

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND

CHRISTOPHER HORNER, *et al.*,)
)
 Petitioners,)
)
 v.) Case No. CL15004712-00
)
 RECTOR AND VISITORS OF)
 GEORGE MASON UNIVERSITY)
)
 Respondent.)

MOTION FOR SANCTIONS AGAINST THE RESPONDENT

NOW COMES counsel for the Petitioners and moves that this Court impose sanctions against the Respondent. In support of this motion, the Petitioners state as follows:

1. Petitioners incorporate by reference the facts and argument set forth in their contemporaneously-filed Motion to Compel.

2. This Court's April 22, 2016 order is final and enforceable.

3. This Court denied the Respondent a stay of that April 22, 2016 order on May 13, 2016.

4. Nevertheless, the Respondent has effectively granted itself a stay and flouted this Court's lawful orders, by yet again refusing to provide the documents to the Petitioners.


5. A major purpose of sanctions is to spare victims of frivolous claims the time, effort, and expense suffered as a result of such vexatious litigation. Thus, the imposition of a particular sanction must be sufficient to deter such practices when they have occurred. *See Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 393 (1990); *Gentry v. Toyota Motor Corp.*, 252 Va. 30, 34 (1991).

6. A person is in “contempt” of a court order if it is shown that he or she has violated its express terms. See *Winn v. Winn*, 218 Va. 8, 10 (1977), *Wilson v. Collins*, 27 Va. App. 411 (1998).

7. Here, the Respondent is in clear violation of this Court’s April 22, 2016 order that the documents must be “disclosed and provided pursuant to the petition.” This Court already denied the Respondent’s Motion for a Stay on May 13, 2016. Further refusal to obey this Court’s orders is inexcusable.

WHEREFORE, the Petitioners move that this Court order sanctions against the Respondent, including monetary penalties as contemplated by *Switzer v. Switzer*, 273 Va. 326 (2007), and other penalties as this Court deems appropriate, and compelling the Respondent to reimburse the Petitioners their attorney’s fees and costs arising since May 13, 2016.

Respectfully submitted this the 23rd day of May, 2016.



Christopher Horner
Competitive Enterprise Institute

By Counsel:

Matthew D. Hardin

VSB# 87482

314 West Grace Street, Suite 304

Richmond, VA 23220

Telephone: 804-608-6456

Fax: 877-310-3847

Email: MatthewDHardin@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of May, I provided a copy of the foregoing to the following individuals via electronic mail as well as First Class Mail deposited with the United States Postal Service:

Thomas M. Moncure, Jr.
Counsel for the Respondent
George Mason University
4400 University Drive, MS 2A3
(Merten Hall- Suite 5400)
Fairfax, Virginia 22030
tmoncure@gmu.edu

Shannon Beebe
Spiggle Law Firm
Counsel for the proposed intervenor
4830B 31st Street South
Arlington, Virginia 22206
sbeebe@spigglelaw.com



Matthew D. Hardin, VSB #87482
Petitioners' Counsel

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND

CHRISTOPHER HORNER, <i>et al</i> ,)	
)	
Petitioners,)	
)	
v.)	Case No. CL15004712-00
)	
RECTOR AND VISITORS OF)	
GEORGE MASON UNIVERSITY)	
)	
Respondent.)	

ORDER GRANTING SANCTIONS

THIS DAY CAME counsel for the Petitioners and moved that this Court enter an order sanctioning the Respondent for failure to obey this Court’s previous orders. The Court finds that the Respondent has willfully failed to obey this Court’s April 22, 2016 and May 13, 2016 orders, and forced the Court and the Petitioners to compel its compliance.

The Court orders monetary sanctions against the Respondent in the amount of _____ . Said amount shall be paid to the Clerk of this Court within ten days of the entry of this order.

The Court orders that the Respondent reimburse the Petitioners their legal expenses since May 13, 2016 in the amount of \$ _____ .

SO ORDERED this the ____ day of May, 2016.

Richmond Circuit Judge

I ask for this:



Matthew D. Hardin

VSB# 87482

314 West Grace Street, Suite 304

Richmond, VA 23220

Telephone: 804-608-6456

Fax: 877-310-3847

Email: MatthewDHardin@gmail.com

Seen and _____:

Thomas Moncure, Jr.

VSB# 17475

4400 University Drive, MS 23A

Fairfax, VA 22030

Telephone: 703-993-2619

Fax: 703-993-2340

Email: tmoncure@gmu.edu

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND

CHRISTOPHER HORNER, <i>et al</i> ,)	
)	
Petitioners,)	
)	
v.)	Case No. CL15004712-00
)	
RECTOR AND VISITORS OF)	
GEORGE MASON UNIVERSITY)	
)	
Respondent.)	

