This document is redacted in accordance with court rules or as ordered by the court.

FILED
05-09-2022
CIRCUIT COURT
DANE COUNTY, WI
2022CV001116
Honorable Jacob Frost
Branch 9

STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY
BRANCH __

MADISON TEACHERS INC.,
33 Nob Hill Road
Madison, Wisconsin 53713,

Plaintiff,

Case No. _____
Case Code: 30952

v.

MADISON METROPOLITAN SCHOOL DISTRICT
545 West Dayton Street
Madison, Wisconsin 53703,

Defendant.

SUMMONS

THE STATE OF WISCONSIN, to each party named above as a Defendant:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The complaint, which is attached, states the nature and basis of the legal action.

Within 20 days of receiving this summons, you must respond with a written answer, as that term is used in chapter 802 of the Wisconsin Statutes, to the complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is Dane County Clerk of Courts, Dane County Courthouse, 215 South Hamilton Street, Madison, Wisconsin 53703-3285, and to Plaintiff's attorney, whose address is Pines Bach LLP,

122 West Washington, Suite 900, Madison, WI 53703. You may have an attorney help or represent you.

If you do not provide a proper answer within 20 days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future and may also be enforced by garnishment or seizure of property.

If you require the assistance of Auxiliary Aides or Services because of a disability, call (608) 266-4678 (TDD (608) 266-2138)) and ask for the Court ADA Coordinator.

Respectfully submitted this 9th day of May 2022.

PINES BACH LLP

Electronically signed by: Leslie A. Freehill .

Leslie A. Freehill, SBN 1095620
Lester A. Pines, SBN 1016543
122 West Washington Ave., Suite 900
Madison, WI 53703
(608) 251-0101 (telephone)
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lfreehill@pinesbach.com
lpines@pinesbach.com

Attorneys for Plaintiff

FILED
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STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY
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33 Nob Hill Road
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Plaintiff,

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v.

MADISON METROPOLITAN SCHOOL DISTRICT
545 West Dayton Street
Madison, Wisconsin 53703,

Defendant.

PETITION FOR WRIT OF MANDAMUS

Plaintiff Madison Teachers Inc. ("MTI") by its attorneys, Pines Bach LLP, complains against Defendant Madison Metropolitan School District ("MMSD" or the "District") as follows under the Wisconsin Public Records Law, Wis. Stat. § 19.31 *et seq.* ("Public Records Law"):

Parties

1. Madison Teachers Inc. ("MTI") is a labor organization that represents over 4,000 employees in the Madison Metropolitan School District ("MMSD"), the Defendant in this matter. MTI does this through collective bargaining, through meet and confer discussions with MMSD administration about a wide variety of issues affecting its members' working conditions, and through other collective actions with its members. MTI members include teachers, educational professionals and paraprofessionals,

substitute teachers, clerical/technical employees, educational assistants, and school security assistants. Having submitted Public Records requests to the Defendant, MTI is a "requester" within the definition of the Public Records Law, Wis. Stat. § 19.32(3).

2. Defendant Madison Metropolitan School District is a school district as that term is used in Chapters 115 through 121 of the Wisconsin Statutes. MMSD is the second-largest primary and secondary school system in the state. Its administrative office and principal place of business is located at 545 West Dayton Street, Madison, Wisconsin 53703. MMSD is an "authority" as that term is defined in Wis. Stat. § 19.32(1).

Jurisdiction and Venue

3. The Court has jurisdiction over the subject matter of this dispute pursuant to Article VII, Section 8 of the Wisconsin Constitution and Wis. Stat. § 753.03.

4. Venue is proper under Wis. Stat. §§ 19.37(1) and 801.50(2).

Facts

5. On November 3, 2021, MTI requested the following records (collectively, the "Records") from MMSD for insurance carriers Group Health Cooperative-SouthCentral Wisconsin (both HMO and point-of-service plans), Dean Health Plan, Delta Dental of Wisconsin (both HMO and point-of-service plans), and EyeMed:

A. Copies of the past three vendor contracts between the MMSD and the insurance carriers, ending with the most recent contract;

B. Copies of the current plan certificate (i.e., certificate of insurance) for each insurance carrier; and

C. Copies of all records that reflect the administrative fees paid by the MMSD to each insurance carrier for 2019, 2020, and 2021.

