

IN THE SUPREME COURT OF OHIO

REGINA HARRIS, as Guardian for the Estate) Case No. 06-1247
of WALTER HOLLINS,)
)
Appellee) On Appeal from the Court of Appeals
) Eighth Judicial District of Ohio
) Cuyahoga County, Ohio
v.) Case Nos. 85286, 85574, and 85605
) (Consolidated)
MT. SINAI MEDICAL CENTER, et al.)
)
Appellants.)

MOTION FOR STAY PENDING PETITION FOR CERTIORARI TO THE UNITED STATES SUPREME COURT OF PLAINTIFF-APPELLEE REGINA HARRIS AS GUARDIAN FOR THE ESTATE OF WALTER HOLLINS

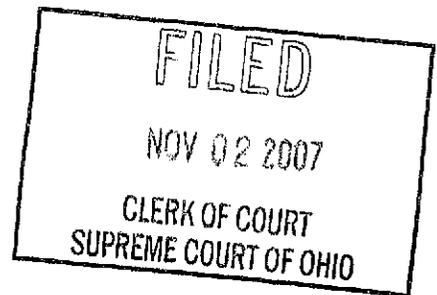
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NOW COMES the Plaintiff-Appellee and moves for a stay of remand and/or stay of the issuance of the mandate in the above-captioned case pending disposition of a Petition for Certiorari to be filed on behalf of Walter Hollins in the United States Supreme Court. In support of said motion for stay, Plaintiff-Appellee states as follows:

1. The inordinate influence of campaign contributions in state court judicial races has recently been brought to the attention of the United States Supreme Court in law review articles, bar journals, and in media coverage of state court races in a number of states, including Ohio. COMMENT: Is Justice for Sale in Ohio? An Examination of Ohio Judicial Elections and Suggestions for Reform Focusing on the 2000 Race for the Ohio Supreme Court, 35 Akron L. Rev. 159, (2001); The Independent and Democratic Accountability of The Supreme Court of Ohio, Paul D. Carrington & Adam Long, Sullivan Lecture Capital University Law School, (2001); Perspectives: Judicial Elections Versus Merit Selection: Eroding the Public's Confidence in Judicial Impartiality: First Amendment Federal Jurisprudence and Special Interest Financing of Judicial Campaigns, 67 ALB L. Rev.763, (2004); COMMENT: Judicial Campaign Speech Restrictions in Light of Republican Party of Minnesota versus White, N. Ill. U. L. Rev. 295 (2002); "Campaign Cash Mirrors the Rulings of a State Supreme Court", *The New York Times*, October 1, 2006; "2 Democrats Decline to Sign Pledge for 'Clean' Campaign: Challengers Seek to Unseat Ohio Justice O'Donnell", *The Toledo Blade*, April 20, 2006. One or more cases are presently making their way up through the federal circuits regarding unseemly public expressions of partisanship by judges. For example, the United States Court of Appeals for the 6th Circuit declared in *Fieger v. Ferry*, 471 F.3d 637, 644 (6th Cir. 2006) that an attorney was entitled to discovery depositions of Michigan Supreme Court justices because of the

unconstitutionality of Michigan's recusal procedure. The important constitutional issues, which have been raised by Plaintiff-Appellee in the above-captioned case, are ripe for consideration by the United States Supreme Court. The Supreme Court has addressed the constitutional right to recusal in order to ensure impartial tribunals. See *Aetna Life Ins Co. v. Lavoie*, 475 U.S. 813, 825 (1986); *Johnson v. Mississippi*, 403 U.S. 212, 215 (1971); *Tumey v. Ohio*, 273 U.S. 510, 532 (1927).

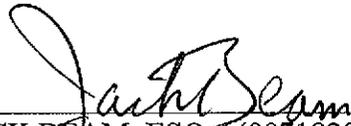
2. A stay will cause no prejudice to the Defendant-Appellants. Defendant Dr. Jordan is deceased. Defendant Mt. Sinai closed its doors in Cleveland long ago. In reality, the only defendants are insurance companies with an excess of \$80 million dollars in coverage. For such sophisticated institutional investors, time is money and any "delay" only translates into investment opportunities based on the time-value of money.

3. Refusal to grant a stay will cause irreparable harm to Walter Hollins. For Plaintiff-Appellee, the United State Supreme Court represents a last hope for Mr. Hollins to avoid having to re-try his case. As a gloating Mr. Farchione (counsel for Jordan) gleefully declared after his deceased client's preordained victory, "Defendants have no intention of ever settling this case." The first trial cost Mr. Hollins over \$650,000 to try to verdict; exclusive of post jury verdict motions and appellate costs. If re-trial will cost less, it will not be by much, as such complex and expert intensive cases always cost hundreds of thousands of dollars to prosecute.

4. Finally, judicial economy would be served by granting a stay. In the event the United States Supreme Court were to find that failure of one or more Ohio Supreme Court Justices to recuse themselves constitutes a denial of right to jury trial, due process and/or equal

protection of the law, the Court of Appeals decision would stand. Thereby the need for re-trial would be obviated.

WHEREFORE, Plaintiff-Appellee moves for a stay for the reasons stated herein.



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CERTIFICATE OF SERVICE

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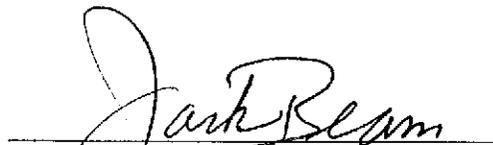
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Respectfully Submitted,

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