

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

IN THE MARION _____ COURT
Case Number: _____

WILLIAM GROTH,)
Plaintiff,)
)
vs.)
)
MIKE PENCE, as Governor)
of the State of Indiana,)
Defendant.)

49D13 15 06 PL 02 1 5 4 8

FILED

175 JUN 30 2015

COMPLAINT

Myla A. Eldridge
CLERK OF THE MARION CIRCUIT COURT

Plaintiff, William Groth, by his attorney, Gregory Bowes, now presents this Complaint against Defendant, Mike Pence, as Governor of the State of Indiana. The specific allegations are as follows:

1. Mr. Groth presented a written request to the Governor on December 10, 2014, asking for certain documents relating to the Governor's "discretionary decision to hire outside counsel at Barnes & Thornburg to represent your office and/or the State of Indiana in *State of Texas, et al v. United States of America*, pending in the United States District Court for the Southern District of Texas, Brownsville Division, challenging the November 20, 2014 action of the President of the United States to exercise discretion with respect to certain individuals who came to the United States as children and whose parents are United States citizens or permanent residents." Mr. Groth's request is attached as Exhibit A.

2. The Governor's response includes three detailed invoices showing the work done by Barnes & Thornburgh LLP for the Governor. The invoices contain substantial redactions. The pages containing the redactions are attached as Exhibit B.

3. The Governor's response also included a set of electronic mail messages totaling 57 pages. In those messages, it is apparent that other messages relevant to Mr. Groth's requests were not provided. The 57 pages contain page numbers at the bottom that imply that other pages were not produced, because the page numbering is out of order and contains repetitions of page numbers.

4. The following items in the 57 pages show that certain documents responsive to Mr. Groth's request were not produced:

- a. The third and fourth pages refer to an attachment that was not produced.
- b. The 24th page is an electronic mail message from Mark Niquette to Christina Denault, the Communications Director for the Governor. The message asks for information about how the President's immigration policy will affect Indiana. The Governor's response to Mr. Groth's request includes no reply from Ms. Denault to Mr. Niquette.
- c. The 38th page contains a message from a reporter forwarded by Maureen Groppe to Kara Brooks and Christina Denault. The Governor's response contains no reply to the reporter's inquiry.
- d. The 39th page is an inquiry from a reporter about the anticipated costs of Indiana's participation in the Texas lawsuit. The Governor's response contains no reply to this inquiry.

e. The 52nd page is a message from Daniel Hodge to various recipients that contains an attached “white paper.” The white paper was not produced to Mr. Groth.

5. The 30th page of the electronic mail messages contains a redacted message from Josh Pitcock to Jim Atterholt.

6. The 48th page of the electronic mail messages contains a message from Josh Pitcock to a recipient whose name has been redacted.

7. The portions of the Governor’s response containing the electronic mail messages referred to in Paragraphs 3 through 6, above, are attached as Exhibit C.

8. Mr. Groth presented a formal complaint to the Indiana Public Access Counselor on April 15, 2015, pursuant to Ind. Code 5-14-5. On May 27, 2014, the Counselor issued his advisory opinion in Case Number 15-FC-133. That opinion is available at <http://in.gov/pac/advisory/files/15-FC-133.pdf>.

9. The Governor has improperly redacted the records provided to Mr. Groth.

10. The Governor’s improper redactions result in an improper denial of a proper public records request, and violates Ind. Code §§ 5-14-3-1 *et seq.*

11. By failing to produce documents responsive to Mr. Groth’s request, the Governor has improperly denied a proper public records request.

12. Ind. Code § 5-14-3-9(e) provides, “A person who has been denied the right to inspect or copy a public record by a public agency may file an action in the circuit or superior court of the county in which the denial occurred to compel the public agency to permit the person to inspect and copy the public record.”

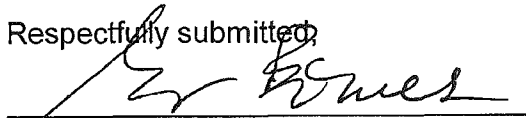
13. Ind. Code § 5-14-3-9(h) provides, “if the complaint alleges that a public agency denied disclosure of a public record by redacting information in the public record, the court shall conduct an *in camera* inspection of the public record with the redacted information included.”

14. Ind. Code § 5-14-3-9(i) provides, “In any action filed under this section, a court shall award reasonable attorney’s fees, court costs, and other reasonable expenses of litigation to the prevailing party if: (1) the plaintiff substantially prevails . . .”

15. Ind. Code § 5-14-3-9(k) provides, “A court shall expedite the hearing of an action filed under this section.”

WHEREFORE Plaintiff, William Groth, respectfully asks this Court to grant him a judgment ordering the Governor to produce the records he requested free from improper redactions, ordering the Governor to pay his attorney fees, and granting all other appropriate relief.

Respectfully submitted,



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Attorney for Plaintiff

December 10, 2014

VIA CERTIFIED MAIL

The Hon. Mike Pence
Governor, State of Indiana
Indiana State Capitol
Room 206
Indianapolis IN 46204-2797

Re: Public Records Request

Dear Gov. Pence:

Pursuant to the Indiana Access to Public Records Act, IC 5-14-3, I am hereby requesting public records that your office maintains concerning your discretionary decision to hire outside counsel at Barnes & Thornburg to represent your office and/or the State of Indiana in litigation captioned *State of Texas, et al v. United States of America*, pending in the United States District Court for the Southern District of Texas, Brownsville Division, challenging the November 20, 2014, action of the President of the United States to exercise discretion with respect to certain individuals who came to the United States as children and whose parents are United States citizens or permanent residents. More specifically, I am requesting the following records pertaining to said lawsuit: (1) all correspondence between your office and the office of the Indiana Attorney General, any other state official, any governmental official from another state, or any private entity, with respect your decision to become a party in litigation; (2) the contract or agreement between your office and Barnes & Thornburg LLP, retaining that firm to represent you and/or the State of Indiana in said lawsuit; (3) any and all invoices from Barnes & Thornburg for professional services rendered or to be rendered in connection with said lawsuit; and (4) evidence of any payments made to Barnes & Thornburg for professional services rendered in connection with said lawsuit.

I appreciate your timely response to this request.

Sincerely,



William R. Groth
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Exhibit A