

IN THE COURT OF COMMON PLEAS
OF LACKAWANNA COUNTY

In the Matter of

Christopher P. Cullen, Esquire,
2 West Olive Street
Scranton, PA 18508-2532

Petitioner

vs.

City of Scranton
Open Records Officer
City Hall
340 North Washington Avenue
Scranton, PA 18503
and
Pennsylvania Office of
Open Records
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

Respondents

MARY E. RINALDI
LACKAWANNA COUNTY

NOV 29 A 9:52

CLERK OF JUDICIAL
RECORDS CIVIL DIVISION

RIGHT TO KNOW APPEAL

NO. 2011-6440

ORDER

AND NOW, this 29th day of October, 2012, upon consideration of Petitioner Christopher p. Cullen, Esquire's Motion for Enforcement of Order Issued September 17, 2012, For a Finding of Contempt, and For the Imposition of Sanctions, it is hereby ordered that:

- (1) a rule is issued upon Respondent City of Scranton to show cause why the Petitioner is not entitled to the relief requested;
- (2) a rule returnable date is set down for the 19th day of November 2012 at 4:00 P.M. in the

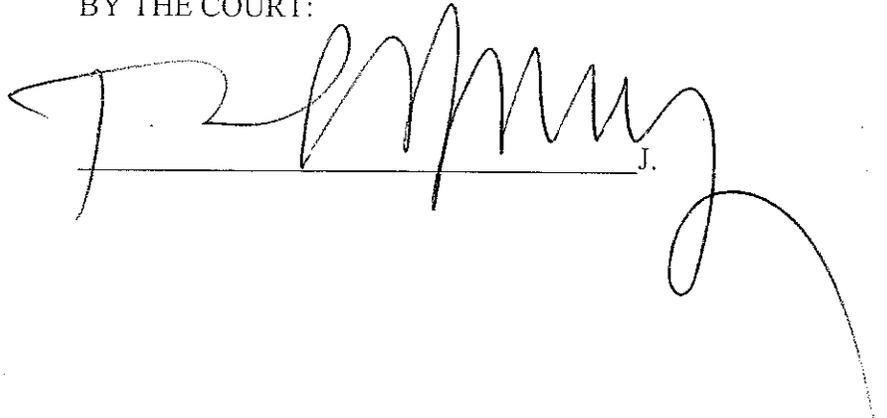
Office of the Clerk of Judicial Records of Lackawanna County;

(3) oral argument/hearing shall be held on the 30th day of November, 2012 at

10:00 A.M. in Courtroom 6 of the Lackawanna County Courthouse; and

(4) notice of the entry of this Order shall be provided to all parties by the Petitioner.

BY THE COURT:



A handwritten signature in black ink, written over a horizontal line. The signature is highly stylized and cursive. To the right of the signature, the letter 'J.' is printed.

IN THE COURT OF COMMON PLEAS
OF LACKAWANNA COUNTY

CLERK OF JUDICIAL
AFFAIRS
LACKAWANNA COUNTY
2011 A 950
CLERK OF JUDICIAL
AFFAIRS CIVIL DIVISION

In the Matter of :
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Christopher P. Cullen, Esquire, :
2 West Olive Street :
Scranton, PA 18508-2532 :
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Petitioner :

RIGHT TO KNOW APPEAL

vs. :

City of Scranton :
Open Records Officer :
City Hall :
340 North Washington Avenue :
Scranton, PA 18503 :
and :
Pennsylvania Office of :
Open Records :
400 North Street, 4th Floor :
Harrisburg, PA 17120-0225 :
:
Respondents :

NO. 2011-6440

PETITIONER'S MOTION FOR ENFORCEMENT OF
ORDER ISSUED SEPTEMBER 17, 2012, FOR A
FINDING OF CONTEMPT AND FOR
THE IMPOSITION OF SANCTIONS

AND NOW comes, the petitioner, Christopher P. Cullen, Esquire, and moves this Honorable Court to grant his Motion for Enforcement of Order Issued September 17, 2012 for a Finding of Contempt and for the Imposition of Sanctions ("Motion"), averring the following in support thereof:

1. As so indicated and recorded on the attached civil case docket, "**Exhibit A**", this action commenced on 10/21/2011 with plaintiff/petitioner Christopher P. Cullen, Esq. ("Cullen") filing a Petition For Review of the Final Determination of the Pennsylvania Office of Open Records ("OOR") Issued and Mailed September 22, 2011.

2. On December 22, 2011, this Court issued an Order granting Cullen's Petition and directing defendant/respondent City of Scranton ("Scranton") to provide to Cullen the requested public records.

3. On January 30, 2012, Cullen filed a Petition to Enforce the Order issued December 22, 2011.

4. On March 22, 2012, this Court issued an Order directing the parties to file pursuant to a time schedule an Itemized List of Right to Know Requests (Cullen) and a Response (Scranton) thereto.

