



12-21-1999

## 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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FILED

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

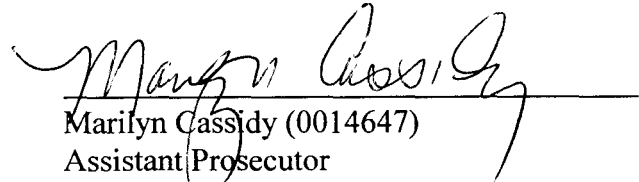
GERALD E. FUERST  
CLERK OF COURTS  
CUYAHOGA COUNTY

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.

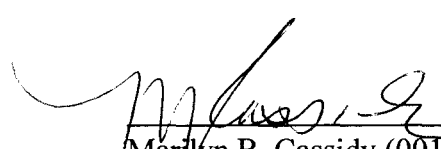
Ms. Cooper produced certain documents and appeared for the deposition without counsel. Despite agreements reached in advance of the deposition, Ms. Cooper flatly refused to answer defendant's questions, was evasive, and in certain specific instances she was not credible despite being under oath. As a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



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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.

10-4-99  
DATE

Ronald Suster  
JUDGE RONALD SUSTER

RECEIVED FOR FILING

OCT 04 1999

GERALD E. FUERST, CLERK  
BY G. Fierst DEP.

THE STATE OF OHIO  
Cuyahoga County

Dated 10/4/99

Oct 9 9

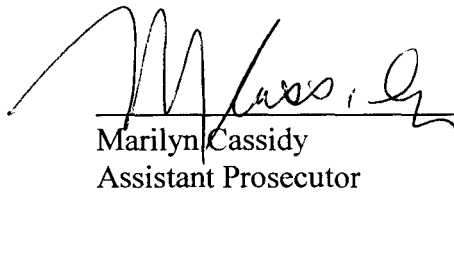
[Signature]

County

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,

  
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Marilyn Cassidy  
Assistant Prosecutor