

**In the Circuit Court of the Sixteenth Judicial District
In and for Monroe County, Florida**

Lawrence L. Murray
Plaintiff,

v.

Case No.

Monroe County Board of School Directors

and.

Mark Porter, in his official capacity
as Superintendent of Schools,
Defendants.

SUMMONS

THE STATE OF FLORIDA:

To Each Sheriff in the State:

YOU ARE COMMANDED to serve this summons and a copy of the complaint/petition
in this action on Defendant:

Monroe County Board of School Directors

242 Trumbo Road
Key West , Fl

Each defendant is to serve written defenses to the complaint or petition on Lawrence Murray, whose address is 3632 Fox Street, Big Pine Key, FL 33043, within 20 days (or shorter by special Court action) after service of this summons on that defendant, exclusive of the day of service, and to file the original of the defenses with the clerk of this court either before service on Plaintiff immediately thereafter. If a defendant fails to do so, a default will be entered against that defendant for the relief demanded in the complaint or petition.

Dated: _____ CLERK OF THE COURT

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JURISDICTION AND VENUE

1. This Court has jurisdiction of the claim herein pursuant to *Fla. Stat.* § 26.012.. This civil action arises under the laws of the State of Florida.
2. Venue herein is proper under *Fla. Stat.* 47.011. Defendant is a corporate resident of the Monroe County, State of Florida.

B. PARTIES

3. The Plaintiff is Lawrence L. Murray, an individual resident of the State of Florida, whose mailing address is 3632 Fox Street, Big Pine Key , Florida 33045.
4. The Monroe County School District (MCSD) is an agency of the State of Florida whose mailing address is 241 Trumbo Road, Key West, FL 33040.
5. Defendant, Mark Porter, (Porter) is the Superintendent of the MCSD, and is the official responsible for executing the statutory duties of the Agency.

C. FACTS

6. At all times relevant hereto, The Defendant MCSD was and is a Florida State Agency, which is subject to the requirements of Florida Statute 119 related to production of public records and known as the “The Florida Sunshine Law.”
7. On August 15, 2013, requested from the Defendants a copy of a draft contract for forensic audit services. (See e-mail request attached as Exhibit ‘A’)

8. On August 25, 2013, Mr. Murray sent a follow up communication (attached as Exhibit 'B') inquiring as to the status of this request.
9. The custodian of public records or his or her designee is required to acknowledge requests to inspect or copy records promptly and to respond to such requests in good faith. (Section 119.07(1) (c), F.S.)
10. As of the filing date of this Petition, Mr. Murray has received neither an acknowledgment of his request, a claimed exemption by the Defendants, nor the requested records.
11. On August 16, 2013 Mr. Murray made an e-mail request for the salary and supplements paid to an employee (information which is clearly maintained in the form of a public record) (Request attached as Exhibit "C")
12. A response was received from Porter on August 28, 2013, but it was unclear if the compensation figure reported included salary supplements, if any. (See Exhibit "D")
13. To attempt to distinguish or identify the supplements, on August 29, 2013, Mr. Murray requested the supplements of all MCSD employees (exhibit "E")
14. On August 29, 2013 Porter acknowledged receipt of the request as required. (Exhibit "F")

16. On August 30, Mr. Murray requested specific clarification as to whether Porter's August 28, 2013 response included salary supplements. (Exhibit 'G')
17. As of the date of this filing, Mr. Murray has not received a list of Salary Supplements, nor any document which responds to whether the individual employee above receives any salary supplements.
18. None of the requested information is legally exempt from production, and since no exemption has been claimed by the Defendants, if said exemption should exist it has been waived.
19. It is believed and therefore averred, that the requested information is maintained by the Defendants for their own purposes, is not voluminous or require any substantial compilation justifying delay in production, and is otherwise readily available for production to the public without delay.
20. On several occasions in the recent past, Defendants have exhibited similar bad faith in the production of documents, and when the documents were finally revealed, the documents revealed malfeasance or misfeasance.
21. It is believed and therefore averred that the failure to produce these readily available requested records is in bad faith and an effort by the Defendants to prevent public review of the requested documents.
22. The Defendants have and will continue to violate the Florida Public Records laws without Court supervision.

