

13-0603

ARGUMENT
DOCKET

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

FILED
2013 APR 25 PM 2:27
CATHY S. GAYLOR CLERK
KANAWHA COUNTY CIRCUIT COURT

**RICHARD A. NEASE and LORINDA
J. NEASE, husband and wife,**

Plaintiffs,

v.

CIVIL ACTION NO. 12-C-1716
Judge: Charles E. King, Jr.

**RON KING, "Fire Marshal/Code Official"
for the City of Nitro, DAVID A. CASEBOLT,
duly elected and serving Mayor for the City of
Nitro, and the CITY OF NITRO, a municipal
corporation and political subdivision of the
State of West Virginia,**

Defendants.

FINDINGS OF FACT, CONCLUSIONS OF LAW & ORDER
OF FINAL SUMMARY JUDGMENT

On a prior day, to-wit, April 10, 2013, came the plaintiffs by counsel, James A. Dodrill, and came also the defendants by counsel, Johnnie Brown, all for the purpose of a hearing as to plaintiffs' motion for final summary judgment and defendants' motion to dismiss plaintiffs' complaint or, alternatively, for summary judgment.

As a preliminary matter and the parties having agreed, it is **ORDERED** that the only matter remaining in controversy in this action is the FOIA claim of the plaintiffs as asserted and briefed in the parties' recent cross-motions for summary judgment and supporting memoranda; the parties having stipulated in open court this day that all of any other matters heretofore filed or served not pertaining directly to the FOIA claim of plaintiffs and asserted and briefed in the parties' recent cross-motions for summary judgment are declared to be moot and withdrawn from this Court's further consideration.

FINDINGS OF FACT

The instant action is one commenced by the plaintiffs pursuant to Article 1, Chapter 29B of the *West Virginia Code*, as amended, commonly referred to as West Virginia's "Freedom of Information Act" (hereinafter, "FOIA").

On June 14, 2012, plaintiffs made a FOIA request to inspect or copy certain public records of the City of Nitro. The records requested by the plaintiffs on June 14, 2012, consisted of a single, specific ordinance; meeting minutes, transcripts or other documentation of the adoption of the requested ordinance; complaints filed with the City of Nitro pertaining to storm drainage from June 14, 2007 to June 14, 2012; and lastly, notices of violation issued by Nitro relating to storm drainage for the same time five year period.

According to West Virginia's FOIA, a response was required from Nitro within a maximum of five days not including Saturdays, Sundays or legal holidays. That response, again according to FOIA, was required to be in the form of one of only three options available to Nitro, i.e., (1) furnish copies of the requested information; (2) advise the plaintiffs of the time and place at which they might inspect and copy the materials; or (3) deny the request stating in writing the reasons for such denial.

However, the response delivered to plaintiffs was not one of the three available responses listed above. Instead, the response mailed to plaintiffs on June 19, 2012, consisted of a single-sentence letter stating only that defendant King had "...received the FOIA request...and will be working to compile the documentation [plaintiffs had] requested." See, Exhibit B to plaintiffs' *Complaint*. After waiting nearly one and one-half additional months for the defendants to do what King's letter said they would, i.e., "compile the documentation", plaintiffs again

demanded the public records on July 26, 2012. *See*, Exhibit C to plaintiffs' *Complaint*.

Again responding out of compliance with FOIA, defendant King sent another letter on July 31, 2012, that included with it some of the requested public records, both in paper and electronic media, but advised that "the remaining files Back (sic.) to 2007 are paper & will be required to be manually pulled and copied. Please advise if you are willing to assume the expense of an employee's time, and the cost of photocopying". *See*, Exhibit D to plaintiffs' *Complaint*. After one final effort, which was ignored, to coax the requested public records from the defendants, plaintiffs commenced the instant FOIA action on August 24, 2012.

