IN THE SUPREME COURT
OF THE STATE OF OHIO

TAYLOR BUILDING CORPORATION OF AMERICA,	:	Supreme Court Case Nos.: 06-1890 (consolidated) 06-2043
Appellant,	:	
vs.	:	On Appeal from the Clermont County Court of Appeals, 12th Appellate District
	:	Court of Appeals Case No. CA2005-09-083
MARVIN BENFIELD, et al.,	:	
Appellees.	:	

APPELLANT TAYLOR BUILDING CORPORATION OF AMERICA'S MOTION TO STRIKE BRIEF OF AMICUS CURIAE ATTORNEY GENERAL MARC DANN

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FILED
MAY 14 2007
MARCIA J MENGEL, CLERK
SUPREME COURT OF OHIO

MOTION TO STRIKE

Appellant, Taylor Building Corporation of America, hereby moves this Court to strike the Merit Brief of Amicus Curiae Ohio Attorney General Marc Dann in Support of Defendants-Appellees Marvin and Mary Ruth Benfield ("Amicus Brief"). The Amicus Brief was filed outside the deadline set by the rules of the this Court, and its receipt by the Clerk was inconsistent with S. Ct. Prac. R. VI(6)(B).

This Appeal was filed on October 11, 2006. The record was filed on January 22, 2007. Appellant Taylor's Brief was filed on March 5, 2007. Under S. Ct. Prac. R. VI(3)(A), Appellees' Brief was due on April 4, 2007. Therefore, under S. Ct. Prac. R. VI(6)(B), the brief of any Amici purporting to be in support of Appellee was due on April 4, 2007, and filing of any amicus brief past this deadline is barred by the same rule. Attorney General Marc Dann ("Dann") filed his Amicus Brief on April 24, 2007. The Amicus Brief was clearly filed in violation of this Court's rules. Therefore the Amicus Brief should be stricken.

Dann may argue that the Amicus Brief is timely filed on account of the stipulated extension of time that was granted to Appellee on March 26, 2007. This is incorrect. The Stipulation by its terms does not grant any extension to Dann or any amici. Appellant was never asked to grant an extension to Dann, and Appellant never granted an extension to Dann. Dann is not a party to this appeal, and therefore cannot claim the benefit of the extension under S. Ct. Prac. R. XIV(3)(B)(2)(b). Dann has also not asked this Court for any extension. Therefore, the Amicus Brief is untimely, is improperly before this Court, and should be stricken.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was sent via ordinary United States mail this 14th day of May, 2007 to the following:

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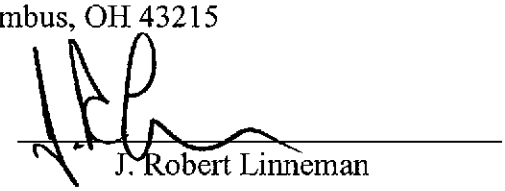

J. Robert Linneman

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