A copy of the November 3, 2021, public records request sent by email to the MMSD is attached hereto as Exhibit A.

6. On November 3, 2021, MMSD confirmed receipt of MTI's public records request by email, which is attached hereto as Exhibit B.

7. On December 6, 2021, MTI sent a follow-up letter by email to MMSD inquiring as to when it could expect to receive the Records. A copy of the December 6, 2021 letter is attached hereto as Exhibit C.

8. On December 13, 2021, the MMSD confirmed receipt of MTI's follow-up letter by email, which is attached hereto as Exhibit D.

9. On January 31, 2022, MTI received an email from MMSD stating that some of the records requested are maintained in hard copy only and required a prepayment of $359.58 for the location fee. A copy of MMSD's January 31, 2022 email is attached hereto as Exhibit E.

10. The next day, February 1, 2022, MTI paid the prepayment request in full. A copy of the February 1, 2022 letter enclosing payment is attached hereto as Exhibit F.

11. More than six months have passed since MTI's November 3, 2021 request and MMSD has not provided any Records responsive to the request.

CAUSE OF ACTION:
Defendant Has Violated the Wisconsin Public Records Law

12. Plaintiff incorporates by reference all allegations set forth in the preceding paragraphs.

13. Under Wis. Stat. § 19.31, it is the declared public policy of this State that every citizen is entitled to the greatest possible information regarding the affairs of government and the official acts of government officers and employees. Wis. Stat. § 19.31 thus provides that the Public Records law "shall be construed in every instance with a presumption of complete public access, consistent with the conduct of governmental business," and further, that "[t]he denial of public access generally is contrary to the public interest, and only in an exceptional case may access be denied."

14. The Public Records Law provides that a requester has the right to inspect any record except as otherwise provided by law. Wis. Stat. § 19.35(1)(a).

15. MTI is a "requester" as defined by the Public Records Law. *See* Wis. Stat. § 19.32(3).

16. The Records requested by MTI on November 3, 2021, were "records" subject to disclosure under the Public Records Law. *See* Wis. Stat. § 19.32(2).

17. The Public Records Law requires a public authority, including MMSD, to fulfill a public records request "as soon as practicable and without delay." Wis. Stat. §§ 19.32(1), 19.35(4).

18. MMSD has violated the Public Records Law by improperly withholding and delaying access to the Records requested by MTI on November 3, 2021.

19. MMSD's actions have caused and will continue to cause injury to MTI by depriving MTI and the public of their rights under the Public Records Law.

RELIEF REQUESTED

WHEREFORE, Plaintiff respectfully requests that the Court grant the following relief pursuant to Wis. Stat. § 19.31 *et seq.*:

1. An order declaring that Defendant violated Wisconsin's Public Records Law, Wis. Stat. §§ 19.31 *et seq.*;
2. A mandamus order directing Defendant to produce for the Plaintiff a copy of the requested records without further delay, Wis. Stat. § 19.37(1)(a);
3. An award to Plaintiff for its reasonable attorneys' fees, damages of not less than $100, Plaintiff's other actual costs, and punitive damages if the Court finds the Defendant arbitrarily and capriciously denied or delayed response to Plaintiff's requests, Wis. Stat. § 19.37(2), (3); and
4. Such other relief as the Court deems just and equitable.

Respectfully submitted this 9th day of May 2022.

PINES BACH LLP

Electronically signed by: Leslie A. Freehill .