CONCLUSIONS OF LAW

West Virginia's FOIA contains a statute which permits public bodies, such as defendant Nitro, to recover the actual costs of making copies of public records requested through a FOIA request such as the one submitted by plaintiffs on June 14, 2012. *Code* § 29B-1-3(5) provides that a public body such as the City of Nitro and/or its City Council "may establish fees reasonably calculated to reimburse it for its *actual cost in making reproductions* of [requested public] records". Emphasis supplied. The statute clearly and unambiguously states that, in essence, Nitro is allowed to charge citizens who submit FOIA requests to it, such as plaintiffs, the actual cost in making copies of public records that are requested in a FOIA request. The statute does not contain any further grant of authority to public bodies to charge other fees, i.e., for searching for, retrieving or compiling public records.

In 2009, the City of Nitro, supposedly under the authority of *Code* § 29B-1-3(5), adopted an ordinance (designated as "113.7.1") authorizing the City to charge persons requesting access to public records a "fee for searches and compilation for Records that require more than ten (10)

minutes to search and/or compile..." The ordinance authorizes the City to charge for the time spent by its employees to search for and/or compile requested records at a rate of \$25.00 per hour for search and compilation time in excess of 10 minutes.

In support of their refusal of plaintiffs' FOIA request, defendants have not asserted that the public information requested by plaintiffs falls into any of the categories of information that are specifically exempt from disclosure as set forth in *Code* § 29B-1-4 and, in fact, defendants have stipulated that none of the requested records are exempt from disclosure under the FOIA. Instead, defendants claim, in moving to dismiss plaintiffs' FOIA action or, alternatively for summary judgment, is that their refusal of plaintiffs' FOIA request, or their failure to allow plaintiffs' access to the requested public records, was lawful solely because plaintiffs refused to pay the ordinance's hourly charge to defendants for searching for, retrieving and compiling the records already in defendants' possession.

When it adopted the FOIA, the West Virginia Legislature declared the public policy of our State by acknowledging that the fundamental philosophy of our American constitutional form of representative government holds dearly to the principle that government is the servant of the people, and not the master of them and, as a result, stated that "*it is the public policy of the State of West Virginia that all persons are, unless otherwise expressly provided by law, entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees*". *Code*, §29B-1-1 (Emphasis supplied). The Legislature further declared that the people of West Virginia, in delegating authority, do not give their public servants, such as the defendants herein, the right to decide what is good for the people to know and what is not good for them to know - the people insist on remaining informed so that

they may retain control over the instruments of government they, the people, have created. *Id.* To this end, that of ensuring that the people of West Virginia remain informed so that they may retain control over the instruments of government they have created, the provisions of FOIA are to *“be liberally construed with the view of carrying out the foregoing declaration of public policy”* in West Virginia. *Id.* (Emphasis supplied). In re Charleston Gazette FOIA Request, 222 W.Va. 771, 671 S.E.2d 776 (2008).

West Virginia’s FOIA, specifically *Code* § 29B-1-3, authorizes public bodies such as Nitro to charge citizens only for the actual cost of making reproductions of requested records, not also for searching for, retrieving or compiling those records. Defendants argue that their ordinance is authorized by FOIA. However, and this Court so concludes, it is not.

As our Supreme Court of Appeals has stated time and time again, most recently in Martin v. Hamblet, 737 S.E.2d 80, --- W. Va. --- (2012), the analysis of the propriety and enforceability of Nitro’s ordinance under *Code* § 29B-1-3(5) must begin with some basic rules of statutory construction. “The primary rule of statutory construction is to ascertain and give effect to the intention of the Legislature.” Syllabus Point 8, Vest v. Cobb, 138 W. Va. 660, 76 S.E.2d 885 (1953). “A statutory provision which is clear and unambiguous and plainly expresses the legislative intent will not be interpreted by the courts but will be given full force and effect.” Syllabus Point 2, State v. Epperly, 135 W. Va. 877, 65 S.E.2d 488 (1951). In other words, “[w]here the language of a statutory provision is plain, its terms should be applied as written and not construed.” DeVane v. Kennedy, 205 W. Va. 519, 529, 519 S.E.2d 622, 632 (1999). Accord Syllabus Point 5, State v. General Daniel Morgan Post No. 548, V.F.W., 144 W. Va. 137, 107 S.E.2d 353 (1959) (“When a statute is clear and unambiguous and the legislative intent is plain, the

