

## **FOR IMMEDIATE RELEASE**

### **OLDHAM COUNTY MAGISTRATE FILES CIVIL LAWSUIT IN OLDHAM CIRCUIT COURT AGAINST COUNTY JUDGE-EXECUTIVE**

LaGrange, KY - October 9, 2008 - Oldham County Magistrate Scott M. Davis has filed a civil lawsuit in Oldham County Circuit Court against Oldham County Judge-Executive Duane Murner. The action filed includes two counts, those being Murner's denial of both Davis' written complaint concerning a violation of Open Meetings Law and his request that the name of a secret donor who gave a gift in the amount of \$100,000 to the Oldham County Fiscal Court be revealed.

A "closed session" - pursuant to KRS 61.810(F) with the subject of "personnel" was held as part of the agenda for the meeting of the Oldham County Fiscal Court on September 16th, 2008. Oldham County Judge-Executive Duane Murner was the presiding officer at this meeting. Magistrate Davis contends that the true intent of the meeting was to discuss issues which were clearly not related to personnel and that the information which was shared and discussed during this "closed session" should be made available to the public prior to any action being taken. In his response to Davis' complaint, Murner stated that he could have used at least two other exceptions found within KRS 61.810 in justification of the closure of the meeting. The fact is that Murner did not use these other exceptions, and therefore, his argument has no merit that the end result would still remain a closed session.

On two previous occasions during his tenure as an Oldham County Magistrate, Duane Murner was involved with participation in unauthorized closed session meetings. These meetings were without the consent or knowledge of the County-Judge Executive in the years 2003 and 2004. The first of these decisions was decided by the Oldham County Attorney and the second decision was decided by the Attorney General of Kentucky.

The Supreme Court of Kentucky recently issued a decision regarding Open Records Act requests in *Cape Publ'ns, Inc. v. Univ. of Louisville Found., Inc.*, (Ky. Aug. 21, 2008). Magistrate Davis contends that any argument that a donor to the Oldham County Fiscal Court would not know that it a public agency would be completely illogical and disingenuous. Magistrate Davis maintains the belief that all members of the Fiscal Court and the public at large have a right to know the name of the donor and the project to which the money was donated. The Fiscal Court is tasked with overseeing and approving financial expenditures of the Oldham County Government and it would be impossible to know if any influence or benefits might be sought by such a donor without their identity being known.

In his denial response to Magistrate Davis concerning disclosure of the donor name, Murner wrote, "As you should be aware that case is headlined with the caution, 'This opinion is not final and shall not be cited as authority in any courts of the Commonwealth of Kentucky.'" "Accordingly, I am relying on present statutes and state law." Magistrate Davis contends that Murner should have investigated and known that

the opinion was stamped and signed as a FINAL decision by the Kentucky Supreme Court on September 11, 2008, over two weeks prior to Davis' filing of his request.

Davis is represented by attorneys Garry R. Adams and Thomas E. Clay of CLAY & ADAMS, PLLC.

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