



Are Legal Bills Public Records?

By Warren I. Grody of Bricker & Eckler LLP. Reprinted with permission.

It is fairly common for public offices to receive public records requests for copies of their legal bills. How are you supposed to respond to these requests? We thought this would be a particularly opportune time to provide some guidance on this question. Why? Because during this past year, the Ohio Supreme Court has issued a trio of unanimous decisions dealing with requests for legal bills. These cases provide some fairly detailed guidance on how public offices should respond to such requests.

In November 2011, the Supreme Court addressed this question in *State ex rel. Dawson v. Bloom Carroll Local School Dist.*, (2011), 131 Ohio St.3d 10, 2011 Ohio 6009, 959 N.E.2d 524. Dawson, a parent, had requested that a school district provide her with itemized invoices the district received from law firms representing the district. Like most legal bills, these invoices contained detailed descriptions of the legal services the firms had-

provided to the district.

Dawson also requested a copy of a letter from the district's insurance carrier appointing legal counsel and describing the perceived liabilities and exposures in a case in which she was involved. The district refused to provide the documents, claiming they were protected by attorney-client privilege. Instead, the district provided Dawson with a summary of the non-privileged information contained in the invoices. Dawson brought a mandamus action against the district seeking an order to obtain the undated documents.

In its decision, the Court sided with the district. First, the Court determined that the itemized legal bills were protected by the privilege:

The withheld records are either covered by the attorney-client privilege or so inextricably in

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Open Monday-Friday 8 - 4

[www.http://www.hamilton-co.org/cinlawlib/](http://www.hamilton-co.org/cinlawlib/)

RSS Readers and Feeds



By Julie Koehne, Systems Librarian

The main reason to subscribe to feeds is to save time. If you find yourself going to multiple news sites or have a number of blogs you like to read, adding their feeds to a reader allows you to scan for new content on one page instead of going to each page individually.

Here are some FREE popular Readers to use:

[Bloglines](#)

<http://www.bloglines.com/>

Bloglines is the fastest way to find and track your favorite websites and blogs. Easily customize your dashboard with multiple view options, drag and drop organization, and exclusive widgets.

[RSS Bandit](#)

<http://rssbandit.org/>

RSS Bandit is a nice and very capable feed reader that lets you browse news in an organized fashion. Its flexibility, virtual folders and synchronization abilities are great.

[Internet Explorer](#)

<http://windows.microsoft.com/en-US/windows7/How-to-use-RSS-feeds-in-Internet->

[Omea Reader](#)

<http://www.jetbrains.com/omea/reader/>

Omea Reader makes staying up to date with RSS feeds, Usenet news and web pages a smooth experience tailored to your reading style and organizing talent with search folders, annotations, categories and workspaces.

[Google Reader](#)

<http://www.google.com/reader/>

Google Reader is a decidedly simple yet very usable and, thanks to a flexible labeling system, quite comprehensive web-based RSS feed reader.

[My Yahoo](#)

<http://my.yahoo.com>

My Yahoo is a customizable version of Yahoo that's been around for a long time, offering a variety of cool features. It's easy to add feeds to your My Yahoo page.

[SharpReader](#)

<http://www.sharpreader.net/index.html>

SharpReader is a great RSS feed reader that knows how to organize news and blogs in their logical order to make following them easy. Virtual folders and searches would be logical next steps.

How to subscribe to our blog feed:

[Hamilton County Law Library](#)

You are viewing a feed that contains frequently updated content. When you subscribe to a feed, it is added to the Common Feed List. Updated information from the feed is automatically downloaded to your computer and can be viewed in Internet Explorer and other programs. [Learn more about feeds.](#)

 [Subscribe to this feed](#)

Go to <http://cincinnatilaw.blogspot.com/feeds/posts/default> and click on "Subscribe to this feed"

Ohio Supreme Court Approves CLE Changes

On November 26, the Ohio Supreme Court adopted changes in the CLE rules. The changes double the number of online credit hours attorneys could earn, allow attorneys to earn a portion of their CLE hours by engaging in approved pro bono activities, and eliminate the requirement to file final reporting transcripts. These changes will go into effect on January 1, 2014. You can read more about the CLE changes here:

http://www.courtnewsOhio.gov/happening/2012/ruleAmend_112612.asp

CLE 2013

We have tentative plans to offer a number of CLEs throughout 2013. We'll announce the schedule and details once approvals are received. If anyone would be willing to present, please contact Laura Dixon-Caldwell at 946-5302 or ldixoncaldwell@cms.hamilton-co.org.