statute should not be interpreted by the courts, and in such case it is the duty of the courts not to construe but to apply the statute.”). Said yet another way, “[w]here the language of a statute is clear and without ambiguity the plain meaning is to be accepted without resorting to the rules of interpretation.’ ” Huffman v. Goals Coal Co., 223 W.Va. 724, 729, 679 S.E.2d 323, 328 (2009) (quoting Syl. pt. 2, State v. Elder, 152 W.Va. 571, 165 S.E.2d 108 (1968)). Our Supreme Court of Appeals has applied this same standard in its recent FOIA decisions as well. Associated Press v. Canterbury, 224 W.Va. 708, 688 S.E.2d 317 (2009); In re Charleston Gazette FOIA Request, 222 W.Va. 771, 671 S.E.2d 776 (2008).

Thus, the threshold question is whether *Code* § 29B-1-3(5) is clear and unambiguous and plainly expresses the Legislature’s intent with respect to what fees can and cannot be charged by Nitro in responding to a FOIA request such as plaintiffs’. If the statute is clear and unambiguous and the legislative intent is plain, the statute is not subject to this Court’s interpretation. Instead, it is the duty of this Court to apply the statute in reviewing the propriety and enforceability of Nitro’s municipal ordinance.

This Court concludes that *Code* § 29B-1-3(5) is clear, unambiguous and quite plainly expresses the Legislature’s intent, especially considering the Legislature’s declaration of public policy when it originally adopted FOIA. The statute concisely, clearly and unambiguously states that public bodies, such as the City of Nitro, may establish fees for the “actual cost in making reproductions” of requested public records. The intent of the Legislature in its use of these five words could not be any clearer. The Legislature authorized public bodies to collect their actual costs incurred in copying requested records and nothing more.

The clarity of the statute and its legislative intent to permit recovery only of actual

reproduction costs, i.e., photocopies, duplicates of compact disks, etc., is demonstrated when considering a similar statute which, unlike the FOIA statute, does authorize a search fee in addition to reproduction costs. In addressing the costs that can be charged by health care providers for production of health care records, our Legislature specifically authorized providers to charge for "all reasonable expenses incurred" in producing copies of health care records. *Code*, § 16-29-2(a). This similar statute clearly authorizes a charge for both searching for and reproducing health care records when it states that "the cost may not exceed seventy-five cents per page for the copying of any record or records...and a search fee may not exceed ten dollars". *Id.* In the FOIA statute under scrutiny here, however, this Court further concludes that our Legislature clearly and unambiguously authorized public bodies to recover only the "actual cost in making reproductions" of the requested records, nothing more. *Code*, § 29B-1-3(5).

Additionally, "[i]n the interpretation of statutory provisions the familiar maxim *expressio unius est exclusio alterius*, the express mention of one thing implies the exclusion of another, applies." Syllabus Point 3, Manchin v. Dunfee, 174 W. Va. 532, 327 S.E.2d 710 (1984). In enacting *Code* § 29B-1-3(5) the Legislature expressly mentioned only the "actual cost in making reproductions" of requested public records. Applying the aforementioned maxim acknowledged by our Supreme Court of Appeals here, it is clear to this Court that in mentioning only the actual reproduction cost and not also search, retrieval or compilation costs, the Legislature intended to exclude from its FOIA grant of authority to public bodies any authority to charge a fee for searching for, retrieving or compiling public records. This Court concludes that if our Legislature intended to authorize such a fee it would have said so as it did, for example, in *Code* § 16-29-2(a), and its failure to say so is to be taken as an intentional exclusion of authority to charge

such a fee. "It is not for this Court arbitrarily to read into [a statute] that which it does not say. Just as courts are not to eliminate through judicial interpretation words that were purposely included, we are obliged not to add to statutes something the Legislature purposely omitted." Banker v. Banker, 196 W.Va. 535, 546-47, 474 S.E.2d 465, 476-77 (1996).

