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State's Motion to Compel Testimony of Cynthia Cooper

William D. Mason
Cuyahoga County Prosecutor

Marilyn B. Cassidy
Cuyahoga County Assistant Prosecutor

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This Davis v. State of Ohio, Cuyahoga County Common Pleas Case No. CV96-312322 is brought to you for free and open access by the 2000 Trial at EngagedScholarship@CSU. It has been accepted for inclusion in 1995-2002 Court Filings by an authorized administrator of EngagedScholarship@CSU. For more information, please contact library.es@csuohio.edu.

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FILED

1999 DEC 21 A 11: 04 IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

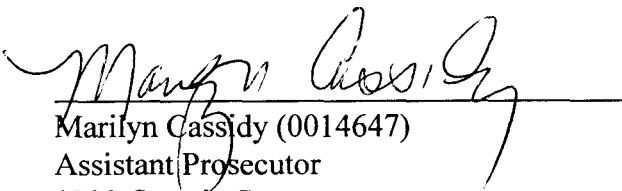
GERALD E. FUERST
CLERK OF COURTS
CUYAHOGA COUNTY

ALAN DAVIS, EXECUTOR, ET AL	:	CASE NO. 312322
Plaintiff	:	
	:	JUDGE RONALD SUSTER
v	:	
	:	<u>STATE'S MOTION TO COMPEL</u>
STATE OF OHIO,	:	<u>TESTIMONY OF CYNTHIA COOPER</u>
Defendant	:	

Defendant, State of Ohio, by and through counsel, William D. Mason, Prosecuting Attorney for Cuyahoga County, and Assistant Prosecuting Attorney, Marilyn B. Cassidy, moves this honorable court to compel the discovery testimony of Cynthia Cooper, pursuant to Ohio Civil Rule 37 for the reasons set forth in the memorandum attached hereto and expressly incorporated herein by reference.

Respectfully Submitted,

WILLIAM D. MASON, PROSECUTING
ATTORNEY, CUYAHOGA COUNTY


Marilyn Cassidy (0014647)
Assistant Prosecutor
1200 Ontario Street
Cleveland, Ohio 44113
(216) 443-7785

ATTORNEYS FOR DEFENDANT

MEMORANDUM IN SUPPORT

This court granted defendant authority to pursue the deposition of non-party witness, Cynthia Cooper in the State of New York on October 4, 1999. Defendant served Cooper with a subpoena to appear for deposition in New York City on November 19, 1999. Ms. Cooper retained counsel and asserted privilege. An agreement between counsel as to the parameters of discovery was reached and the deposition went forward in New York City on November 21, 1999.

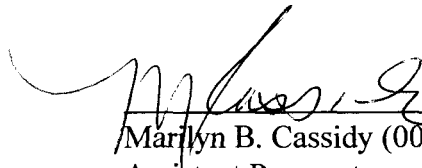
Ms. Cooper produced certain documents and appeared for the deposition without counsel. Despite agreements reached in advance of the deposition, Ms. Cooper flatly refused to answer defendant's questions, was evasive, and in certain specific instances she was not credible despite being under oath. As a result, defendant has been unable to complete discovery with respect to Ms. Cooper.

Cooper appears on plaintiff's witness list. In the event Ms. Cooper should appear to testify at trial of this matter, defendant respectfully requests that she be ordered by the court to sit

for a complete deposition prior to her appearance at trial. In the alternative, defendant moves that her testimony be excluded from plaintiff's case.

Respectfully Submitted,

WILLIAM D. MASON, PROSECUTING
ATTORNEY, CUYAHOGA COUNTY



Marilyn B. Cassidy (0014647)
Assistant Prosecutor
1200 Ontario Street
Cleveland, Ohio 44113
(216) 443- 7785

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

ALAN DAVIS, Executor,

Plaintiff,

vs.

STATE OF OHIO,

Defendant.

CASE NO. 312322

JUDGE RONALD SUSTER

ORDER

This cause came before the court upon motion of the defendant. The court finds that the testimony sought to be taken by the parties is relevant to the subject matter before the court. The court finds that the proposed deposition of non-party witness Cynthia Cooper furthers the administration of justice. Accordingly, defendant's motion to take the deposition of Cynthia Cooper pursuant to lawful notice in the State of New York is granted.

IT IS SO ORDERED.

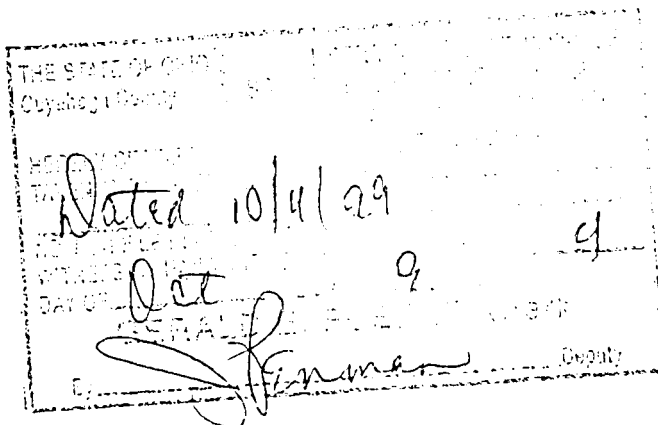
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DATE

Ronald Suster
JUDGE RONALD SUSTER

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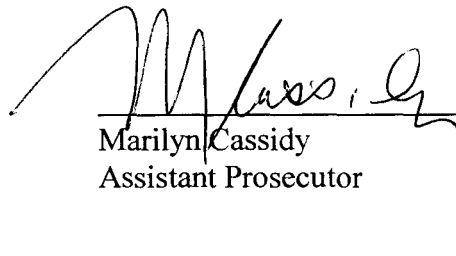
GERALD E. FUERST, CLERK
BY G. F. Fuster DEP.



CERTIFICATE OF SERVICE

A copy of the foregoing Motion to Compel was served upon Terry Gilbert and George Carr, counsel for plaintiff, personally, at a pretrial hearing held in the Courtroom of Hon. Ronald Suster, 20 B, 1200 Ontario Street, Cleveland, Ohio 44113, this 21 day of December, 1999.

Respectfully submitted,



Marilyn Cassidy
Assistant Prosecutor