

## COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

## COUNTY OF CUYAHOGA

No. 84759

ERIC BREWER

Relator

VS.

CLEVELAND MUNICIPAL SCHOOL DISTRICT

ADRIAN D. THOMPSON

BARBARA BYRD-BENNETT

Respondents :

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## ORIGINAL ACTION

## JOURNAL ENTRY AND OPINION

DATE OF JOURNALIZATION:

JUNE 4, 2004

CHARACTER OF PROCEEDINGS:

## WRIT OF MANDAMUS

**JUDGMENT:**

Writ Dismissed.  
Order No. 360636

APPEARANCES:

For Relator:

DARRYL E. PITTMAN

Pittman, Alexander, Cook  
& Assoc.  
2940 Noble Road  
Suite 202  
Cleveland, Ohio 44121

For Respondents:

ADRIAN D. THOMPSON  
Chief Legal Counsel  
Cleveland Municipal School Dist.  
1380 East Sixth Street  
Cleveland, Ohio 44114

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SUBODH CHANDRA  
Director of Law  
City of Cleveland Law Dept.  
601 Lakeside Ave., Room 106  
Cleveland, Ohio 44114

Ann Dyke, J.

{¶1} Relator, Eric Brewer, avers that he has requested “all itemized legal bills from all law firms doing business” with respondent, Cleveland Municipal School District (“District”). Complaint, par. 7. Brewer further avers that – after repeated requests – the District’s public information officer informed Brewer that the District’s chief legal counsel, respondent Adrian D. Thompson, said that the records would not be released.

{¶2} Brewer requests that this court compel respondents – the District and Thompson as well as respondent Barbara Byrd-Bennett, the District’s Chief Executive Officer – to provide “access” to the records and to pay relator’s attorney’s fees.

Complaint, ad damnum clause.

{¶3} The complaint manifests several defects.

**“Moreover, the petition itself is defective because it is improperly captioned. R.C. 2731.04 requires that an application for a writ of mandamus must be by petition, in the name of the state on the relation of the person applying. This failure to properly caption a mandamus action is sufficient grounds for denying the writ and dismissing the petition. *Maloney v. Court of Common Pleas of Allen County* (1962), 173 Ohio St. 226, 181 N.E.2d 270. [Relator] Morton also failed to support his complaint with an affidavit specifying the details of the claim as required by Local Rule 45(B)(1)(a). *State ex rel. Wilson v. Calabrese* (Jan. 18, 1996), Cuyahoga App. No. 70077, unreported and *State ex rel. Smith v. McMonagle* (July 17, 1996), Cuyahoga App. No. 70899, unreported.”**

{¶4} *State ex rel. Morton v. Pokorny* (Mar. 1, 2001), Cuyahoga App. No. 79187, at

3. The complaint in this action does not purport to be on relation of relator. Instead, the caption reads “Brewer v. Cleveland Municipal School District, et al.” Likewise, in this action, there is no affidavit specifying the details of the claim.

{¶5} Accordingly, we dismiss this action sua sponte. Relator to pay costs. The clerk is directed to serve upon the parties notice of this judgment and its date of entry upon the journal. Civ.R. 58(B).

Writ dismissed.

ANN DYKE  
JUDGE

Presiding Judge ANNE L. KILBANE, Concur.

Judge TIMOTHY E. MCMONAGLE, Concur in Judgment Only.