Subscriber Renewals

Thanks to library patrons who have paid their 2013 annual subscriber fees already. We will send statements again in mid-January. Let us know if your contact information has changed in the past year. A timely payment ensures your continued access to legal information resources and services including newsletters and news updates, borrowing privileges, CLE attendance, document delivery, and more. Privileges are revoked if payment is not received by late February. Please call with any questions.

ActionTRACK: Legislative Status Reports

The Law Library subscribes to *Capitol Connection* for Ohio legislative and governmental information. Our license is staff access only; however, we can set up ActionTRACK alerts for our patrons, both subscribers and county officials, in addition to sharing *Capitol Connection* news with you.

ActionTRACK keeps track of legislative activity on issues of interest. Just tell a librarian about the topic or specific bill number you would like to track and we'll do the rest! You will then receive email alerts about any status changes, hearing dates, and sections of the Ohio Revised Code that may be affected.

National Consumer Law Center Reports

The Law Library purchases publications from the National Consumer Law Center. One of the benefits of our ongoing acquisitions from NCLC is that we get access to online reports that NCLC publishes related to a number of consumer law matters like student loan law, collection actions, consumer bankruptcy, foreclosure mediation, fair credit reporting, and more. In January, NCLC will make these reports available only to people who purchase books from them. If you are interested in any of their expert reports and policy analysis, please contact the Law Library. We will be happy to sign you on to their site in the computer lab or send you a report.

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tertwined with the privileged materials as to also be exempt from disclosure. Therefore, the school district properly responded to Dawson's request for itemized invoices of law firms providing legal services to the district in matters involving Dawson and her children by providing her with summaries of the invoices including the attorney's name, the fee total, and the general matter involved.

Second, the Court held that the letter from the insurance company appointing legal counsel was also covered by attorney-client privilege. The insurance company stood in the shoes of the district when it hired legal counsel for the district. The letter establishing the attorney-client relationship was covered by the privilege. It was not subject to release pursuant to a public records request.

In its second case on this topic, *State ex rel. McCaffrey v. Mahoning County Prosecutor's Office* (2012), 133 Ohio St. 3d 139, 2012 4246, 976 N.E.2d 877, the Court considered the prosecutor's response to a public records request for, among other things, all of the records for the hours worked and duties performed by three attorneys in the prosecutor's office between November 1, 2008, through July 28, 2010. In order to respond to this request, the office provided McCaffery with redacted copies of civil case logs for the three attorneys. Once again, the Court approved this approach, holding that, "Insofar as McCaffrey requested the duties performed by these attorneys, the narrative portions of respondents' opinion and miscellaneous logs were properly redacted based

on attorney-client privilege." *Id.* at ¶36.

The final case of the trio is *State ex rel. Anderson v. City of Vermilion*, Slip Op. No. 2012-Ohio-5320, in which a former mayor of Vermilion was concerned about the city's expenditures for legal services and made a public records request for "all itemized billing statements" from legal firms serving the city for a four-month period. The city declined to release the records based on attorney-client privilege. As a result, the city did not provide Anderson with any information from the invoices. In this case, the Court determined the city had gone too far. Specifically, the Court found that the city was required to release certain non-privileged information that was contained in the invoices:

*Under the Public Records Act, insofar as these itemized attorney-billing statements contain nonexempt information, e.g., **the general title of the matter being handled, the dates the services were performed, and the hours, rate, and money charged for the services, they should have been disclosed to Anderson.** . . . If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the public office or the person responsible for the public record shall make available all of the information within the public record that is not exempt.* *Id.* at ¶14 (*emphasis added*) (*citations omitted*).