Leslie A. Freehill, SBN 1095620
Lester A. Pines, SBN 1016543
122 West Washington Ave., Suite 900
Madison, WI 53703
(608) 251-0101 (telephone)
(608) 251-2883 (facsimile)
lfreehill@pinesbach.com
lpines@pinesbach.com

Attorneys for Plaintiff

PINES BACH

Pines Bach LLP
122 W Washington Ave, Ste 900
Madison, WI 53703

608.251.0101 Phone
608.251.2883 Fax
pinesbach.com

Attorney Lester A. Pines
lpines@pinesbach.com

November 3, 2021

VIA E-MAIL

Madison Metropolitan School District
545 W. Dayton Street
Madison, WI 53703

Re: Open Records Request

Dear Open Records Coordinator:

On behalf of Madison Teachers, Inc., this firm requests the following records under the Open Records Law, Wis. Stat. § 19.31 *et seq.*, for the following insurance carriers:

- Group Health Cooperative-South Central Wisconsin
  -For both HMO and point-of-service plans
- Dean Health Plan
  -For both HMO and point-of-service plans
- Delta Dental of Wisconsin
- EyeMed

1. Copies of the past three vendor contracts between the MMSD and the insurance carriers listed above ending with the most recent contract.

2. Copies of the current plan certificate (i.e., certificate of insurance) for each of the insurance carriers listed above.

3. Copies of all records that reflect the administrative fees paid by the MMSD to each of the insurance carriers listed above for 2019, 2020, and 2021.

As you know, the Open Records law requires that you respond to this request as soon as practicable and without delay, and to identify all reasons for denial of any part of this request.

EXHIBIT A

If the above-requested records are available electronically, I ask that they be provided in their original electronic format.

Please let me know if you have any questions about this request, or if the location fee will exceed $100 prior to responding to this request.

Thank you.

Sincerely,

PINES BACH LLP

Lester A. Pines

LAP:ggb

cc: Ed Sadlowski - MTI

EXHIBIT A

Genny Gibbs

From: Public Records MMSD <publicrecords@madison.k12.wi.us>
Sent: Wednesday, November 3, 2021 12:52 PM
To: Genny Benesh
Subject: Re: Open records request

Ms. Benesh -

Your request dated November 3, 2021, has been received. Responses are handled in the order in which they are received. Unfortunately, due to a high volume of requests at this time, we are experiencing a delay in responding to requests. We hope to have it completed shortly.

Thank you for your patience.

On Wed, Nov 3, 2021 at 10:24 AM Genny Benesh <gbenesh@pinesbach.com> wrote:

> Dear Records Custodian:
>
> Please process the attached open records request. Thank you.

Genevieve Gibbs-Benesh, CP

Paralegal

608.251.0101 Phone

608.251.2883 Fax

gbenesh@pinesbach.com

Pines Bach LLP

122 W Washington Ave, Ste 900
Madison, WI 53703

www.pinesbach.com

EXHIBIT B

PINES BACH

Personal Service. Positive Outcomes.

"This is a transmission from the law firm of Pines Bach LLP and may contain information which is proprietary, privileged, confidential, and protected by the attorney-client or attorney work product privileges. If (a) you are not the addressee or (b) you are not the intended recipient, that is, your e-mail address was used in error by the sender, you should know that any disclosure, copying, distribution or use of the contents of this message is prohibited. If you have received this transmission in error, please delete and/or destroy it and, if we have not already realized our error and contacted you, notify us immediately at our telephone number (608) 251-0101."

EXHIBIT B

PINES BACH

Pines Bach LLP
122 W Washington Ave, Ste 900
Madison, WI 53703

608.251.0101 Phone
608.251.2883 Fax
pinesbach.com

Attorney Lester A. Pines
lpines@pinesbach.com

December 6, 2021

VIA E-MAIL

Madison Metropolitan School District
545 W. Dayton Street
Madison, WI 53703

Re: Open Records Request

Dear Open Records Coordinator:

The attached open records request was made on behalf of Madison Teachers, Inc. on November 3, 2021. Your office acknowledged receiving it. More than 30 days have passed since your office received the request, and no documents have been produced. As you are surely aware, pursuant to Wis. Stat. § 19.35(4)(a), a response to an open records request is to be made "as soon as practicable and **without delay** (emphasis added).

If the MMSD does not by December 13, 2021 provide me with the requested documents my client will seek relief from the circuit court.