5. Finally, on September 17, 2012, this Court issued an Order which reads as follows:

ORDER

AND NOW, this 17th day of September, 2012, upon the agreement of counsel for the parties, it is HEREBY ORDERED AND DECREED that within thirty (30) days of the date of this Order, Respondent City of Scranton shall file to the docket a detailed itemized Amended Response to Petitioner Christopher P. Cullen, Esq.'s April 3, 2012 Itemized List of Right to Know Request, pursuant to the Right to Know Law, 65 P.S. Section 67.101 et seq. in the form of an Affidavit executed by the City's Open Records Officer, that the Petitioner may file to the instant docket, if appropriate, within ten (10) days of the date of service Exceptions to the Amended Response, and that, if necessary, the parties shall appear before the Court for hearing thereafter at a date and time set down by the Court.

BY THE COURT:

/s/ Thomas J. Munley P.J.

6. As of the filing date of this Motion, more than thirty (30) days have passed since

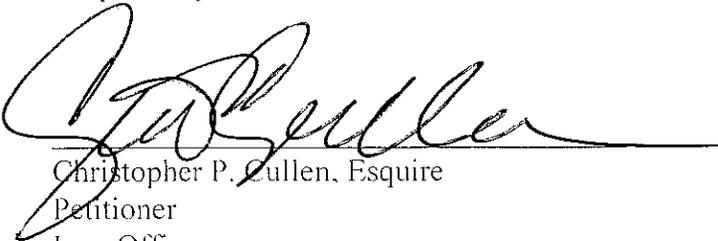
willingness to cooperate with this Court and Scranton.

10. Cullen's efforts to date have been frustrated by Scranton's demonstrated bad faith in denying him access to public records. 65 P.S. Section 67.1305(a). Additionally, Scranton failed to comply with Orders of this Court. 65 P.S. Section 67.1305(b).

WHEREFORE, based upon the foregoing, Cullen respectfully requests that this Honorable Court **grant** the instant Motion, and **issue** an Order **directing** Scranton to provide all responsive records within twenty (20) days, **finding** Scranton in contempt of the Order of September 17, 2012, **imposing** sanctions against Scranton pursuant to 65 P.S. Section 67.1305 in the form of \$500.00 per day, beginning the 21st day after the filing dated of the requested Order, and continuing until the public records are provided, **awarding** attorney fees pursuant to 65 P.S. Section 67.1304, and **granting** Cullen such other relief as may be just and appropriate under the circumstances.

October 29, 2012

Respectfully submitted:



Christopher P. Cullen, Esquire
Petitioner
Law Office

2 West Olive Street
Scranton, PA 18508-2532
(570) 343-6256
(570) 344-1604 -- fax
Sup. Ct. Id. No. 36314

EXHIBIT A

**CIVIL CASE DOCKET
FOR NO. 2011-CV-6440**

2011-06440 CULLEN CHRISTOPHER P ESQ (vs) SCRANTON CITY OF ETAL

Reference No.:		Filed.....:	10/21/2011
Case Type.....:	CIVIL APPEALS - AGENCI	Time.....:	2:41
Judgment.....:	.00	Execution Date	0/00/0000
Judge Assigned:		Jury Trial....	
Disposed Desc.:		Disposed Date:	0/00/0000
----- Case Comments -----		Higher Crt 1.:	
		Higher Crt 2.:	

 General Index Attorney Info

CULLEN CHRISTOPHER P PLAINTIFF
 ESQUIRE
 2 WEST OLIVE STREET
 SCRANTON PA 18508 2532

SCRANTON CITY OF DEFENDANT
 OPEN RECORDS OFFICER
 CITY HALL
 340 NORTH WASHINGTON AVENUE
 SCRANTON PA 18503

PENNSYLVANIA OFFICE OF OPEN DEFENDANT
 RECORDS
 400 NORTH STREET 4TH FLOOR
 HARRISBURG PA 17120 0225

 * Date Entries *

----- FIRST ENTRY -----
 10/21/2011 PETITION FOR REVIEW OF THE SEPTEMBER 22, 2011 DECEISION/FINAL DETERMINATION ISSUED BY THE PENNSYLVANIA OFFICE OF OPEN RECORDS IN DOCKET NO: AP 2011-0998. ALSO FILED CERTIFICATE OF SERVICE OF SAME BYMAIL.

 10/21/2011 PRAECIPE FOR ASSIGNMENT FILED. <SENT TO CT ADM>

 11/07/2011 CITY OF SCRANTON'S RESPONDENT ANSWER TO PETITION FOR REVIEW BY PAUL A. KELLY, JR., ESQ. & CERT. OF SERVICE BY MAIL.

 12/08/2011 BRIEF IN SUPPORT OF PETITION FOR REVIEW BY CHRISTOPHER P. CULLEN, ESQ. AND CERT. OF SERVICE BY MAIL.

 12/22/2011 ORDER DATED 12-22-11. PETITION GRANTED...BYT HE COURT: MUNLEY, J. NOTIFIED 12-22-11

 1/19/2012 AFFIDAVIT FILED

 1/30/2012 PETITION TO ENFORCE ORDER ISSUED DEC. 22, 2011 BY CHRISTOPHER P. CULLEN, ESQ. AND ORDER DATED 1-30-12. RETURNABLE 3-2-12 AT 4:00 HEARING 3-22-12 AT 9:00 IN CR.#6. MAZZONI, J. ALSO, FILED CERT OF SERVICE BY MAIL.

