

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

LISA KRAGNES, et al

Plaintiff,

vs.

CITY OF DES MOINES, IOWA,

Defendant.

~~Law~~ No. 49273 CE

**PLAINTIFF'S RESISTANCE TO
DEFENDANT'S MOTION
TO QUASH SPRINGSTED
SUBPOENA OR
FOR A PROTECTIVE ORDER**

FILED
POLK COUNTY IOWA
FEB 19 2 33 PM '08
DISTRICT COURT

COME NOW the Plaintiff, Lisa Kragnes, and responds to the Defendant's Motion to Quash Springsted Incorporated Subpoena and for Protective Order and respectfully states as follows:

1. Plaintiff agrees that on or about February 11, 2008, the Defendant would have received from the Plaintiff a Notice of Deposition (Records Only) accompanied by a subpoena in a civil case directed to Springsted, Incorporated.
2. Plaintiff agrees the Notice and Subpoena request records from an expert retained by the Defendant in the above case.
3. Plaintiff denies that the Notice and Subpoena improperly demand that the records be delivered to Plaintiff's office in Des Moines. Rather, the Subpoena and Notice of Deposition, while directed to the expert who maintains an office in Minn, was served upon the expert, who has an office located in Des Moines, Iowa at 300 Walnut, Suite 215, and who according to the Secretary of State, has a registered agent at that office by the name of Anthony V. Rotlin. (See attached Exhibit 1). It should be noted that this office of the expert is less than 200 feet from

the office of Stoltze & Updegraff, P.C., 300 Walnut, Suite 260, the place where the records were to be delivered.

4. Previously, the Plaintiff's attorney and the attorney for Defendant did discuss the Plaintiff's attorney visiting Minnesota to examine the expert records that would have been kept in Minnesota apparently at the convenience of the expert and the Defendant City of Des Moines. However, as the hired expert has both an office and a registered agent in Iowa, the records can easily be delivered to Iowa and then are only less than two hundred feet from the office of Plaintiff's attorney. It is unreasonable, unnecessary and unduly burdensome for the Plaintiff to engage in the additional expense of a trip to St. Paul, Minn, to obtain records from an expert who has not only allowed itself and availed itself of being an expert in this case, but who also has an office located in the City of Des Moines. There is no reason for the Plaintiffs to incur the cost, time and expense to travel to Minnesota for review of the records.

5. Plaintiff also agrees that there was a statement that there is some claimed "propriety interest" in certain processes and systems that was used in assisting the City's expert in this case. Furthermore, Plaintiff was advised that Springsted claims certain trade secrets to be contained in the materials. However, no information has been provided that would demonstrate that there was such a trade secret or that there were any appropriately protected information, nor has any information been supplied to the Plaintiff to justify that an expert who avails itself at being hired as an expert witness in a case can provide expert advice and

testimony and then claim that that information it used or generated as requested to be produced herein, is protected and not to be available to the public or to the Plaintiffs generally.

6. It is agreed that the attorney for the Defendant requested a consent protective order. However, that consent protective order was, in a very short period of time after the delivery, rejected. Consideration was given to whether a modified such consent order should be agreed upon. It was determined that in the absence of either the Defendant or the expert providing any information to justify any protected interest, which even as of this date the Plaintiff has not obtained, no such agreement should be made.

7. Plaintiff denies that in the last six months Plaintiff has not informed the City of the reason why an agreement to a consent protective order would not be made. It is agreed that one reason given was that this was a class action with numerous members of the public who are class member Plaintiffs and who should be entitled to the information. It was further specified to the City that neither Springsted nor the City of Des Moines have provided any information to justify any conclusion that any information would be protected in any way. Rather, the expert Springsted has apparently merely attempted to assert a protected interest, without the supplying of any specific information to the Plaintiffs, or even to the Court. Indeed, the expert has ignored the Subpoena, provided no information, not even the information that is not claimed to be protected. Further, neither the Defendant nor

the expert tried to resolve this matter by explaining the kind of material that may be protected or the kind of trade secrets that may be involved.

8. Plaintiff agrees that this discovery matter has in good faith been unable to be resolved by the parties and that the Court should set a hearing and intervene to require: (1) Springsted, Incorporated comply with the Deposition and Subpoena at the location as set forth in the Subpoena and Notice of Deposition; and (2) deny any protective order unless the Defendant and/or its expert produce information to the Plaintiff and the Court to justify the withholding of any of this information from the public domain; (3) such other requirements as may be appropriate in the circumstances.

WHEREFORE the Plaintiff respectfully requests the Court overrule the Motion to Quash Subpoena, overrule the Request for a Protective Order and order the information submitted so that the Plaintiff and the Plaintiff's class can adequately examine this information that this expert witness has been paid by public funds to prepare.

Respectfully Submitted,



Bruce H. Stoltze (AT0007521)
Stoltze & Updegraff, P.C.
P.O. Box 93295
300 Walnut Street, Suite 260
Des Moines, Iowa 50393
Telephone: 515-244-1473
Fax: 515-244-3930
Email: bruce.stoltze@stoltzelaw.com
ONE OF THE ATTORNEYS
FOR PLAINTIFF

ORIGINAL FILED.

CERTIFICATE OF SERVICE:

Copy of the foregoing has been mailed and emailed this 19th day of February, 2008, to the following;

Mark Godwin
Deputy City Attorney
City Hall
400 East First Street
Des Moines, Iowa 50309-1891
ATTORNEY FOR DEFENDANT

magodwin@dmgov.org

Judge Joel Novak
Polk County Courthouse
Des Moines, IA 50309

joeld.novak@jb.state.ia.us

Michelle Hirsch

By: _____

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Print Certificate of Standing

Corp No.	Legal Name	Status
176985	SPRINGSTED INCORPORATED	Active
Type	State of Inc.	Modified
Legal	MN	No
Expiration Date	Effective Date	Filing Date
PERPETUAL	Jul 08, 1994	Jul 08, 1994
Chapter		
CODE 490 FOREIGN PROFIT		

Names (viewing 1 of 1)

Type	Status	Modified	Name
Legal	Active	No	SPRINGSTED INCORPORATED

Registered Agent or Reserving Party

→

Full Name	ANTHONY V ROTLIN
Address	300 WALNUT ST STE 215
City, ST, Zip	DES MOINES, IA, 503092258

Home Office

Full Name	
Address	380 JACKSON STREET
City, ST, Zip	ST PAUL, MN, 551012887

Exhibit 7