Very truly yours,

PINES BACH LLP

Lester A. Pines

LAP:ggb

EXHIBIT C

PINES BACH

Pines Bach LLP
122 W Washington Ave, Ste 900
Madison, WI 53703

608.251.0101 Phone
608.251.2883 Fax
pinesbach.com

COPY

Attorney Lester A. Pines
lpines@pinesbach.com

November 3, 2021

VIA E-MAIL

Madison Metropolitan School District
545 W. Dayton Street
Madison, WI 53703

Re: Open Records Request

Dear Open Records Coordinator:

On behalf of Madison Teachers, Inc., this firm requests the following records under the Open Records Law, Wis. Stat. § 19.31 *et seq.*, for the following insurance carriers:

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  -For both HMO and point-of-service plans
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  -For both HMO and point-of-service plans
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2. Copies of the current plan certificate (i.e., certificate of insurance) for each of the insurance carriers listed above.

3. Copies of all records that reflect the administrative fees paid by the MMSD to each of the insurance carriers listed above for 2019, 2020, and 2021.

As you know, the Open Records law requires that you respond to this request as soon as practicable and without delay, and to identify all reasons for denial of any part of this request.

EXHIBIT C

If the above-requested records are available electronically, I ask that they be provided in their original electronic format.

Please let me know if you have any questions about this request, or if the location fee will exceed $100 prior to responding to this request.

Thank you.

Sincerely,

PINES BACH LLP

Lester A. Pines

LAP:ggb

cc: Ed Sadlowski - MTI

EXHIBIT C

Genny Gibbs

From: Public Records MMSD <publicrecords@madison.k12.wi.us>
Sent: Monday, December 13, 2021 3:42 PM
To: Genny Benesh
Subject: Re: Follow-up public records request

Dear Attorney Pines,

The Madison Metropolitan School District (the "District") extends its sincere apologies for the processing delay of your public records request. Due to staff shortages, the COVID-19 pandemic, and an overwhelming number of public records requests received this year, the District is experiencing some challenges with the processing of the requests.

The District is diligently working to process the public records requests as soon as practicable and in the order they are received. At this time, there are four other public records requests that were received prior to the receipt of your request. The District anticipates processing your request within the next week. However, the District is unable to provide you with a definite date of completion.

Again, thank you for your patience and understanding during this very unprecedented time.

On Mon, Dec 6, 2021 at 4:05 PM Genny Benesh <gbenesh@pinesbach.com> wrote:

Please see attached.

Genevieve Gibbs-Benesh, CP

Paralegal

608.251.0101 Phone

608.251.2883 Fax

gbenesh@pinesbach.com

Pines Bach LLP

122 W Washington Ave, Ste 900
Madison, WI 53703

www.pinesbach.com

EXHIBIT D

PINES BACH

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EXHIBIT D

Genny Gibbs

From: Public Records MMSD <publicrecords@madison.k12.wi.us>
Sent: Monday, January 31, 2022 2:17 PM
To: Genny Benesh
Subject: Re: Follow-up public records request

Dear Ms. Buttchen,

Thank you for your patience with the processing delay of your public records request due to the COVID-19 pandemic, staffing constraints, and an increase in public records requests the District has received to-date.

After a preliminary search, a number of items you requested (specifically the vendor contracts and current plan certificates) are not maintained electronically and require in-person search efforts from District staff as the documents are maintained in hard-copy. The remaining item in your request (paid administrative fees) is maintained electronically, but requires search efforts from a separate department. To complete your public records requests, the District will require a prepayment fee in the amount of $359.58 for a total of 5 hours of 2 staff members' time to locate the requested records. Under the Wisconsin Public Records Law, requesters may be charged only for the actual, necessary and direct costs to locate requested records. Requesters may not be charged for the time required to redact or remove confidential information, nor for the time required to review the records to determine if redactions are needed. Please note: the prepayment calculation is based on the non-fringe hourly rate for both staff members' time to locate the requested material.

If there is any difference between the actual location costs and the prepayment amount, the difference will be refunded to you upon completion of the request. Likewise, if, upon completing the response to your request, it is determined that the above-cited prepayment amount is insufficient to cover the actual costs of locating the requested records, the District will request that you pay the remainder of the balance before it provides you the remainder of the records.

