

IN THE CIRCUIT COURT OF THE
FOURTH JUDICIAL CIRCUIT, IN AND
FOR DUVAL COUNTY, FLORIDA.

CASE NO.: 2014-CA-4647-XXXX
DIVISION: CV-E

JEFFREY MARCUS GRAY

Plaintiff,

v.

**LUTHERAN SOCIAL SERVICES OF
NORTHEAST FLORIDA, INC.**

Defendant.

FINAL ORDER DENYING RELIEF UNDER PUBLIC RECORDS ACT

This cause came to be heard on the Initial Complaint filed by Plaintiff, **Jeffrey Marcus Gray** [hereinafter “Gray”], requesting that the court declare Defendant **Lutheran Social Services of Northeast Florida, Inc.** [hereinafter “LSS”] to be in violation of Chapter 119, Florida Statutes [hereinafter “the Act”], and award attorneys’ fees and costs pursuant to the Act. From the evidence the court finds:

1. Gray is a self-described “civil rights activist” who earns part of his livelihood by making public records requests for unwanted documents on unsuspecting private entities which are agents of public agencies, and potentially subject to the requirements of the Act.
2. LSS is a nonprofit corporation whose mission is to assist people in need. LSS helps people that are vulnerable due to illness or poverty. Their beneficiaries include refugees, children of refugees, people afflicted with AIDS, the

homeless, and those suffering from mental illness. It provides social services, mental health case management services, youth services, and other vitally important services to people in need within the community.

3. Gray and others have teamed up to make public record demands for unwanted documents on numerous private entities which contract with various government agencies generally to provide specific services. To date, Gray is or has been a plaintiff in 18 separate 2014 lawsuits involving public records requests in Duval County. The means utilized by Gray and those associated with him to make these public records requests follow a similar pattern. The means used in the instant case to make a request of LSS is representative of that pattern.
4. Abraham Shakfeh [hereinafter “Shakfeh”] is one of the lawyers that files these suits on behalf of Gray. In Duval County in the year, 2014, Shakfeh has filed approximately 13 lawsuits seeking public records on behalf of Gray. Shakfeh lists his home office in Tampa, Florida.
5. Joel Chandler [hereinafter “Chandler”] identified himself as Shakfeh’s paralegal and sat at counsel table next to Shakfeh at hearing. Chandler picked up Gray and drove him to LSS and several other places that day for the sole purpose of making public record requests. According to Gray, Chandler is a resident of Lakeland, Florida.
6. Thomas Covenant [hereinafter “Covenant”] was with Gray when Gray entered the offices of LSS on June 16, 2014. He testified the purpose of his presence at LSS was to provide witness testimony in future legal proceedings.

7. Either Chandler or Covenant regularly reviews the “Chief Financial Officer’s Website” to scan posted contracts executed between private entities and government agencies. The results of the search are supplied to Gray. The contracts are printed and Gray, Chandler, and Covenant drive to various private entities and request unwanted documents under the Public Records Act. They often visit more than one place in a day.
8. Thirteen of the eighteen cases that Gray has filed this year in Duval County were filed by Shakfeh. In ten of these cases, which appear to be separate and unrelated to each other, Shakfeh and Gray allege dates of public records requests between June 16, 2014, and June 19, 2014. In case 2014-CA-4544, Gray alleges he sought public records on June 16, 2014 [the same date as the instant action], from an entity named Eisman and Russo Inc.
9. Neither Gray, nor any of his associates, made any effort to inform or advise anyone associated with LSS that they were coming to request documents under the Act. The failure to provide advance notice or written notice of any kind to LSS was intentional and designed to catch LSS off-guard to obtain an initial rejection of Gray’s unneeded request.
10. Shakfeh pays Gray when he recovers attorneys’ fees in these cases. Gray testified and Shakfeh argued that payments to Gray in the past were from “settlement proceeds.” However, the relief available under the Act is production of the requested documents, costs, and attorneys’ fees. There is not a basis for an award for monetary damages. Shakfeh claimed during argument that the “settlement proceeds” are generated in exchange for

dismissing claims for “declaratory relief.” This, too, would not give rise to an award for monetary damages. The court concludes that any payment to Gray in the past in other cases is merely a fee-splitting arrangement between Gray and Shakfeh. The use of the term “settlement proceeds” is simply an effort to mislabel any monetary distribution between them.

11. Based on this agreement, Gray has a financial interest in assuring that his requests for public records are refused. The circumstances surrounding his request in the instant case leave no doubt that his utterances to representatives of LSS regarding potential public records were a baiting gesture meant to achieve personal financial gain; not a legitimate request for public records.
12. Before Gray entered the offices of LSS, he strapped a video camera around his neck and surreptitiously filmed and recorded conversations between himself and representatives of LSS. He purposely refrained from touching the camera with his hands to avoid attention to it. It is apparent from the video that those engaged in conversations with Gray had no idea they were being recorded.
13. Before entering the office, Gray marked the time of his arrival by videotaping a clock in the automobile driven by Shakfeh’s paralegal. Gray acknowledged this was done to present as evidence in subsequent legal proceedings.
14. The contract in question between Children and Family Services [the public agency] and LSS provides for youth services by LSS to refugees living in Duval County. The language of the contract states that “the Department is engaging the provider for the purpose of providing youth services to assist

eligible refugees/entrants to strengthen family stability and integration into the local community.”

