

# EXHIBIT C

IN THE COURT OF APPEALS  
EIGHTH APPELLATE DISTRICT  
CUYAHOGA COUNTY, OHIO

STATE OF OHIO, ex rel, BRIAN J. ESSL, ) CASE NO.: CA-16-104659  
)  
Relator, ) JUDGE:  
)  
vs. ) **AFFIDAVIT OF MICHAEL COLETTA**  
)  
CITY OF LAKEWOOD, )  
)  
Respondent. )  
)  
STATE OF OHIO )  
) SS:  
COUNTY OF CUYAHOGA )

Now comes, Michael Coletta, who being first duly sworn according to law, deposes and states the following:

1. I am over 18 years of age and have personal knowledge of all facts contained herein.
2. I am the Information Technology ("I.T.") Manager for the City of Lakewood ("Lakewood") and have held the position for 11 and one-half years. Prior to working for Lakewood, I was an I.T. Specialist for IBM and an I.T. Manager and I.T. Administrator at the Cuyahoga County Board of Elections.
3. I hold a Bachelor's of Science degree in Computer Science from John Carroll University. I also hold a Masters of Business Administration degree from Case Western Reserve University.
4. As Lakewood's I.T. Manager, I am thoroughly familiar with Lakewood's technological capabilities with respect to its employees' use of city-owned computers and the storage of electronic documents.

5. I have reviewed Brian J. Essi's ("Relator") public records request numbers 219 through 224, in which he asks for records documenting various Lakewood employees' use of Lakewood computers to access certain websites.

6. Lakewood does not currently have a specific technological program to track an employee's use of its computers to access a particular website, nor has Lakewood had such a program since March 2015. Prior to March 2015, Lakewood used a Barracuda Web Filter appliance that restricted employees' access to certain websites. The program was also capable of tracking and documenting the websites an employee visited on his or her city-owned computer. The program, though, was capable of holding only a finite amount of data, which equated to approximately one month's worth of information. Because the program could hold only a set amount of data, the device would overwrite itself and recycle its own memory. The only way to preserve the data on the program was for a user to extract the data from the device manually, save it on a separate device, and upload it to a network drive. The information would be lost after approximately one month if these specific steps were not followed.



7. In March 2015, however, Lakewood discontinued its use of the Barracuda Web Filter appliance due to issues the program was causing. Specifically, the program caused Lakewood's Building Department's hosted software system to run slowly. Since discontinuing its use of the program, Lakewood has not invested in any other specific program that tracks an employee's internet history.

8. Prior to Lakewood's discontinuing its use of the Barracuda web filtering program back in March 2015, and before Relator sent Lakewood his May 13, 2016 public records requests, I did not have any reason to preserve, nor did I preserve, either Jennifer Pae's, Colin McEwen's, or Mayor Summers's web usage data.



9. A record containing Richard Uldricks's use of public computers was previously provided to Relator in response to his public records request number 322. That document was created by a Lakewood police officer and during the course of a criminal investigation into Richard Uldricks. To create the document, I downloaded a program that I believe was called Chromecacheview. Chromecacheview pulled cache of internet history from Uldricks's Google Chrome internet browser. The police officer then went through this information to compile the document subsequently sent to Relator. The program used to compile the document was downloaded on a city-owned computer that is no longer in use.

10. Lakewood employees have multiple ways to access the internet: Google Chrome, Internet Explorer, and Firefox, for example. As such, to begin responding to Relator's public records request number 219 through 224, Lakewood would have to not only re-download Chromecacheview, but would also have to download programs similar to Chromecacheview for each internet browser. However, even if Lakewood downloaded programs for each internet browser, Lakewood would still be unable to respond fully to Relator's requests, because employees can program their computers to delete their computer's cache, and thus their internet history, thereby preventing any such program from generating an accurate list of accessed websites.

11. As a result of the foregoing, Lakewood does not have any technologically-based program that specifically documents its employees' use of Lakewood computers to access various websites. Because Lakewood does not have any such program, Lakewood has no records responsive to Relator's public records request numbers 219 through 224, nor does Lakewood have the technological capabilities of creating records responsive to those public requests.

FURTHER AFFIANT SAYETH NAUGHT.

*Michael Coletta*

MICHAEL COLETTA

SWORN TO BEFORE ME, and subscribed in my presence this 17<sup>th</sup> day of July, 2017.

*Jeanne A. Petrus*

NOTARY PUBLIC

TRID-160233/Affidavit for Michael Coletta for MSJ



JEANNINE A. PETRUS  
NOTARY PUBLIC  
STATE OF OHIO  
Recorded in  
Cuyahoga County  
My Comm. Exp. 1/30/2022