

FAX TRANSMITTAL

Cynthia A. Luczak
Bay County Clerk

Via Facsimile Only

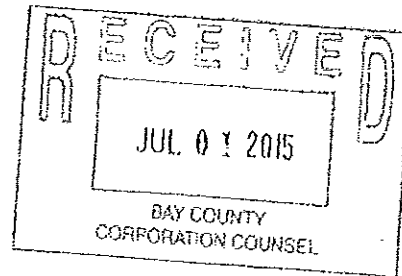
Today's Date: July 1, 2015

Addressee List May Be Continued on Next Page

Recipient	Company	Fax #	Telephone #
1. Amber Davis-Johnson	Bay County Corporation Counsel	(989) 895-7658	

No. of Pages including Cover Sheet: 3

Message: Please see attached correspondence.



July 1, 2015

Ms. Amber Davis-Johnson, Esq.
Bay County Corporation Counsel
515 Center Avenue, Suite 402
Bay City, MI 48708-5941

Re: Legal Representation -- Bay County Clerk
Retention -- Outside Legal Counsel

Dear Ms. Davis-Johnson:

Thank you for responding to my letter from June 8, 2015 requesting the retention of legal representation. However, I am dismayed and puzzled by your decision denying my request, especially when my claims pose a clear conflict of interest for your office and require the retention of outside counsel.

As indicated in my June 8 letter, I believe that the functions of the County Clerk are being threatened or hampered by the actions on the part of the Bay County Board of Commissioners (and I would add, the County Executive, as well). I have made repeated written requests and inquiries to the County Board of Commissioners for an increase in my budget and the ability to hire full-time personnel in order to adequately uphold my constitutional and statutory duties and functions. As noted, my repeated requests have been denied even though other county departments that often provide non-mandated services, have seen their budgets and staff increased. These actions have made it exceedingly difficult for me to carry out my constitutional and statutory duties, and serve the 107,000 taxpayers of Bay County.

My staff consists of me, my deputy and one other employee (who is currently unable to work due to injury). It is completely unnecessary to spend taxpayer dollars to conduct a new study of my operations when I am prepared to demonstrate that my staff is working long hours without overtime to meet the needs of the public. This will take time and that is something we do not have. When you compare the level of services and number of staff with the staff of the county clerks from comparable-size counties (e.g. Allegan and Eaton Counties), you would understand that we are woefully understaffed; the immediacy is unquestionable.

In addition, as you are aware, my office charges various fees that are either established by state law or by resolution of the County Board of Commissioners to offset the costs of the services provided. The fees charged are intended to be used to offset the cost of providing the services, and it follows that the fees should remain with the County Clerk. I believe the County Board of Commissioners has inappropriately diverted the fees to the county general fund rather than use the fees collected by my office to fund my office. That is, the County Board Commissioners is utilizing the fees as a revenue generator for the County general fund. This is not appropriate, if not illegal under Headlee (1963 Const., Art IX, §§25 and 31; See Bolt v City of Lansing, 459 Mich 152, 166 (1998); see also, Graham v Kochville Twp, 236 Mich App 141, 151 (1999) (Holding that fee do not benefit the general public; which would be the case if the Board of Commissioners continue to divert fees to the general fund).

Gen Fund.

Although there are those who would consider the actions or inactions of the Board of Commissioners and County Executive as it relates to my office as being "political", I cannot help but wonder and be concerned that these actions or inactions are discriminatory and retaliatory due to my gender (as the only female elected official in the Bay County Government) and for the reapportionment that resulted in the elimination of two county commissioner districts.

As a result of this continued disparate and discriminatory action perpetrated against me, my official position and the Bay County Clerk's office I demand that you file suit seeking declaratory and injunctive relief against the County Board of Commissioners and the County Executive. Your complaint should request the following relief:

- A declaratory ruling determining that the County Board of Commissioners and County Executive have not adequately funded the Bay County Clerk office in an amount minimally appropriate for the County Clerk to carry out her constitutionally and statutorily mandated duties.
- A declaratory ruling and injunctive relief clarifying that fees charged by the Bay County Clerk for services provided are intended to offset the costs of those services and preventing Defendant County Board of Commissioners from unlawfully using such fees as general fund revenue generators in violation of the Headlee Amendment.

I would appreciate your attention to this matter. While I am certainly open to reaching an amicable resolution, the situation at this time is untenable. I believe that litigation is now required in order to ensure that the Bay County Clerk's office afforded sufficient full-time staff to carry out its constitutional and statutorily mandated duties and to ensure that current and future employees are lawfully compensated for the hours worked.

I would request a response from you within 5 days with a decision from you to either file suit or authorize my retention of Clark Hill PLC.

Sincerely,

S/ Cynthia A. Luczak
with permission

Cynthia A. Luczak
Bay County Clerk