15. Initially, Gray asked Mr. Richard Mochowski [“Mochowski”] to inspect and photograph the general insurance policy of LSS. Although Gray had the contract in hand, he did not reference the contract when he made this request. Mochowski suggested that Gray speak with Jerome Crawford [hereinafter “Crawford”], the project manager on the contract.
16. Crawford immediately discussed the matter with Gray. When asked by Gray, Crawford acknowledged his belief that LSS was subject to the Act. Gray asked Crawford for proof of insurance required by the contract. This request was substantially different from the request made earlier to Mochowski and possibly created some confusion. Crawford acknowledged that LSS possessed proof of insurance at the office, but believed that the document was not subject to disclosure under the Act from LSS, and advised Gray that it was available from the Department of Children and Family Services. Gray and Covenant left the office without providing any contact information. When asked why he failed to provide such information, Gray testified he wanted “anonymity,” despite being personally present at the office. Once Gray left, LSS had no way to contact him.
17. The next contact LSS had with Gray occurred when he filed the instant lawsuit on July 1, 2014. Oddly, Gray did not identify in his Initial Complaint the documents that he claimed were denied him. Notwithstanding the lack of clarity as to the documents in question, LSS promptly provided Gray

documents on July 31, 2014. At a preliminary hearing held September 1, 2014, Shakfeh, with Gray beside him, was unsure whether or not his client wanted more than what had already been provided to him. Nevertheless, LSS offered and the court ordered Shakfeh and Gray an opportunity to inspect documents.

18. The means to request public records under Chapter 119, Florida Statutes, utilized by Gray was unreasonable and a flagrant abuse of the statute. Gray in an effort to ambush LSS, purposely denied LSS any advanced or written notice of his demands, purposely failed to provide any contact information, and purposely appeared on a busy work day in hopes of manufacturing an attorneys' fee, to be shared with Gray. It was nothing more than a scam.
19. Notwithstanding the unreasonableness of the actions of Gray and his associates, Gray obtained the documents in a reasonable time. This was not accomplished by the filing of a lawsuit. The lawsuit served only to provide Gray's contact information to LSS. However, it was not necessary to file a lawsuit in order to merely provide an address or phone number.
20. The actions of Gray, Chandler, and Covenant prove beyond a reasonable doubt that they obtained exactly what they wanted, namely an initial denial of an unreasonable and bogus request. This was accomplished in a manner purposely designed to prevent LSS from correcting any possible error.
21. Gray and his associates secretly and unlawfully recorded representatives of LSS in a room where those in need of housing or mental health services, or those suffering with AIDS, wait for assistance. The fact that these clients of

LSS use this room as a waiting area weighs heavily in favor of finding an expectation of privacy at the time representatives of LSS were secretly recorded. However, by agreement the parties consented to the introduction of the DVD which contained audio recordings.

22. Gray's lawsuits in Duval County prove that he schemes against many private agencies that contract with the state of Florida. These private entities may be subject to the requirements of the Act. In fact, the contract between LSS and the Department of Children and Family Services puts LSS on notice that it is subject to the Act. However, if this court and other courts are willing to condone or reward the type of abuse demonstrated here, private entities may not be as willing to contract with the state of Florida. If a private entity must pay an attorney's fee every time an agent denies a needless request, the cost to the state to provide important services by contracting with private entities will increase; or private entities might discontinue bidding on these contracts. The chilling effect could be disastrous to the State. Further, the Act was not designed to create a cottage industry for so-called "civil rights activists" or others who seek to abuse the Act for financial gain.

CONCLUSION

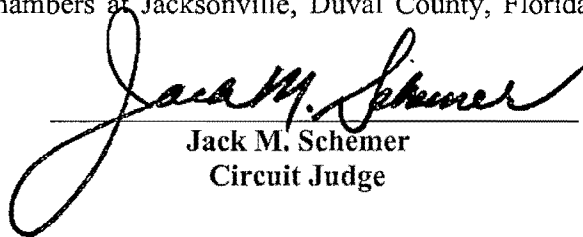
The means utilized by Gray to obtain public records was unreasonable. The filing of the lawsuit served nothing more than to provide Gray's address and/or phone number to LSS which could have easily been done by Gray without the necessity of a lawsuit.

Nevertheless, Gray was provided all unwanted records to photograph and inspect in a reasonable time.

Therefore, it is ordered and adjudged that:

1. The Initial Complaint seeking relief under Chapter 119 is denied.

DONE AND ORDERED in Chambers at Jacksonville, Duval County, Florida, this 1st day of December, 2014.



Jack M. Schemer
Circuit Judge

Copies furnished to:

Abraham Shakfeh, Esquire

Daniel K. Bean, Esquire