

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

Hearing Date: 9/4/2019 9:30 AM - 9:30 AM
Courtroom Number: 2008
Location: District 1 Court
Cook County, IL

FILED
5/7/2019 2:47 PM
DOROTHY BROWN
CIRCUIT CLERK
COOK COUNTY, IL
2019CH05714

4962930

FILED DATE: 5/7/2019 2:47 PM 2019CH05714

Plaintiff
v.

Defendant

No. 2019CH05714

CHANCERY DIVISION CIVIL COVER SHEET
GENERAL CHANCERY SECTION

A Chancery Division Civil Cover Sheet - General Chancery Section shall be filed with the initial complaint in all actions filed in the General Chancery Section of Chancery Division. The information contained herein is for administrative purposes only. Please check the box in front of the appropriate category which best characterizes your action being filed.

- 0005 Administrative Review
- 0001 Class Action
- 0002 Declaratory Judgment
- 0004 Injunction

- 0007 General Chancery
- 0010 Accounting
- 0011 Arbitration
- 0012 Certiorari
- 0013 Dissolution of Corporation
- 0014 Dissolution of Partnership
- 0015 Equitable Lien
- 0016 Interpleader
- 0017 Mandamus
- 0018 Ne Exeat

- 0019 Partition
- 0020 Quiet Title
- 0021 Quo Warranto
- 0022 Redemption Rights
- 0023 Reformation of a Contract
- 0024 Rescission of a Contract
- 0025 Specific Performance
- 0026 Trust Construction
- Other (specify) _____

By: _____
 Atty. No.: _____ Pro se 99500
 Name: _____
 Atty. for: _____
 Address: _____
 City/State/Zip: _____
 Telephone: _____
 Primary Email: _____
 Secondary Email: _____
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Pro Se Only: I have read and agree to the terms of the *Clerk's Office Electronic Notice Policy* and choose to opt in to electronic notice from the **Clerk's Office** for this case at this Email address:

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**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
CHANCERY DIVISION, COUNTY DEPARTMENT**

DEVON REID, in his official)
capacity as Clerk of the City)
of Evanston,)
)
Plaintiff,)
)
v.)
)
CITY OF EVANSTON, and MICHELLE L.)
MASONCUP, in her official capacity)
as Corporation Counsel for the City)
of Evanston, WALLY BOBKIEWICZ,)
in his official capacity as City Manager)
for the City of Evanston,)
)
Defendants.)

Case No. 2019CH05714

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff Devon Reid, in his official capacity as Clerk of the City of Evanston, hereby files his Complaint for Declaratory Judgment pursuant to 735 ILCS 5/2-701 against the City of Evanston and its Corporation Counsel, Michelle L. Masoncup, and Wally Bobkiewicz, and states as follows:

1. Plaintiff Devon Reid ("Clerk Reid") is a resident of the City of Evanston, Cook County, Illinois. Clerk Reid is the elected Clerk of the City of Evanston and the duly appointed FOIA Officer of the City of Evanston.
2. The City of Evanston ("Evanston") is a political subdivision in Cook County, Illinois. Defendant Michelle L. Masoncup ("Masoncup") is the Corporation Counsel of Evanston and Defendant Wally Bobkiewicz ("Bobkiewicz") is the City Manager of Evanston.

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3. The Court has jurisdiction over the claims alleged in this Complaint pursuant to 735 ILCS 5/2-209 because Defendants reside in and/or regularly transact business in Illinois.

4. Venue in this Court is proper pursuant to 735 ILCS 5/2-101 because the events that gave rise to Plaintiff's claims occurred substantially in Cook County, Illinois.

5. Clerk Reid, as the City Clerk, is an Officer of Evanston and the custodian and keeper of all of Evanston's records. *See* Evanston Municipal Code §§1-7-2, 1-9.

6. As the FOIA Officer of Evanston, Clerk Reid has certain authority and responsibilities as set forth in the Illinois Freedom of Information Act. *See* 5 ILCS 140/1, *et seq.*

7. Among the statutory responsibilities of Clerk Reid as the FOIA Officer are to "issue responses under th[e FOIA] Act" and to "create a file for the retention of the original request, a copy of the response, a record of written communications with the requester, and a copy of other communications." *See* 5 ILCS 140/3.5.

