



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

**Court of Appeals**

**NOTICE OF**  
**May 23, 2017 09:22**

By: MATTHEW J. MARKLING 0068095

Confirmation Nbr. 1075208

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

CA 16 104659

vs.

CITY OF LAKEWOOD, OHIO

**Judge:**

**Pages Filed: 6**

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

V.

Respondent.

## ORIGINAL ACTION IN MANDAMUS

Electronically Filed 05/23/2017 09:22 / NOTICE / CA 16 104659 / Confirmation Nbr. 1075208 / CLAXY

1. Defendants Toby Cosgrove and the Cleveland Clinic Foundation, appeared and were represented by attorneys James R. Wooley and Tracy K. Stafford of Jones Day.
2. Defendants Lakewood Hospital Association and Thomas Gable, appeared and were represented by Jennifer Armstrong of McDonald Hopkins, L.L.C. and another attorney who was present but unknown to Essi.
3. Defendants Lakewood Hospital Foundation and Kenneth Haber, appeared and were represented by Walter F. Ehrnfelt of Waldheger Coyne.
4. Defendants Lakewood Mayor Michael Summers and the City of Lakewood, appeared and were represented by Robert E. Cahill of Sutter O'Connell Co.
5. Defendant Cleveland Clinic Foundation appeared and was represented by in-house legal counsel Michael Meehan.
6. Defendant Lakewood Hospital Foundation, appeared and was represented by its acting Secretary and in-house legal counsel, Michael Meehan.

*See* Essi Affidavit ¶ 3 (affirming the same).

In addition to simply attending the Guidelines Hearing on April 25, 2017, the following legal counsel spoke and made legal arguments in the instant case without having properly petitioned under Civ. R. 24 to intervene or otherwise file any proper notice appearance in accordance with the Ohio Rules of Civil Rules:

1. James R. Wooley argued that his clients, Toby Cosgrove and the Cleveland Clinic Foundation, have an interest in the case and the records that are the subject of the instant action.
2. Jennifer Armstrong argued that the records of her clients, Lakewood Hospital Association and Kenneth Haber, “are implicated” in the instant case.

3. Robert E. Cahill argued at length on behalf of his clients Mayor Michael Summers and the City of Lakewood about various matters including trial strategy in the taxpayer lawsuit.

Respectfully submitted,

/s/ Matthew John Markling

Matthew John Markling (0068095) Lead Counsel

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*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 May 23, 2017, to the following:

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*Attorneys for Respondent City of Lakewood, Ohio*

/s/ Matthew John Markling

Matthew John Markling (0068095)

**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**

STATE OF OHIO

COUNTY OF CUYAHOGA

SS: **AFFIDAVIT OF BRIAN J. ESSI**

I, BRIAN J. ESSI, having been first duly sworn, depose and state that I have personal knowledge of the facts and matters that follow:

1. I am over the age of 18 and not laboring under any disabilities.
2. I am an attorney at law and have been licensed in the State of Ohio and in good standing since 1984.
3. On April 25, 2017, I attended the Guidelines Hearing in the instant matter.

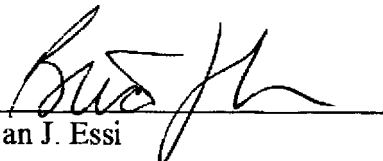
At the Guidelines Hearing, the following attorneys attended and introduced themselves and their co-counsel:

- a. James R. Wooley of Jones Day said he represented Toby Cosgrove and the Cleveland Clinic Foundation, and that attorney Tracy K. Stafford was his co-counsel.

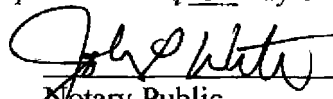
- b. Jennifer Armstrong of McDonald Hopkins, L.L.C. said she represented Lakewood Hospital Association and Thomas Gable, but I did not hear the name of her co-counsel who was in attendance.
  - c. Walter F. Ehrnfelt of Waldheger Coyne said he represented Lakewood Hospital Foundation and Kenneth Haber.
  - d. Robert E. Cahill of Sutter O'Connell Co. said he represented Lakewood Mayor Michael Summers and the City of Lakewood.
  - e. Michael Meehan ("Mr. Meehan") was also in attendance but did not state the reason for his presence. However, (1) I have attended Lakewood Hospital Foundation board of trustee meetings where Mr. Meehan has served as the Secretary for Lakewood Hospital Association; (2) Mr. Butler has represented to me during the course of this instant action that Mr. Meehan served as in house legal counsel for the Cleveland Clinic Foundation and as legal counsel for the Lakewood Hospital Association including providing legal advice to Mayor Summers as a trustee of Lakewood Hospital Association; and (3) Mr. Meehan has represented to me that a portion of his salary has been paid or otherwise allocated to expenses of Lakewood Hospital Association.
4. I reviewed the docket in the pending taxpayer lawsuit *Graham v. City of Lakewood*, Cuyahoga County No. CV 15 846212 (Judge John P. O'Donnell) which indicates that all of the attorneys referenced above (save Mr. Meehan) represent the respective party Defendants in the taxpayer lawsuit.

5. At the Guidelines Hearing on April 25, 2017, the following legal counsel spoke and made legal arguments in the instant:
- a. James R. Wooley argued that his clients, Toby Cosgrove and the Cleveland Clinic Foundation, have an interest in the case and the records that are the subject of the instant action.
  - b. Jennifer Armstrong argued that records of her clients, Lakewood Hospital Association and Kenneth Haber, "are implicated" in the instant case.
  - c. Robert E. Cahill argued at length on behalf of his clients Mayor Michael Summers and the City of Lakewood about matters including trial strategy the taxpayer lawsuit.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Brian J. Essi

SWORN TO BEFORE ME and subscribed in my presence this 18<sup>th</sup> day of May 2017.

  
\_\_\_\_\_  
Notary Public  
JOHN WITZEL, NOTARY, ACT 1.  
MY NOTARY ~~HAS~~ EXPIRY.  
NS