Please prepay the location fees in the amount of $359.58 for staff time to complete your request. Please make the check payable to: The Madison Metropolitan School District. You may mail or deliver the payment to: The Legal Services Department, Room 104, The Madison Metropolitan School District, 545 W. Dayton Street, Madison WI 53703.

The District will provide you the information it has collected to-date (until the request is fulfilled) immediately upon receipt of payment.

If you have any questions or concerns, please do not hesitate to contact the Legal Services Department at (608) 663-1868.

Thank you for your patience and understanding.

On Mon, Dec 6, 2021 at 4:05 PM Genny Benesh <gbenesh@pinesbach.com> wrote:

Please see attached.

Genevieve Gibbs-Benesh, CP

Paralegal

EXHIBIT E

608.251.0101 Phone

608.251.2883 Fax

gbenesh@pinesbach.com

Pines Bach LLP

122 W Washington Ave, Ste 900
Madison, WI 53703

www.pinesbach.com

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EXHIBIT E

PINES BACH

Pines Bach LLP
122 W Washington Ave, Ste 900
Madison, WI 53703

608.251.0101 Phone
608.251.2883 Fax
pinesbach.com

Genevieve Gibbs-Benesh, CP
Paralegal
gbenesh@pinesbach.com

February 1, 2022

The Legal Services Dept., Room 104
Madison Metropolitan School District
545 W. Dayton Street
Madison, WI 53703

Re: Payment for Public Records Request

Dear Records Custodian:

Enclosed is this firm's check in the amount of $359.85 as payment in full of the MMSD's location fee for the enclosed public records request dated November 3, 2021. Please provide the requested records upon receipt of this payment.

Thank you.

Sincerely,

PINES BACH LLP

Genevieve Gibbs-Benesh, CP

ggb
Enclosures

cc: Jeff Knight - MTI

EXHIBIT F

PINES BACH

Pines Bach LLP
122 W Washington Ave, Ste 900
Madison, WI 53703

608.251.0101 Phone
608.251.2883 Fax
pinesbach.com

Attorney Lester A. Pines
lpines@pinesbach.com

COPY

November 3, 2021

VIA E-MAIL

Madison Metropolitan School District
545 W. Dayton Street
Madison, WI 53703

Re: Open Records Request

Dear Open Records Coordinator:

On behalf of Madison Teachers, Inc., this firm requests the following records under the Open Records Law, Wis. Stat. § 19.31 *et seq.*, for the following insurance carriers:

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3. Copies of all records that reflect the administrative fees paid by the MMSD to each of the insurance carriers listed above for 2019, 2020, and 2021.

As you know, the Open Records law requires that you respond to this request as soon as practicable and without delay, and to identify all reasons for denial of any part of this request.

EXHIBIT F

If the above-requested records are available electronically, I ask that they be provided in their original electronic format.

Please let me know if you have any questions about this request, or if the location fee will exceed $100 prior to responding to this request.

Thank you.

Sincerely,

PINES BACH LLP

Lester A. Pines

LAP:ggb

cc: Ed Sadlowski - MTI

EXHIBIT F

PINES BACH LLP

038826

MISC Madison Metropolitan School District Check Date: 01/31/2022 Check Number:38826

Date	INV #	Client	Matter	Atty	EXP	Description	GL Acct	Amount
01/31/22	OPER-GGB	10001	0101	GGB	OX		123000	359.58

Check Amount: $359.58

PINES BACH LLP
ATTORNEYS AT LAW
122 W. WASHINGTON AVE., SUITE 900
MADISON, WI 53703-2717

First Business Bank 79-578/759
Madison, WI 53711

CHECK NO. 038826

THREE HUNDRED FIFTY NINE AND 58/100 DOLLARS

PAY TO THE ORDER OF

Madison Metropolitan School District

DATE 01/31/2022

AMOUNT **$359.58**

VOID AFTER 90 DAYS

I[redacted]

EXHIBIT F