Ohio Supreme Court changes course on access to public entity legal invoices

May 19, 2016

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Public entities in Ohio frequently receive public records requests for their legal invoices. Historically, only the narrative portion of the invoices could be redacted as privileged information. The general title, date of the services, the attorney who provided the services, the hours spent, the hourly rate, and the total amount charged by the attorney were all non-privileged, and therefore had to be produced. *E.g.*, *State ex rel. Anderson v. Vermilion,* 2012-Ohio-5320, ¶ 15.

On May 17, 2016, that changed, at least in some circumstances. In *Pietrangelo v. Avon Lake*, 2016-Ohio-2974, the Court held that although the privilege still does not apply to such information, much of the information was "inextricably intertwined" with the narrative portion of the invoices at issue in the case. Accordingly, the general title, the date the services were rendered, the attorney who performed the services, the hours spent on a matter, the hourly rate of the attorney, the total hours billed by each attorney, and the total fees charged by each attorney did **not** need to be produced in response to a public records request.

Pietrangelo represents a narrow exception to the general rule. In the case, the parties were engaged in other litigation. Pietrangelo sought the invoices to obtain information that would be useful in his other litigation against the city. Unlike in *Vermilion*, the potential harm from disclosing the invoice was quite real. The Court therefore protected the information under those unique circumstances.

If a public entity is engaged in litigation, and the opposing party seeks invoices related to that litigation, under *Pietrangelo*, the public entity can now redact more information than was previously permitted.

If you have any questions regarding this decision, Ohio's Sunshine Law, or Ohio's Public Records Act, please feel free to contact

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