

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

STATE OF OHIO, ex rel, BRIAN J. ESSI,	)	CASE NO.: CA-16-104659
	)	
Relator,	)	
	)	
vs.	)	<u>RESPONDENT'S MOTION FOR LEAVE</u>
	)	<u>TO REFILE ITS MOTION FOR</u>
CITY OF LAKEWOOD,	)	<u>JUDGMENT ON THE PLEADINGS</u>
	)	
Respondent.	)	
	)	

Now comes Respondent, City of Lakewood, by and through counsel, Mazanec, Raskin, & Ryder Co., LPA, and hereby respectfully request that this Court grant Respondent leave to refile its Motion for Judgment on the Pleadings and extend the deadline of its Motion for Summary Judgment until a date 60 days after this Court has ruled on its Partial Motion for Judgment on the Pleadings.

Respondent is continuing to review potentially responsive documents it can identify and to index the same, as required by this Court's current Order. Respondent will be producing a significant amount of records shortly, and on an ongoing basis, that it has identified as responsive to those requests that are comprehensible and not patently improper, and not exempt. However, Respondent continues to be unable to understand and respond to a number of Relator's requests that are patently unintelligible and improper as a matter of law. For example, Request No. 122, which asks for "[a]ll correspondence . . . from and/or to Mayor Summers from January 1, 2011, to the present[,]" generates over 139,485 emails. Similarly, Request Nos. 121 & 123, which ask for all correspondence from and/or to Respondent's Law Director and one of Respondent's Councilmembers, generate over 43,421 emails. Pursuant to the Court's current Order, Respondent

is required to review and index each of these emails. Therefore, Respondent respectfully requests this Honorable Court to rule on the propriety of these requests before requiring Respondent to attempt to respond to the same by indexing and producing records.

Respondent has repeatedly requested for Relator to narrow his requests, even offering to mediate privately the scope of the requests, such that Respondent can meaningfully respond to the requests. Relator, however, continues to refuse to clarify any requests. Therefore, Respondent has no choice but to file this Motion. Respondent respectfully requests that this Court continue the date for Respondent's Motion for Summary Judgment and accompanying Index until a date 60 days after the propriety of these requests are decided by the Court.

Respectfully submitted,

MAZANEC, RASKIN & RYDER CO., L.P.A.

/s/ Alix M. Nouredine

JOHN T. MCLANDRICH (0021494)

ALIX M. NOUREDDINE (0092484)

100 Franklin's Row

34305 Solon Road

Cleveland, OH 44139

(440) 248-7906

(440) 248-8861 – Fax

Email: jtm@mrrlaw.com

anouredine@mrrlaw.com

Counsel for Respondent City of Lakewood

CERTIFICATE OF SERVICE

A copy of the foregoing Respondent's Motion for Leave to Refile Motion for Judgment on the Pleadings was served June 5, 2017 by depositing same via electronic mailing, to the following:

Matthew John Markling, Esq.
Sean Koran, Esq.
McGown & Markling Co., LPA
1894 North Cleveland-Massillon Road
Akron, OH 44333
Email: mmarkling@mcgownmarkling.com
Attorney For Relator

/s/ Alix M. Nouredine

JOHN T. MCLANDRICH (0021494)

ALIX M. NOUREDDINE (0092484)

Counsel for Respondent City of Lakewood

TRID-160233/Respondents MFL to Refile its MJOP