Taken together, these three cases provide a fairly clear picture of how to respond to a request for copies of invoices for legal services. Any narrative description of the work performed is covered by attorney-client privilege and should be redacted. This does not mean, however, that a public office can sim-

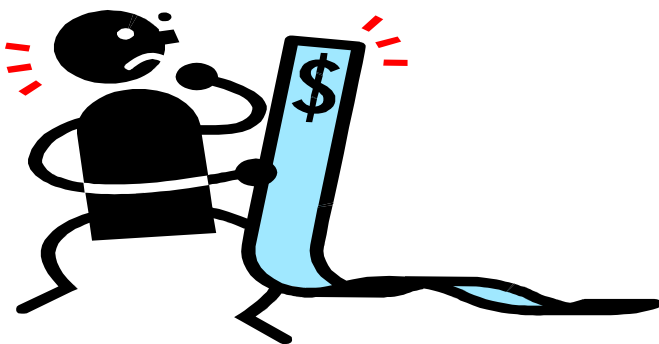
ply refuse to provide anything in response to a request.

Instead, the bills should be examined to determine if they contain any non-privileged materials, such as the general title of the matter being handled, the dates the services were performed, and the hours, rate and money charged for the services. If the invoices contain such information, the privileged material should be redacted.

The non-privileged information should be examined further to determine if another exception would require further redactions. For instance, a school district would be required to redact matter names that contain personally identifiable student information pursuant to FERPA and R.C. 3319.321. Any information that is not subject to the attorney-client privilege must be released to the public, along with citation to legal authority that justifies the redactions that have been made.

So, are legal bills “public records?” For the real “heart” of the information, the answer is still clearly “no.” But now we must also recognize that there is likely to be some information in that attorney bill that is not privileged, and therefore must be provided.

Questions concerning the above may be referred to the attorneys of the Bricker & Eckler [Education Group](#).



Reference Services at the Law Library

One of the subscriber benefits we offer at the Law Library is reference help. We usually have three staff members on rotation who are available to help with research M-F 7:30-4:30. What can we help with? Here is a sampling of reference requests we have filled in the past two months:

- Case law searching
- Document delivery-we can email cases, statutes, chapters of treatises etc.
- Ohio Revised Code Archives-need to know how ORC 2950 read in 1995? We have an extensive collection of archived Ohio statutes including the general code.
- Forms-looking for a sample complaint or trust form? We have a variety of print and online resources for sample forms. Let us know what you need and we can send it to you.

Call us at 513.946.5300 or email reference@cms.hamilton-co.org.

Briefs, Pleadings, and Motions

We recently entered into a new license agreement with Lexis which expands the content that library staff can access. If you need nationwide briefs, pleadings, and motions, including the Sixth Circuit, please speak with a librarian. We hoped to offer this material in the computer lab, but for the time being, let us deliver the material you need.

Subscriber Benefits

All subscribers have access to the following valuable resources and services:

Circulation privileges to borrow from over 40,000 print volumes for up to 6 weeks at a time

Access to extensive electronic databases from the Law Library, including LexisNexis, Shepards', CCH Omnitax, CCH Human Resources Group, and CCH Business Group resources, Hein Online Law Journals and Federal Register, and over 70 Aspen / LOISLaw treatises in 16 substantive areas

Wireless network throughout the Law Library

Polycom videoconferencing

5 meeting rooms with speaker phones

Professional reference service by our law librarians, available via e-mail, telephone, and in person

Free document delivery by fax or e-mail of print and electronic materials

Inexpensive CLE seminars throughout the year, on legal research and substantive topics

In addition, solos and attorneys whose firm has a subscription have 24 hour remote access to Fastcase.com case law, Aspen/ LOISLaw treatises and CCH Newsletters

You and the Legal System: Debt Management

Michelle Abernathy of SmartMoney Community Services is our next speaker in the *You and the Legal System* series for the public. Ms. Abernathy will discuss Debt Management on Friday, January 18 at 12 noon at the Law Library.

The program is free to the public. To register, call 513.946.5300.

Please note that this is not a CLE event; it is intended for the general public. However, attorneys are welcome to attend and may want to pass along the program announcement to clients, staff and community organizations. If you would like more information, please contact Laura Dixon-Caldwell at 513-946-5302.

You and the Legal System is brought to you as a public service by the Hamilton County Law Library, in conjunction with the Cincinnati Bar Association's Lawyer Referral Service.

Save the date for the next event in the *You and the Legal System* series: Steve Olden will discuss Social Security and SSI on February 15.

