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Court of Common Pleas

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By: A STEVEN DEVER 0024982

Confirmation Nbr. 586281

EDWARD GRAHAM, ET AL

CV 15 846212

VTS.

Judge:

CITY OF LAKEWOOD, ET AL

JOHN P. O'DONNELL

Pages Filed: 5

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

EDWARD GRAHAM, et al.		CASE NO. CV-15-846212
Plaintiffs		JUDGE JOHN P. O'DONNELL
v.		
CITY OF LAKEWOOD, et al.		<u>PLAINTIFFS' OBJECTION TO</u>
		<u>DEFENDANTS' MOTION FOR</u>
Defendants		<u>PROTECTIVE ORDER</u>

Now comes the Plaintiffs, by and through their attorneys, and hereby objects to Defendant City of Lakewood and Defendant Michael Summers' Motion for a Protective Order.

These five Plaintiffs, all residents of the City of Lakewood, have sought, as part of their cause of action, a full accounting surrounding the circumstances related to the closing of Lakewood Hospital. Specifically, the Plaintiffs have attempted to learn whether the Cleveland Clinic Foundation (CCF) deceived Lakewood public officials when they secured permission to remove valuable medical services from Lakewood Hospital. The Defendant, Michael Summers, as a public official, participated in the public hearings in the spring of 2010 and would have firsthand knowledge concerning the promises and representations made by CCF in order to secure authorization from the Lakewood City Council.

In accordance with the Rules of Discovery, Plaintiffs have attempted to work with the Defendant's Counsel in securing a convenient date for the deposition of Defendant Summers. Originally, Plaintiffs requested that the deposition take place in early October, 2015. However, because of the Defendant's request, the Plaintiffs agreed to November 5, 2015 as the deposition date. The continuance of the deposition was agreed to by the Plaintiffs in order to allow the Defendant to campaign for re-election and attend to the sale of Lakewood Hospital as well as his duties as Mayor of Lakewood. The willingness of the plaintiffs to allow the deposition to take place after the election assured the Mayor that his testimony could not be used in the campaign and enabled the Mayor to avoid any controversy or embarrassment. This

courtesy was extended with the expectation that the Mayor would act in good faith and go forward with his deposition on the agreed upon date.

Counsel for the Plaintiffs agreed to this concession as a demonstration of good faith and fair dealings. However, it did not grant permission for the Defendant to obstruct and avoid providing testimony concerning Summer's activities as Mayor and as a Trustee of Lakewood Hospital.

Plaintiffs respectfully believe that this petition for protective order is now being made to obstruct and protect the Mayor from testifying under oath on a date and time that had been previously agreed upon. To issue an order protecting the Mayor from testifying under oath would be unjust and unfair.

This Honorable Court should require the Mayor to be deposed and to provide a complete and full accounting of his actions concerning this lawsuit. Society benefits when those who are placed in position of public trust welcome and encourage scrutiny of their conduct. Plaintiffs respectfully request this Honorable Court deny Mayor Summers' request for Protective Order and to allow the deposition to proceed as scheduled.

Respectfully submitted,

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CERTIFICATE OF SERVICE

A copy of the foregoing **Plaintiffs' Motion to Respond to Defendants' Motion for Protective Order** has been filed through the Court's electronic case management system ("ECM"), is available for review on-line by counsel and parties, will be provided notice of filing by the Court's ECM system, and a courtesy pdf copy is also being sent via email only on this 3rd day of November, 2015, to the following:

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