Still further, decisions of our Supreme Court of Appeals also teach that undefined terms used in a statute are to be given their common, ordinary meaning unless they are used in a technical sense. Wooddell v. Dailey, 160 W. Va. 65, 230 S.E.2d 466 (1976). Thus, here the term "actual cost in making reproductions of [requested public] records" is to be given its common, ordinary meaning. This Court rejects defendants' urging, unsupported in the law, to read into this patently clear and unambiguous term some nonexistent legislative authority to charge a fee for searching for, retrieving and/or compiling public records and concludes that the common, ordinary meaning of the words "making reproductions" is "making copies". This Court need look no further than the Merriam-Webster Dictionary to see, and conclude, that the word "reproduction", as used in the context of the subject statute, is defined as something reproduced – a copy. Thus, it is plainly apparent that when our Legislature authorized public bodies like the City of Nitro to charge for the "actual cost in making reproductions" of public records, it meant exactly what the common and ordinary person thinks it means, i.e., to charge for the public body's actual cost in making copies of the requested public records.

It is important for this Court to consider how other jurisdictions' open records laws treat the issue of copying, search, retrieval and compilation charges. As is discussed below, even those jurisdictions that authorize, unlike West Virginia's FOIA, charges beyond copying costs, do so explicitly and clearly in their statutes.

For example, our neighbor to the East, the Commonwealth of Virginia, specifically authorizes a search charge, in addition to a copying charge, in its FOIA. In § 2.2-3704 of Virginia's *Freedom of Information Act*, a public body is authorized to make "reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or *searching for the requested records*". Emphasis supplied. It is important to note, however, that like West Virginia's Legislature the Virginia General Assembly considers reproduction or copying charges to be separate and distinct from search, retrieval or compilation charges when it provided, in its FOIA statute, that "[a]ny duplicating fee charged by a public body shall not exceed the actual cost of duplication". *Id.* The similarity of the Virginia statute's use of the term "actual cost of duplication" to West Virginia's "actual cost in making reproductions" is not lost on this Court.

Next consider the Commonwealth of Kentucky, our neighbor to the Southwest. Kentucky's *Open Records Act*, § 61.874 of the *Kentucky Revised Statutes*, provides that public bodies "may prescribe a reasonable fee for making copies of nonexempt public records requested for use for noncommercial purposes which *shall not exceed the actual cost of reproduction*, including the costs of the media and any mechanical processing cost incurred by the public agency, but not including the cost of staff required". Emphasis supplied. Like Virginia and West Virginia, Kentucky's legislative scheme, even though it specifically authorizes a charge for "staff time" in addition to actual copying costs, clearly distinguishes between the "actual cost of reproduction" and staff time to search for, retrieve and compile requested public records. Again, this Court concludes that this is a significant distinction with a significant difference.

Notably, Ohio's *Open Records Law*, § 149.43 of the Ohio Revised Code, allows a charge only for the actual cost of the copies provided in response to a public records request. Again like

Virginia, West Virginia and Kentucky, Ohio's legislative intent to distinguish between the "actual cost" of making copies or reproductions and separate charges for searching, retrieving or compiling requested records is very clear. Ohio's law explicitly makes this distinction through its provision allowing additional "special extraction costs" only for bulk driver data requests submitted to the Bureau of Motor Vehicles. Specifically, Ohio's law defines "actual cost" as "the cost of depleted supplies, records storage media costs, actual mailing and alternative delivery costs, or other transmitting costs, and any direct equipment operating and maintenance costs, including actual costs paid to private contractors for copying services" and allows only these specific actual costs to be charged by public bodies, except for the Bureau of Motor Vehicles as noted below, in responding to public records requests. *Ohio Revised Code*, § 149.43(B)(1) and (F)(2)(a). As mentioned, Ohio's law allows only the Bureau of Motor Vehicles, in responding to bulk data requests, to charge for "special extraction costs" in addition to actual copying costs. Special extraction costs are defined as "the cost of the time spent by the lowest paid employee competent to perform the task, the actual amount paid to outside private contractors employed by the bureau, or the actual cost incurred to create computer programs to make the special extraction [as well as]...any charges paid to a public agency for computer or records services". *Id.*, § 149.43(F)(2)(d).

Lastly, plaintiffs also urged this Court to consider California's *Public Records Act*, wherein § 6253(b) provides that "...each state or local agency, upon a request for a copy of records...shall make the records promptly available to any person upon payment of fees covering direct costs of duplication..." Unlike West Virginia's FOIA, this copying, duplication or reproduction charge provision of California's law has been the subject of an appellate decision.