WHEREFORE, Plaintiff requests this Honorable Court:

a. Issue a writ of mandamus requiring that Defendant provide the requested documents to Plaintiff within 48 hours;

b. Order the Defendant to institute policies and procedures whereby the Superintendent will comply with the mandates of the Florida Sunshine Law;


c. Alternatively, Plaintiff requests the issuance of a mandatory injunction against the Defendant requiring then to immediately acknowledge the Plaintiff's and other member of the Public's Record Requests and comply in good faith;

d. Award counsel Fees and costs to the Plaintiff for the prosecution of the instant action;

f. Any and all other relief that the Court deems appropriate.

9/16/13

DATE


Lawrence Murray

VERIFICATION

I verify that the statements made in the foregoing Petition are true and correct to the best of our knowledge, information and belief. We understand that false statements made herein are subject to the penalties relating to unsworn falsifications to authorities.

9/16/13
DATE


Lawrence Murray

Subject: Public Records Request XXX – Forensic Audit Contract
From: Lawrence Murray (citizenlarry007@yahoo.com)
To: mark.porter@keysschools.com;
Cc: andy@fishandy.com; dsmits@florida-law.com;
Bcc: captecoed@aol.com; najagirard@yahoo.com; ccaps97@aol.com; skessler@kesslerlegal.com; tgerman@my100bank.com; rd.boettger@gmail.com; skinny@keynoter.com;
Date: Thursday, August 15, 2013 10:56 AM

Superintendent Porter:

I understand that a group including Board member Ed Davidson, District counsel Dirk Smits and Steve Pribramsky, attestation auditor, met recently to discuss the prospect of the District conducting a forensic audit regarding the HOB construction project.

My understanding is that, as a result of this meeting, Vernis & Bowling drafted a contract for a forensic auditor, perhaps Steve Pribramsky specifically. If that information is correct, I would like to receive a copy of that draft contract.

Larry Murray

Dr. Larry Murray
Fiscal Watchdog and Citizen Advocate
(305) 872-3087

EXHIBIT A

Sent: Sunday, August 25, 2013 3:24 PM

To: Mark Porter

Cc: Andy Griffiths2; DirkSmits

Subject: Compliance With Public Records Requests

Superintendent Porter:

Over a week ago, I sent you three formal Public Records Requests and another informal one. All of the documents requested, save principal evaluations, were very basic and should not have required any significant staff time to research and locate. To the contrary, they should have been available within your office or, at most, a phone call or email away.

You responded almost immediately to PRR XXIX, notifying me that the document did not exist. I took you at your word and accepted that I had been misinformed about its existence.

That you responded to one request so quickly I took as a good sign, that the other documents would be forthcoming. Unfortunately, such was not to be the case.

Florida Public Records Law is very clear, that receipt of a Public Records Request must be promptly acknowledged and, in turn, promptly fulfilled. That was not done in this instance as no acknowledgments were provided. This is not the first time such has occurred in my efforts to have the School District comply with a Public Records Request.

Absent an acknowledgment of receipt, I had no idea as to the status of my requests. To my surprise, I received a call on Wednesday from HR Director Ramon Dawkins that he had complied with my Public Records Request XXVIII and that they were available for my review at his office. We have since made arrangements for me to examine the evaluations.

That leaves Public Records Request XXX and an informal request regarding Christina McPherson's salary in limbo. I have no idea as to if and when the District will comply. It is that fact which prompts this email. Will you be complying with my requests?

This is not the first time, though it will be the last time that I send a second request for something. I have attempted to be both cordial and professional in my requests, but such as not been reciprocated.

