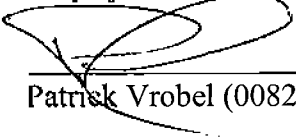
**CERTIFICATE OF SERVICE**

I hereby certify that on November 1, 2016, a copy of the foregoing was sent by regular,  
U.S. mail, to the following:

Kevin M. Butler, Law Director  
Law Offices of Kevin M. Butler  
2401 Superior Viaduct  
Cleveland, Ohio 44113

John T. McLandrich  
34305 Solon Road  
100 Franklin's Row  
Cleveland, Ohio 44139

*Attorneys for Respondent City of Lakewood*

  
\_\_\_\_\_  
Patrick Vrobel (0082832)

STATE OF OHIO                                )  
  )  
COUNTY OF CUYAHOGA                    )  
  )

ss: **OATH TO DISCOVERY RESPONSES**

I, KEVIN M. BUTLER, being first duly sworn, according to law, depose and state that the foregoing answers to the discovery requests are true to the best of my knowledge and belief.

\_\_\_\_\_  
KEVIN M. BUTLER

**SWORN AND SUBSCRIBED BEFORE ME**, a Notary Public, this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Notary Public

**Patrick Vrobel**

---

**From:** McLandrich, John <JTM@mrrlaw.com>  
**Sent:** Monday, February 06, 2017 4:59 PM  
**To:** Matt Markling; Nouredine, Alix M.  
**Cc:** Patrick Vrobel; Sean Koran  
**Subject:** RE: Essi, Brian v. City of Lakewood (Claim No. TNT-0136976) (File #: 160233)

Matt:

As far as the court goes, your motion to amend has not been opposed by us. I do not know why the court has not ruled. If you want to send me a proposed document to review I will review it.

As far as settlement goes, of course our inquiry was in good faith. However, there are serious outstanding issues. I invited you to send me authority for the proposition that the statutory penalty was per request versus for the group of requests covered in the mandamus action. I have not seen any authority.

My proposal and the discovery contemplate the production of additional documents. This has been delayed by the nature of the requests in both the public records and the discovery requests. We continue to struggle with the requests. I do apologize for the delay. I do not have a date certain for you. We will commit to renewing our efforts to answer the requests, both public and discovery as soon as possible.

With regard to the request for fees, I know you say your fees are "always reasonable", but that does not quantify them for me to evaluate or communicate.

I hope to be back to you with something more concrete. Please send the case law and fees to date so we can at least address those issues while we continue to try to define what records are being requested and determine if they exist and are subject to production.

Sincerely, John

**From:** Matt Markling [mailto:mmarkling@mcgownmarkling.com]  
**Sent:** Monday, February 06, 2017 2:34 PM  
**To:** Nouredine, Alix M. <ANouredine@mrrlaw.com>; McLandrich, John <JTM@MRRLAW.com>  
**Cc:** Patrick Vrobel <PVrobel@mcgownmarkling.com>; Sean Koran <SKoran@mcgownmarkling.com>; Matt Markling <mmarkling@mcgownmarkling.com>  
**Subject:** RE: Essi, Brian v. City of Lakewood (Claim No. TNT-0136976) (File #: 160233)  
**Importance:** High

John and Alix,

As you know, our client demanded swift discovery. Nonetheless, as a professional courtesy, we provided your client with a very reasonable 60-day extension to respond to our client's first set of requests for production of documents (see below). The deadline to respond to that deadline came and went on January 30, 2017, and was answered with complete silence by your client. I ask that you extend us the professional courtesy of advising us of when you plan on responding to the outstanding discovery requests so we can avoid judicial intervention.

As you also know, our respective clients left mediation with an agreement that our client would amend his complaint and that the parties would engage in discovery. In the attached communication, we asked that you join us in

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memorializing this mediation agreement as there does not appear to be any court record memorializing the same. As with your discovery responses, this simple request to memorialize our mediation agreement has been answered with complete silence. I ask that you extend us the professional courtesy of advising the court of our mediation agreement – either by joining me in contacting the staff attorney or filing a joint notice – so we can avoid judicial intervention.

As you also know, our client did not (and does not) trust that your client's settlement demand of January 12, 2017, was submitted in good faith. We assured our client that you were not simply wasting our time or engaging in undue delay. While we disagree as to the calculation of statutory damages, our client has responded to your client with his willingness to reach an amicable resolution within the broad framework outlined by your client. I have also had several conversations with John – via telephone and in person – affirming our client's willingness to reach an amicable resolution within the broad framework of your client's own settlement demand. Our email exchange regarding settlement is attached. I ask that you extend us the professional courtesy of advising us either (1) that your client has withdrawn its settlement demand or (2) that your client plans to proceed to bring this matter to an amicable resolution sooner, rather than later.

Allow this communication to memorialize that the delay in discovery and settlement does not rest upon my client's shoulders.

Our intent is to work with you in addressing the above matters in a professional and speedy manner. I ask that this same professional courtesy be extended to us.

I look forward to hearing from you today.

Matt

**Matthew John Markling**

Telephone: 1.330.670.0005, Ext. 102

Mobile: 1.216.570.2584

[www.mcgownmarkling.com](http://www.mcgownmarkling.com)

**LinkedIn** profile

**McGown  
Markling**  
ATTORNEYS AT LAW

**From:** Nouredine, Alix M. [<mailto:ANouredine@mrrlaw.com>]

**Sent:** Monday, November 28, 2016 4:34 PM

**To:** Patrick Vrobel <[PVrobel@mcgownmarkling.com](mailto:PVrobel@mcgownmarkling.com)>

**Subject:** Re: Essi, Brian v. City of Lakewood (Claim No. TNT-0136976) (File #: 160233)

Patrick:

Please allow this email to confirm our conversation in which you agreed to a 60-day extension to respond to Relator's first set of requests for production of documents. Thank you for the courtesy.

**Alix M. Nouredine**

Associate Attorney

Direct: 440.424.0020


[anouredine@mrrlaw.com](mailto:anouredine@mrrlaw.com)



**Cleveland Office**  
100 Franklin's Row  
34305 Solon Road  
Cleveland, OH 44139  
Phone: 440.248.7906  
Fax: 440.248.8861  
[www.mrrlaw.com](http://www.mrrlaw.com)



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