



**IN THE SUPREME COURT OF OHIO**

<b>STATE, ex rel. THE CINCINNATI</b>	:	
<b>ENQUIRER, a Division of The Gannet</b>	:	
<b>Satellite Network,</b>	:	
	:	<b>CASE NO. 06-2239</b>
<b>Petitioner,</b>	:	
	:	
v.	:	<b>ORIGINAL ACTION</b>
	:	<b>FOR WRIT OF MANDAMUS</b>
<b>DIRECTOR OF OHIO DEPARTMENT</b>	:	
<b>OF JOBS AND FAMILY SERVICES,</b>	:	
	:	
<b>Respondent.</b>	:	

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**RESPONDENT'S ANSWER**

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For her answer to Petitioner's Petition, Respondent, Helen Jones-Kelley<sup>1</sup>, Director ("Director") of the Ohio Department of Job and Family Services ("ODJFS") states as follows:

**FIRST DEFENSE**

1. Respondent admits the allegation paragraph 1 of Petitioner's Complaint.
2. Respondent admits the allegation in paragraph 2 of Petitioner's Complaint to the extent that at the time Petitioner filed the original action for writ of mandamus Barbara Riley was the Director of ODJFS and as such was a public official in the state of Ohio.

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<sup>1</sup> Pursuant to Ohio Rules of Civil Procedure 25 (D), "[w]hen a public officer is a party to an action in an official capacity and during its pendency dies, resigns, or otherwise ceases to hold office, the action does not abate and his successor is automatically substituted as a party." In the complaint, Petitioner names Barbara Riley, Director of ODJFS as respondent. On January 8, 2007, Helen Jones-Kelley became Director of ODJFS and should be automatically substituted in, as respondent.

3. Respondent admits the allegation in paragraph 3 of Petitioner's Complaint.

4. In response to paragraph 4 of Petitioner's Complaint, R.C. 149.011(G) speaks for itself and the allegations do not require a response. Further answering, Respondent admits that the Director of ODJFS is a custodian of records maintained by ODJFS. Further answering, Respondent denies the remaining allegations in paragraph 4 of Petitioner's Complaint.

5. Respondent admits the allegations in paragraph 5 of Petitioner's Complaint that ODJFS received a letter dated September 15, 2006 from Gregory Korte.

6. The allegations in paragraph 6 and paragraph 7 of Petitioner's Complaint state legal conclusions not requiring a response; to the extent the allegations state facts, they are denied.

7. Respondent denies the allegations in paragraph 8 of Petitioner's Complaint that ODJFS failed to provide a list of all foster associations and institutions. Further answering, On October 2, 2006, Carmen Stewart, then with ODJFS' communications office, provided Margaret McGurk with a list of private agencies certified to perform foster related functions as of September 2006. Further answering, Respondent admits the allegation that ODJFS has not provided a list of foster homes to Petitioner. Respondent denies any remaining allegations in paragraph 8 of Petitioner's complaint.

8. The allegations in paragraph 9 of Petitioner's Complaint state legal conclusions not requiring a response; to the extent the allegations state facts, they are denied.

9. The allegations in paragraph 10 of Petitioner's Complaint state legal conclusions not requiring a response. Further Answering, Respondent incorporates by reference as if fully restated herein the answer to paragraph 8 of Petitioner's Complaint contained in paragraph 7 above; and to the extent the remaining allegations in paragraph 10 state facts they are denied.

10. In response to paragraph 11 of Petitioner's Complaint, Respondent hereby incorporates the answers to paragraphs 1 through 10 of the Complaint.

11. Respondent admits the allegation in paragraph 12 of Petitioner's Complaint that ODJFS received a request on or about October 30, 2006 from the Enquirer requesting the foster care application and home study of Jaysen Bell ("Bell Records").

12. Respondent admits the allegation in paragraph 13 of Petitioner's Complaint that ODJFS sent Ms. McLaughlin the e-mail dated November 14, 2006. Further answering, the letter speaks for itself and the remaining allegations do not need a response.

13. The allegations in paragraph 14 and paragraph 15 of Petitioner's Complaint state legal conclusions not requiring a response; to the extent the allegations state facts, they are denied.

14. Respondent admits the allegation in paragraph 16 of Petitioner's Complaint that ODJFS has not provided the Enquirer with a copy of the Bell Records. Further answering, the remaining allegations in paragraph 16 of Petitioner's Complaint state legal conclusions not requiring a response; and to the extent the remaining allegations state facts, they are denied.

15. The allegations in paragraph 17 of Petitioner's Complaint state legal conclusions not requiring a response; to the extent the allegations state facts, they are denied.

16. The allegations in paragraph 18 of Petitioner's Complaint state legal conclusions not requiring a response. Further Answering, Respondent incorporates by reference as if fully restated herein the answer to paragraph 16 of Petitioner's Complaint contained in paragraph 14 above; and to the extent the remaining allegations in paragraph 17 state facts they are denied.

17. Respondent denies each allegation of Petitioner's Complaint not otherwise expressly admitted.

#### **SECOND DEFENSE**

18. The Complaint fails to state a claim upon which relief may be granted.

#### **THIRD DEFENSE**

19. Petitioner is not entitled to an original writ of mandamus.

#### **FOURTH DEFENSE**

20. Petitioner is not entitled to attorney fees.

#### **FIFTH DEFENSE**

21. Petitioner has no clear legal right to the relief they are requesting.

#### **SIXTH DEFENSE**

22. At all times referred to in Petitioner's Complaint, Respondents acted properly, in good faith, and in accordance with their duties under law.

### **SEVENTH DEFENSE**

23. Ohio public records law forbids the disclosure of statutorily privileged/and or confidential material and specifically exempts other material. Respondent has duties under state and/or federal law to maintain the confidentiality of records regarding placement of foster children, adoption, and other records and databases involved in the process.

### **EIGHTH DEFENSE**

24. R.C. 149.43 (A)(1)(h) exempts confidential law enforcement records from Ohio's Public Records Act. Confidential law enforcement records include "...any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature..." R.C. 149.43 (A)(2). Respondent has the authority to investigate licensures of those involved in the foster care process.

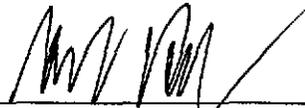
### **NINTH DEFENSE**

25. Defendants respectfully reserve the right to amend their answer to add such affirmative defenses as may be disclosed during the course of this proceeding.

**WHEREFORE**, having answered the Complaint, Respondent respectfully request that this Court dismiss Petitioners Complaint.

Respectfully Submitted,

MARC DANN (0039425)  
Attorney General of Ohio



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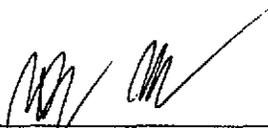
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*Counsel for Respondent*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing Answer was sent via regular U.S. Mail, postage prepaid, on this 18<sup>th</sup> day of January, 2007 to John C. Greiner, Counsel for the Cincinnati Enquirer, and John A. Flanagan and Katherine M. Lasher, Graydon Head & Ritchey LLP, 1900 Fifth Third Center, 511 Walnut Street, Cincinnati, Ohio 45202-3157.



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HENRY G. APPEL  
Senior Assistant Attorney General