That decision, North County Parents Organization v. Department of Education, 23 Cal.App.4th 144, 28 Cal.Rptr.2d 359 (1994), provides valuable guidance in the instant matter. In North County Parents the California Court of Appeal held, in interpreting the meaning of the term “direct costs of duplication”, that the statute only allows a public body to recover the cost of copying documents and, further, that “direct cost” does not include any ancillary tasks necessarily associated with retrieval, inspection or handling of the requested public records.

The North County Parents Organization for Children with Special Needs, a non-profit, tax exempt organization, was reviewing local school district action regarding special needs services and, more specifically, when local school districts took advantage of an appellate hearing process in the Department of Education. The decisions resulting from this process were public records maintained by the Department of Education. The North County Parents Organization requested copies of all decisions rendered in a two-year period. In response, the Department of Education attempted to charge \$126.50. This charge not only covered the cost of duplication of the documents, but also was for staff time involved in searching the records, reviewing the records for information exempt from disclosure under the *Public Records Act*, and deleting such exempt information. In knocking down the Department of Education’s attempt to charge for searching and reviewing the public records, the California Court of Appeal noted,

...There seems to be little dispute as to what “duplicate” means. It means just what we thought it did, before looking it up: to make a copy. (See Black's Law Dict. (4th ed. 1968) p. 593 [“to ... reproduce exactly”]; Webster's Third New Internat. Dict. (1981) p. 702 [“to be or make a duplicate, copy or transcript ...”].) Since words of a statute are to be interpreted “according to the usual, ordinary import of the language employed in framing them” (*In re Alpine* (1928) 203 Cal. 731, 737, 265 P. 947), we conclude that the cost chargeable by the Department for furnishing these copies is the cost of copying them.

There is no disagreement with the proposition that the Department was put to a great amount of trouble responding to appellant's request, much of which had nothing to do with copying. Records were searched, documents were read for any material to be excised, such material was removed, files were refiled, etc.

We sometimes presume too much of the Legislature, but this is assuredly not the case when we presume that the statute writers, themselves bureaucrats of a sort, knew the ancillary costs of everything government does.

Id., at 147, 360.

Like the California Court of Appeal, and as it is reasonable to do, this Court presumes that the West Virginia Legislature, in utilizing the term "actual cost in making reproductions" in our FOIA, did so according to the usual, ordinary import of the language. This presumption comports with the statutory analysis decisions of our Supreme Court of Appeals, several of which are cited above. It is equally reasonable to presume, as did the North County Parents Court, that our legislators, "themselves bureaucrats of a sort" who know "the ancillary costs of everything government does", would have, if they intended to, included a legislative provision, as some jurisdictions have, allowing public bodies such as Nitro to charge for employees' time in researching, retrieving and compiling requested public records. They did not and as prior decisions, like Manchin, Banker and others, of our Supreme Court of Appeals have held, this Court must not assume legislative intent not clearly expressed nor arbitrarily read into a statute that which it does not say.

Based upon the foregoing, this Court concludes, as a matter of law, that defendants' reliance on Nitro's ordinance, as well as any similar ordinance, State rules, policies or procedures of other public bodies is misplaced. Further, Nitro lacked the authority to enact its ordinance

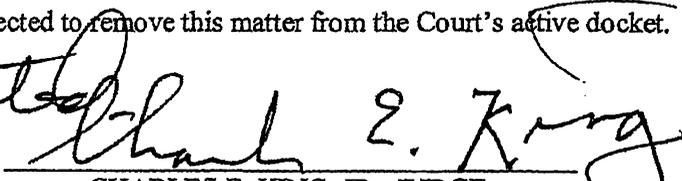
establishing a search, retrieval or compilation fee and, therefore, the ordinance is unlawful and cannot be relied upon in defense of plaintiff's FOIA action. As a result, and since plaintiffs are clearly entitled, this Court further concludes that plaintiffs' motion seeking final summary judgment should be granted, and that defendants' motion to dismiss or, in the alternative, for summary judgment, should be denied.