I believe that the law is quite clear concerning compliance with Public Records Requests and that you, as an attorney, should be well aware. In the future, should one of my Public Records Requests go unacknowledged and presumably ignored, I will have no option but to litigate. Perhaps it will require court intervention to resolve our differences.

You recently told the School Board that "Communication, again, I think is something that has been very close to the top of my priority list since I came." I would very much like to see that priority in action.

Larry Murray

Dr. Larry Murray
Fiscal Watchdog and Citizen Advocate
(305) 872-3087

EXHIBIT B

Subject: Christina McPherson's Salary
From: Lawrence Murray (citizenlarry007@yahoo.com)
To: mark.porter@keysschools.com;
Bcc: tgerman@my100bank.com; skessler@kesslerlegal.com;
Date: Friday, August 16, 2013 4:01 PM

Superintendent Porter:

Would you please provide me with Christina McPherson's total salary, including any supplements, for both positions that she now holds.

If you would prefer, I can make a formal Public Records Request.

Thank you.

Larry Murray

Dr. Larry Murray
Fiscal Watchdog and Citizen Advocate
(305) 872-3087

EXHIBIT C

From: Mark Porter <Mark.Porter@KeysSchools.com>
To: Lawrence Murray <citizenlarry007@yahoo.com>
Sent: Wednesday, August 28, 2013 12:42 PM
Subject: RE: Compliance With Public Records Requests

Dr. Murray,
Based on information provided from our Human Resources Department, Ms. Christina McPherson, Director of Assessment & Accountability/Poinciana Principal is currently compensated at Pay Grade: 139 / Step: 23, Annual Salary \$103,216.

Thank you.

Mark T. Porter
Superintendent of Schools
Monroe County School District
241 Trumbo Road | Key West, FL 33040 | O: (305) 293-1400 x53323 | F: (305) 293-1408

EXHIBIT D

From: Lawrence Murray [mailto:citizenlarry007@yahoo.com]
Sent: Thursday, August 29, 2013 10:55 AM
To: Mark Porter
Cc: Andy Griffiths2; DirkSmits
Subject: Public Records Request XXXI - Salary Supplements

Superintendent Porter:

I would like to obtain a copy of the list of **all** salary supplements currently being paid to **all** School District employees, academic and administrative. I would expect that list and the amounts paid would be on an employee by employee basis.

Your prompt response to this request would be appreciated.

Larry Murray

Dr. Larry Murray
Fiscal Watchdog and Citizen Advocate
(305) 872-3087

EXHIBIT E

On Thursday, August 29, 2013 11:10 AM, Mark Porter <Mark.Porter@KeysSchools.com> wrote:

Dr. Murray,

Request received and forwarded to appropriate personnel for the production of records.

Mark T. Porter

Superintendent of Schools

Monroe County School District

241 Trumbo Road | Key West, FL 33040 | O: (305) 293-1400 x53323 | F: (305) 293-1408

E: Mark.Porter@KeysSchools.com | W: www.KeysSchools.com

EXHIBIT F

Subject: McPherson Compensation Request -- Follow Up
From: Lawrence Murray (citizenlarry007@yahoo.com)
To: mark.porter@keysschools.com;
Cc: dsmits@florida-law.com; andy@fishandy.com;
Bcc: captecoed@aol.com; najagirard@yahoo.com; ccaps97@aol.com; skessler@kesslerlegal.com; tgerman@my100bank.com; rd.boettger@gmail.com; skinney@keynoter.com; tschmida@keysnews.com;
Date: Friday, August 30, 2013 3:20 PM

Superintendent Porter:

Earlier I requested from you the total compensation paid to Christina McPherson, specifically **salary and supplements**. You responded by providing Ms. McPherson's salary with no mention of supplements.

Should I conclude from your response that you are saying that Ms. McPherson only receives a salary and does not receive any supplement(s)?

Larry Murray

Dr. Larry Murray
Fiscal Watchdog and Citizen Advocate
(305) 872-3087

EXHIBIT G