 2/17/2012 RESPONDENT CITY OF SCRANTON OPEN RECORDS OFFICER'S RESPONSE TO PETITION TO ENFORCE ORDER OF 12-22-11 BY PAUL A. KELLY, JR., ESQ. AND CERT. OF SERVICE BY MAIL.

 2/23/2012 PETITIONER'S MOTION TO STRIKE RESPONDENT CITY OF SCRANTON'S REQUEST FOR SANCTIONS FOR FAILURE TO COMPLY W/ PA RCP NOS. 1023.1 (C) AND 1023.2 BY CHRISTOPHER P. CULLEN, ESQ. AND CERT. OF SERVICE BY MAIL.

 3/23/2012 ORDER DATED 3-22-12. MUNLEY, PJ. NOTIFIED 4-2-12

 4/03/2012 PETITIONER'S ITEMIZED LIST OF RIGHT TO KNOW REQUESTS PRESENTED PURSUANT TO ORDER OF COURT DATED 3-22-12 BY CHRISTOPHER P. CULLEN, ESQ. AND CERT. OF SERVICE BY MAIL.

 5/24/2012 RESPONDENT CITY OF SCRANTON OPEN RECORDS OFFICER'S RESPONSES TO PETITIONER'S ITEMIZED RIGHT TO KNOW REQUESTS FILED BY PAUL A. KELLY, JR., ESQ. W/ CERT. OF SER.

2011-06440 CULLEN CHRISTOPHER P ESQ (vs) SCRANTON CITY OF ETAL

Reference No...:		Filed.....:	10/21/2011
Case Type.....:	CIVIL APPEALS - AGENCI	Time.....:	2:41
Judgment.....:	.00	Execution Date	0/00/0000
Judge Assigned:		Jury Trial....	
Disposed Desc.:		Disposed Date:	0/00/0000

----- Case Comments -----

6/11/2012 ORDER DATED 6-11-12. RULE RETURNABLE 7-2-12 HEARING 7-12-12 BY THE COURT: MINORA, J.

6/11/2012 PETITION FOR ENFORCEMENT OF ORDER OF COURT DATED 3-22-12 FILED BY CHRISTOPHER P CULLEN ESQ W/ CERT. OF SER.

6/14/2012 ORDER DATED 6-14-12. ARGUMENT/HEARING DATED 7-19-12. BY THE COURT: MUNLEY, J. NOTIFIED 6-14-12

7/02/2012 RESPONDENT CITY OF SCRANTON'S RESPONSE TO PETITION FOR ENFORCEMENT BY PAUL A. KELLY, JR., ESQ. & CERT. OF SERVICE BY MAIL.

7/09/2012 PETITIONER CHRISTOPHER P. CULLEN ESQ'S MOTION TO STRIKE RESPONSENT CITY OF SCRANTON'S 7-2-12 RESPONSE TO THE 6-11-12 PETITION FOR ENFORCEMENT OF ORDER OF COURT DATED 3-22-12 FILED BY CHRISTOPHER P. CULLEN ESQ. W/ CERT. OF SER.

7/19/2012 ORDER DATED 7-19-12. BY THE COURT: MUNLEY, J. NOTIFIED 7-19-12

8/13/2012 PETITIONER'S MEMO. OF LAW IN SUPPORT OF 6-11-12 PETITIONS FOR ENFORCEMENT OF ORDER OF COURT DATED 3-22-12 AND 7-9-12 MOTIONS TO STRIKE FILED BY CHRISTOPHER CULLEN ESQ W/ CERT. OF SER.

9/17/2012 ORDER DATED 9-17-12. MUNLEY, PJ. NOTIFIED 9-17-12
----- LAST ENTRY -----

* Escrow Information *
* Fees & Debits Beg Bal Pymts/Adj End Bal *

PETITION WRIT	.50	.50	.00
DISC	5.00	5.00	.00
PAF	5.00	5.00	.00
JCS/ATJ	23.50	23.50	.00
PETITION MISC	100.15	100.15	.00
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	134.15	134.15	.00

* End of Case Information *

CERTIFICATE OF SERVICE

I, Christopher P. Cullen, Esquire, hereby certify that I served a true and correct copy of the foregoing Motin upon each of the below-listed persons by depositing the same into First Class United States Mail postage prepaid, at Scranton, PA, addressed as follows:

- (1) Paul A. Kelly, Jr., Esquire
Solicitor, City of Scranton
Department of Law
340 North Washington Avenue
Scranton, PA 18503
- (2) Charles Rees Brown, Esquire
Appeals Officer
Office of Open Records
400 North Street, 4th Floor
Harrisburg, PA 17120-0225
- (3) Mr. Ryan McGowan
Open Records Officer
City of Scranton
340 North Washington Avenue
Scranton, PA 18503

RECEIVED
OFFICE OF JUDICIAL
RECORDS CIVIL DIVISION
OCT 29 A 9 54
HARRISBURG, PA

October 29, 2012


Christopher P. Cullen, Esquire