

IN THE SUPREME COURT OF FLORIDA

NATIONAL COLLEGIATE ATHLETIC  
ASSOCIATION,

Petitioner,

vs.

Case No.: SC09-1909

THE ASSOCIATED PRESS, et al.,

Respondents.

---

**MOTION FOR ATTORNEYS' FEES RELATED TO PROCEEDINGS  
BEFORE THE FLORIDA SUPREME COURT**

Pursuant to Section 119.12, Florida Statutes (2008), and Rule of Appellate Procedure 9.400, Respondents the Associated Press, et al., hereby move for an award of appellate attorneys' fees (and costs) to Respondents from Petitioner National Collegiate Athletic Association ("NCAA"). As grounds for this motion, Respondents state:

1. Section 119.12, Florida Statutes, provides:

If a civil action is filed against an agency to enforce the provisions of this chapter and if the court determines that such agency unlawfully refused to permit a public record to be inspected or copied, the court shall assess and award, against the agency responsible, the reasonable costs of enforcement including reasonable attorneys' fees.

2. This appeal involves an action to enforce Chapter 119, Florida Statutes. The NCAA unlawfully refused to permit the public records at issue to

be inspected and copied. When an “agency” has “unlawfully refused” to produce requested records, an award of fees is mandatory under the language of Section 119.12.

3. “The intent of [Section 119.12] is to reimburse a party who incurs legal expenses when seeking permission to view records wrongfully withheld, even if access is denied based on a good faith but mistaken belief that the documents are exempt.” Times Publ’g Co. v. City of St. Petersburg, 558 So. 2d 487, 495 (Fla. 2d DCA 1990).

4. Respondents are entitled to an award of their fees (and costs) in this appeal.

WHEREFORE, Respondents respectfully request that this Court grant this motion and enter a judgment for Respondents, taxing attorneys’ fees (and costs).

Respectfully submitted,

THOMAS, LOCICERO & BRALOW PL

---

Gregg D. Thomas  
Florida Bar Number 223913  
Carol Jean LoCicero  
Florida. Bar Number 603030  
Rachel E. Fugate  
Florida Bar Number 0144029  
400 N. Ashley Drive, Suite 1100  
Post Office Box 2602 (33601-2602)  
Tampa, Florida 33602  
Telephone: (813) 984-3060  
Facsimile: (813) 984-3070

David S. Bralow  
Florida Bar. No. 082727  
220 E. 42nd Street, Suite 400  
New York, New York 10012  
Telephone: (212) 210-2893  
Facsimile: (212) 210-2883

Attorneys for Respondents

Of Counsel:

George Freeman  
Florida Bar Number 233684  
Vice President and Assistant General Counsel  
The New York Times Company  
620 Eighth Avenue  
New York, New York 10018  
Telephone: (212) 556-1558  
Facsimile: (212) 556-4634

George Gabel  
Florida Bar Number 27220  
Holland & Knight LLP  
50 North Laura Street, Suite 3900  
Jacksonville, Florida 32202  
Telephone: (904)798-7360  
Facsimile: (904)358-1872

Michael J. Glazer  
Florida Bar Number 286508  
Ausley & McMullen  
227 South Calhoun Street  
P.O. Box 391 (32302)  
Tallahassee, Florida 32301  
Telephone: (850) 425-5474  
Facsimile: (850) 222-7560

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Electronic Delivery and U.S. Mail to **William E. Williams, Esq.**, GRAYROBINSON, P.A., Post Office Box 11189, Tallahassee, FL 32302; **Peter Antonacci, Esq.**, GRAYROBINSON, P.A., 301 S. Bronough Street, Suite 600, Tallahassee, FL 32301; **Dayton M. Cramer, Esq.**, and **Linda C. Schmidt, Esq.**, The Florida State University, Office of the General Counsel, 222 S. Copeland Street, Tallahassee, FL 32306; **E. Thom Rumberger, Esq.**, and **Leonard J. Dietzen, Esq.**, RUMBERGER, KIRK & CALDWELL, 215 South Monroe Street, Suite 130 Post Office Box 10507, Tallahassee, FL 32302; **Jonathan F. Duncan, Esq.**, and **Linda Salfrank, Esq.**, Spencer Fane Britt & Browne LLP, 1000 Walnut, Ste. 1400, Kansas City, MO 64106; and **Kent J. Perez, Esq.**, and **Alexis Lambert, Esq.**, Office of the Attorney General, The Capitol, PL-01, Tallahassee, FL 32399-1050 on this \_\_\_\_ day of November, 2009.

---

Attorney