ORDER

For the foregoing reasons and authorities, it is **ORDERED, ADJUDGED and DECREED** as follows:

1. Defendants' motion to dismiss plaintiffs' complaint or, in the alternative, for summary judgment is **DENIED**; and

2. Plaintiffs' motion for final summary judgment is **GRANTED**, and plaintiffs are hereby awarded **FINAL SUMMARY JUDGMENT** in this action. There appearing nothing further to be done in this action inasmuch as this Order renders a final judgment and disposition upon the whole case, the Clerk is directed to remove this matter from the Court's active docket.

Obey - are noted


CHARLES E. KING, JR., JUDGE
4-25-13

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, SS
I, CATHY S. GATSON, CLERK OF THE CIRCUIT COURT OF SAID COUNTY
AND IN SAID STATE, DO HEREBY CERTIFY THAT THE FOREGOING
IS A TRUE COPY FROM THE RECORDS OF SAID COURT.
GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS 3rd
DAY OF May 2013
Cathy S. Gatson CLERK
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA Wet

5-3-13
Date: _____
Certified copies sent to:
 court of record
 parties
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(please indicate)
By: certified/1st class mail
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 hand delivery
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Other dispatches accomplished:
J. D. ...
Deputy Circuit Clerk

RICHARD A. NEASE & LORINDA J. vs. RON KING, FIRE MARSHAL/CODE OF

LINE	DATE	ACTION
1	08/24/12	# ISSUED SUM & 3 CPYS; F FEE; RCPT 492925; \$155.00; CASE INFO
2		# SHEET; COMPLAINT W/EXH'S
3	09/11/12	# ANS & CC OF D'S W/ATTACH & COS
4	09/28/12	# MOT TO DIS OR ALTERNATIVE MOT TO SEVER W/COS
5	10/01/12	# RESP TO MOT TO DIS OR ALTERNATIVE TO SEVER W/COS
6	10/16/12	SM MEMO IN SUPPORT OF P'S MOT TO DISMISS OR, IN THE ALTERNATIVE,
7		SM MOT TO SEVER W/COS
8	10/23/12	# NOT OF HRG W/COS (11/6/12 @ 11:30 AM)
9	10/26/12	# CORRECTED NOT OF HRG W/COS (11/5/12 @ 11:30 AM)
10	10/30/12	# D'S RESP TO P'S MEMO OF LAW IN SUPP OF MOT TO DIS OR
11		# ALTERNATIVELY SEVER W/COS
12	11/05/12	# P'S REPLY IN OPPOS TO D'S RESP TO P'S MEMO OF LAW IN SUPP
13		# OR ALTERNATIVE MOT TO SEVER W/COS
14	11/08/12	# NOT OF PRESENTATION OF O W/ATTACH & COS
15	11/16/12	O; MAILED TO R. ROBB & J. DODRILL (S11/14/12) NNF
16	11/14/12	" O DISMISSING CC/KING
17	11/29/12	# D'S MOT TO DIS OR SJ; MEMO OF LAW IN SUPP OF MOT W/COS
18	12/03/12	# SUPPLEMENT D'S MOT TO DIS/SJ W/COS
19	12/04/12	# P'S COUNTER-MOT FOR PARTIAL SJ W/COS
20	12/04/12	# 2ND SUPPLEMENT D'S MOT TO DIS OR FOR SJ W/COS
21	12/10/12	# MEMO OF LAW IN OPPOS TO D'S MOT TO DIS OR SJ & IN SUPP OF
22		# P'S COUNTER-MOT FOR PARTIAL SJ W/COS
23	12/10/12	# D'S RESP TO COUNTER-MOT FOR PARTIAL SJ W/COS
24	12/11/12	# COPY OF MOT FOR ABEYANCE TO WVSCA W/COS
25	12/11/12	# NOT OF APPEAL TO WVSCA W/ATTACH
26	12/14/12	# D'S MEMO IN REPLY TO P'S MEMO OF LAW IN OPPOS TO MOT TO DIS
27		# OR SJ & IN SUPP OF P'S COUNTER-MOT W/ATTACH & COS
28	12/18/12	SM MOT FOR DISQUALIFICATION W/COS
29	12/18/12	SM ADDENDUM A - D'S SUPPLEMENT W/COS; AFD
30	12/21/12	SM P'S REPLY TO D'S MOT FOR DISQUALIFICATION W/COS
31	12/27/12	# MOT TO DIS APPEAL FILED W/WVSCA W/COS; MEMO OF LAW IN
32		# SUPP OF MOT W/COS
33	01/02/13	# D'S REPLY TO P'S RESP MOT FOR DISQUALIFICATION W/COS
34	01/02/13	# D'S MOT FOR RELIEF FROM O DISMISSING CC W/COS
35	01/03/13	# P'S SUPP REPLY TO D'S MOT FOR DISQUALIFICATION W/COS
36	01/03/13	# SUPPLEMENT TO FD'S MOT FOR RELIEF FROM O DIS CC W/COS
37	01/04/13	# MOT FOR IMPOSITION OF SANCTIONS W/COS
38	01/07/13	*VERIF CERTIF MOT FOR DISQ W/COS
39	01/07/13	*D RESP TO P SUPP REPLY MOT FOR DISQ W/COS
40	01/09/13	# D'S RESP TO MOT FOR IMPOSITION OF SANCTIONS W/COS
41	01/10/13	# LET FR JUDGE KING TO CHIEF JUSTICE BRENT BENJAMIN DTD 1/10/13
42		# VERIF CERTIFICATION MOT FOR DISQUALIFICATION; MOT FOR
43		# DISQUALIFICATION
44	01/11/13	# P'S RESP IN OPPOS TO D'S MOT FOR RELIEF FROM O DIS CC W/COS
45	01/14/13	# LET FR RICHARD ROBB TO JUSTICE BRENT BENJAMIN DTD 1/12/13
46	01/17/13	SM LET FR RICHARD ROBB TO JUDGE KING DTD 1/17/13
47	01/17/13	" WVSCA O: JUDGE KING TO CONT PRESIDING OVER CASE
48	01/22/13	" WVSCA O: JUDGE KING TO CONT PRESIDING OVER CASE
49	01/22/13	# LET FR RICHARD ROBB TO JUSTICE BENJAMIN & JUDGE KING DTD
50		# 1/18/13
51	01/22/13	# D'S MOT FOR CONT OF DISQUALIFICATION PROCEEDINGS W/COS
52	02/04/13	# D'S MOT FOR SANCTIONS; D'S MOT FOR SANCTIONS W/ATTACH;
53		# 2ND MOT OF D'S FOR SANCTIONS W/ATTACH; SUPPLEMENT TO D'S
54		# MOT'S FOR SANCTIONS W/COS