8. Clerk Reid has requested from Masoncup, Bobkiewicz, as well as certain other officers and representatives of Evanston, in his capacity as the Clerk and FOIA Officer of Evanston, copies of body camera footage from police officers that are requested and produced by Evanston pursuant to FOIA.

9. The Law Enforcement Officer-Worn Body Camera Act provides that video footage is subject to release under FOIA in certain circumstances. *See* 50 ILCS 706/10-20(b).

10. In cases where Evanston has produced body camera footage pursuant to FOIA under these exemptions, a copy of such footage must also be provided to Clerk Reid to enable him to comply with his obligation to keep "a copy of the response" to the person making the FOIA request; indeed, this was the standard policy and practice before Clerk Reid was elected.

11. By producing the body camera footage pursuant to FOIA without consulting with the FOIA Officer, Evanston is further circumventing the authority and responsibility of the FOIA Officer to issue the FOIA response. *See* 5 ILCS 140/3.5.

12. Clerk Reid has also requested from Masoncup, Bobkiewicz, and certain other officers and representatives of Evanston, in his capacity as the Clerk and FOIA Officer for Evanston, unredacted copies of documents produced pursuant to FOIA. Many of these documents are redacted because they contain attorney-client communications.

13. As the Evanston City Clerk, Clerk Reid is the official keeper of the City's documents, and as the City of Evanston's FOIA Officer, Clerk Reid has the responsibility to issue the response to a FOIA request and determine whether the response is appropriate, including whether the attorney-client privilege exemption was properly applied.

14. The Corporation Counsel represents Evanston as its client. Because Clerk Reid is an Officer of Evanston, sharing unredacted copies of documents that include attorney-client privileged communications with him will not waive Evanston's privilege.

15. Accordingly, Clerk Reid should be provided with unredacted copies of the documents he has requested, and those documents should be provided to him in the regular course of his duties as Clerk and the FOIA Officer.

COUNT I
(Declaratory Judgment regarding Body Camera Footage)

16. Reid hereby incorporates the allegations set forth in paragraphs 1-15 as though fully set forth herein.

17. There is a current legal controversy between Clerk Reid and Defendants over the scope of Clerk Reid's authority and responsibilities as Clerk and FOIA Officer with respect to the production of officer body camera footage pursuant to FOIA.

18. It is Clerk Reid's position that all body camera footage requested and produced in response to a FOIA request should be provided to him as the FOIA Officer enable him to issue the FOIA response and maintain a copy of the response, but Defendants disagree and have refused to provide Clerk Reid with the requested information.

19. Clerk Reid therefore prays for a declaration from this Court that the Illinois FOIA statute requires Defendants to provide all body camera footage subject to FOIA to Clerk Reid to issue the response, including making determinations of whether body camera footage shall be released, and to keep a copy of the response, including a copy of the footage.

20. Clerk Reid further prays that Defendants be ordered to pay his attorneys' fees.

COUNT II

(Declaratory Judgment regarding Documents Redacted for Attorney-Client Privilege)

21. Reid hereby incorporates the allegations set forth in paragraphs 1-20 as though fully set forth herein.

22. There is a current legal controversy between Clerk Reid and Defendants over the scope of Clerk Reid's authority and responsibilities as Clerk and FOIA Officer with respect to producing and maintaining documents that may include attorney-client communications pursuant to FOIA.

23. It is Clerk Reid's position that all documents requested and produced in response to a FOIA request should be provided to him in unredacted form as the FOIA Officer enable him to issue the FOIA response and maintain a copy of the response, but Defendants disagree.

24. Clerk Reid therefore prays for a declaration from this Court that the Illinois FOIA statute requires Defendants to provide all documents that potentially contain attorney-client communications subject to FOIA to Clerk Reid in unredacted form to issue the response, including making determinations of whether the redactions are proper.

25. Clerk Reid further prays that Defendants be ordered to pay his attorneys' fees.

Dated: April 7, 2019

DEVON REID

By: /s/ Ed Mullen
His Attorney

Ed Mullen (Atty. No. 44423)
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