MOTION TO COMPEL

NOW COMES counsel for the Petitioners and moves that this Court compel the Respondent to comply with its April 22, 2016 order and states as follows:

1. This Court ruled on April 22, 2016 that the Respondent must provide certain documents requested under the Virginia Freedom of Information Act, and under the rules of civil discovery, to the Petitioners.

2. This Court denied the Respondent's motion to stay that order pending appeal on May 13, 2016 after a full and fair hearing.

3. On May 19, 2016, Counsel for the Petitioners requested an appointment to retrieve the requested documents from the Respondent on May 23, 2016.

4. On May 20, 2016, Counsel for the Respondent informed the Petitioners that the requested material could be retrieved from its Richmond, Virginia office, after 11 a.m. on May 23, 2016.

5. On the morning of May 23, 2016, Counsel for the Petitioners spoke by telephone with Thomas Moncure, counsel for the Respondent, and was informed that the Climate Science Legal Defense Fund was moving to intervene and for a stay in this matter. Mr. Moncure did not indicate that the documents would no longer be provided to the Petitioners or that the Respondent no longer intended to comply with this Court's May 13, 2016 and April 22, 2016 orders.

6. On May 23, 2016, Counsel for the Petitioners went to Respondent's Richmond, Virginia office and was refused access to the documents that this Court ordered be provided in its April 22, 2016 and May 13, 2016 orders.

7. This Court's April 22, 2016 order is final and enforceable.

8. Despite the fact that this Court denied the Respondent a stay of that April 22, 2016 order on May 13, 2016, the Respondent has effectively granted itself a stay and flouted this Court's lawful orders, by yet again refusing to provide the documents to the Petitioners.

WHEREFORE, the Petitioners move that this Court enter an order compelling the Respondent to obey this Court's April 22, 2016 and May 13, 2016 orders, and compelling the Respondent to reimburse the Petitioners their attorney's fees and costs arising since May 13, 2016.

Respectfully submitted this the 23rd day of May, 2016.



Christopher Horner
Competitive Enterprise Institute

By Counsel:

Matthew D. Hardin

VSB# 87482

314 West Grace Street, Suite 304

Richmond, VA 23220

Telephone: 804-608-6456

Fax: 877-310-3847

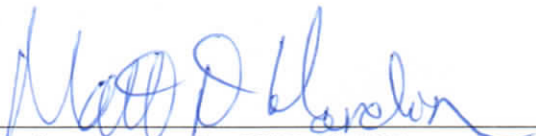
Email: MatthewDHardin@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of May, I provided a copy of the foregoing to the following individuals via electronic mail as well as First Class Mail deposited with the United States Postal Service:

Thomas M. Moncure, Jr.
Counsel for the Respondent
George Mason University
4400 University Drive, MS 2A3
(Merten Hall- Suite 5400)
Fairfax, Virginia 22030
tmoncure@gmu.edu

Shannon Beebe
Spiggle Law Firm
Counsel for the proposed intervenor
4830B 31st Street South
Arlington, Virginia 22206
sbeebe@spigglelaw.com


Matthew D. Hardin, VSB #87482
Petitioners' Counsel

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND

CHRISTOPHER HORNER, *et al*,)
)
Petitioners,)
)
v.)
)
RECTOR AND VISITORS OF)
GEORGE MASON UNIVERSITY)
)
Respondent.)

Case No. CL15004712-00

ORDER

THIS DAY CAME counsel for the Petitioners and moved that this Court enter an order compelling the Respondent to comply with this Court's May 13, 2016 and April 22, 2016 orders. The Court finds that the Respondent's failure to comply with this Court's lawful orders is unwarranted, and hereby orders that the Respondent comply with the orders entered on May 13, 2016 and April 22, 2016.

SO ORDERED this the ____ day of May, 2016.

Richmond Circuit Judge

I ask for this:



Matthew D. Hardin

VSB# 87482

314 West Grace Street, Suite 304

Richmond, VA 23220

Telephone: 804-608-6456

Fax: 877-310-3847

Email: MatthewDHardin@gmail.com

Seen and _____:

Thomas Moncure, Jr.

VSB# 17475

4400 University Drive, MS 23A

Fairfax, VA 22030

Telephone: 703-993-2619

Fax: 703-993-2340

Email: tmoncure@gmu.edu