A TRUE COPY
 TESTE *Cathy Watson*
 CIRCUIT COURT KANAWHA COUNTY, WV

RICHARD A. NEASE & LORINDA J. vs. RON KING, FIRE MARSHAL/CODE OF

LINE	DATE	ACTION
55	02/05/13	# MOT FOR FINAL SJ W/COS
56	02/06/13	# MEMO OF LAW IN SUPP OF P'S MOT FOR FINAL SJ W/COS
57	02/07/13	# D'S RESP TO MOT FOR FINAL SJ W/COS
58	02/19/13	# LET FR JOHNNIE BROWN TO JUDGE KING DTD 2/15/13
59	03/14/13	# NOT OF HRG W/COS (4/10/13 @ 9:30 AM)
60	04/11/13	O; MAILED TO J. BROWN, R. ROBB, J. DODRILL, D. CASEBOLT, & R. KING (S4/9/13) NNF
61	04/10/13	" O: AGREED ORDER TO SUBST COUNSEL (S4/9 KING)
62	04/10/13	O; MAILED TO J. DODRILL, R. ROBB, J. BROWN, D. CASEBOLT, & R. KING (S4/25/13) NNF
63	05/03/13	FINAL ORDER ENTERED
64	04/25/13	SM TAXATION OF COSTS
65	05/06/13	# TRANS OF PROCEEDINGS HELD ON 4/10/13 BEFORE JUDGE KING
66	05/24/13	# NOT OF APPEAL TO WSCA W/ATTACH & COS
67	05/24/13	
68	05/28/13	

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 TESTIFIED & VERIFIED
 COURT REPORTER
 COURT REPORTER
 COURT REPORTER