Library Board Meeting

The next regularly scheduled meeting of the Hamilton County Law Library Resources Board will be held at 1:00 p.m. on January 3, 2013 in the Robert E. Kraft Board Room. Meetings of the board are open to the public. Minutes of past meetings are available at

<http://www.hamilton-co.org/cinlawlib/about/trustees.html>

CCH Online Resources

As mentioned in our December 2012 issue, the Law Library recently cancelled most of the BNA web-based content to which we subscribed. However, the Library has comparable content available through our CCH subscription. Here is a sampling of the content available on CCH Intelliconnect.

Onsite Access

Labor & Employment Law

Disabilities Management Guide
 COBRA Handbook
 EEOC Compliance Guide
 Employment Practices Guide
 HR Compliance Library
 Labor Arbitration Awards-1986-Present
 Labor Relations -Explanations, Federal Laws and Regulations
 NLRB Case Handling Manual
 OFCCP Compliance Manual
 State By State Guide to Human Resources Law
 State Employment Summaries, Laws, Regs, and Case Law (Practice Areas)
 Wages-Hours-Explanations, Federal Laws and Regulations and State Laws, Regulations and Orders

Tax Resources

State Tax Reporters
 Multistate Corporate Tax Guide
 US Master Tax Guide
 Standard Federal Tax Reporter
 Tax Research Consultant
 Federal Excise Tax Reporter
 IRS Letter Rulings & IRS Positions
 IRS Penalties Handbook
 State and Federal Tax Archives

Estate Planning

Federal Estate and Gift Tax Reporter
 State Inheritance and Gift Tax Reporter
 Estate Planning & Drafting (Includes Tax Rate Tables)
 Financial and Estate Planning Practice Tools (Includes charts and IRS Comparison Calculator)

Products Liability

Consumer Product Safety Guide
 Law of Products Liability
 Managing for Product Liability Avoidance
 Preparation of a Product Liability Case
 Product Liability Case Digest
 Product Liability Desk Reference
 Products Liability News
 Products Liability Reporter
 Proving and Defending Damage Claims
 Tort Law Desk Reference

Remote Access

In addition to these titles which are available onsite, subscribers also have remote access to CCH newsletters on a variety of topics, including these:

Bankruptcy
 Benefits
 Commodities & Derivatives
 Computer & Internet
 Consumer Credit
 Corporate Governance
 Federal Taxes Current Features and Journals
 Financial and Estate Planning News and Developing Issues
 Food, Drugs and Devices
 Government Contracts
 Health Care Compliance and Reimbursement
 Human Resources
 Insurance Coverage Litigation
 Intellectual Property
 International Securities & Business
 International Tax News and Journals
 Investment Management
 Labor and Employment Law
 Mortgage
 Products Liability and Safety
 Safety/OSHA
 Specialized Tax Areas News
 Unemployment/Social Security

For a complete list of CCH newsletters available remotely, see this link-

<http://www.hamilton-co.org/cinlawlib/images/CCH%20Newsletter%20Topics.pdf>

Upcoming Events:

January 3: Hamilton County Law Library Resources Board Meeting

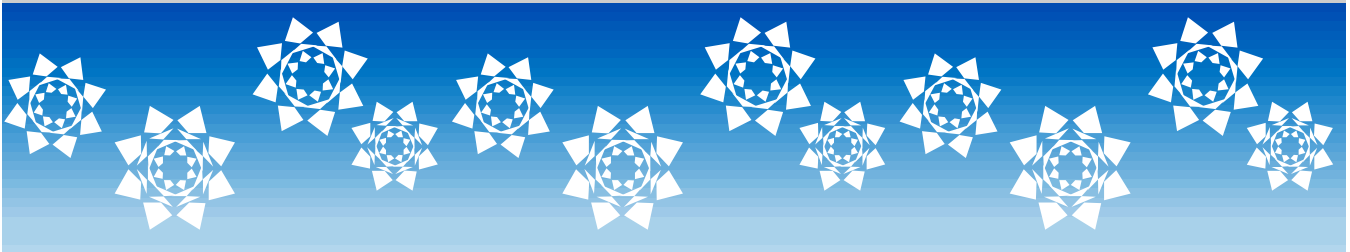
January 18: You and the Legal System: Debt Management

January Holidays:

The Law Library will be closed:

Tuesday, January 1 in observance of New Year's Day.

Monday, January 21 in observance of Martin Luther King Jr. Day.



January 2013 Law Library Newsletter

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ADDRESS CORRECTION REQUESTED

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