

**IN THE CIRCUIT COURT OF THE 22ND JUDICIAL CIRCUIT
MCHENRY COUNTY, ILLINOIS**

Katherine M. Keefe
Clerk of the Circuit Court
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Transaction ID: 17111175471
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07/13/2018
McHenry County, Illinois
22nd Judicial Circuit

KIRK ALLEN, JOHN KRAFT, AND)
EDGAR COUNTY WATCHDOGS INC.,)

Plaintiffs,)

V.)

Case No. 18 CH 000238

ALGONQUIN TOWNSHIP AND)
ALGONQUIN TOWNSHIP ROAD)
DISTRICT,)

Defendants.)

MOTION FOR TURNOVER OF ROAD DISTRICT RECORDS

NOW COMES Defendant, ALGONQUIN TOWNSHIP ROAD DISTRICT (“Road District”) by its undersigned attorney, Robert T. Hanlon, with its motion for turnover of records related to the above entitled action from Attorney Kelly to the Algonquin Township Road District’s Counsel and in support of said motion states as follows:

1. James P. Kelly previously served as the attorney for the Algonquin Township Road District (hereinafter “Road District.”).

2. By written demand, Andrew Gasser, Algonquin Township Highway Commissioner, requested of James Kelly that he turn over the work product that Mr. Kelly’s firm had previously prepared for the Road District.

3. Mr. Kelly in turn has demanded that the Road District pay for the copying of the records that the Road District already paid to have prepared by Mr. Kelly’s firm.

4. Mr. Kelly now has his appearance before this Court, in this case, on behalf of Algonquin Township.
5. Mr. Kelly has been steadfast in his demand that the owner of the records, Algonquin Township Road District, pay for copying of its own files to permit Mr. Kelly to retain the original files. The original files are owned by the Road District.
6. During the pendency of this case, which focuses entirely upon the production of records in connection with the Freedom of Information Act, Plaintiff, Kirk Allen, has sought the records containing work product of Attorney Kelly to the Road District in a FOIA request dated 7/13/2018 at 9:06am. That work product having been paid for by the Road District is property of the Road District and is now the subject of a new FOIA request.
7. Current counsel for the Road District cannot advise the Road District on the FOIA request because the Road District does not have its own files from Mr. Kelly.
8. As alleged in the complaint, restraints on access to information to the extent permitted by FOIA are limited exceptions to the principle that the people of this state have a right to full disclosure of information relating to the decisions, policies, procedures, rules, standards and other aspects of governmental activity that affect the conduct of government and the lives of people. 5 ILCS 140/1.

9. Mr. Kelly cannot assert an attorney lien because the Road District has previously paid all of his invoices.
10. Mr. Kelly cannot hold the Road District's records hostage to facilitate his desire to retain copies of his former client's records. The client at issue is the Road District.
11. In summary, to avoid complicating the litigation in this fairly straight forward case, the Road District wants its own records now held by Attorney Kelly to facilitate a lawful response to the now pending request for records submitted by Plaintiff.

Wherefore, the Algonquin Township Road District prays that this honorable court grant the following relief:

- A) Order Attorney James P. Kelly to turnover to the Algonquin Township Road District's current counsel, Robert T. Hanlon, all records in his possession of and concerning any work product or files belonging to or referencing Algonquin Township Road District.
- B) For such other and further relief as is just and equitable.

RESPECTFULLY SUBMITTED.

/s/Robert T. Hanlon
One of the Road District's Attorneys

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