

IN THE SUPREME COURT OF OHIO

State of Ohio on Relation of Associated Builders & Contractors of Central Ohio
2222 Wilson Road
Columbus, OH 43228

and

State of Ohio on Relation of The Painting Company
6969 Industrial Parkway
Plain City, OH 43064

Relators,

vs.

Kimberly A. Zurz, Director, The Ohio Department of Commerce
In her official capacity
77 South High Street
Columbus, OH 43215

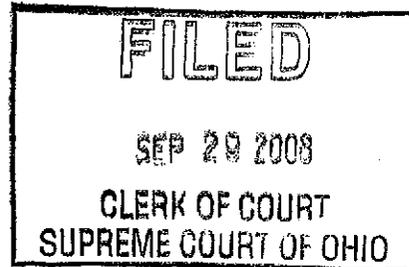
and

Nancy Rogers, Ohio Attorney General
In her official capacity
30 E. Broad Street, 30th Floor
Columbus, OH 43215

Respondents.

08-1923

Original Action Seeking Writs of Prohibition; Alternative Writs of Mandamus; Alternative "Other Writs"



COMPLAINT PETITIONING FOR WRITS OF PROHIBITION; ALTERNATIVE WRITS OF MANDAMUS; ALTERNATIVE "OTHER WRITS"

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**COMPLAINT PETITIONING FOR WRITS OF PROHIBITION; ALTERNATIVE
WRITS OF MANDAMUS; ALTERNATIVE “OTHER WRITS”**

Relators, Associated Builders & Contractors of Central Ohio and The Painting Company (“Relators”) seeks writs of prohibition, alternative writs of mandamus, and/or alternative “other writs” against Respondents, Kimberly A. Zurz, Director of the Ohio Department of Commerce, in her official capacity, and Nancy Rogers, Ohio Attorney General, in her official capacity (together “Respondents”) and states as follows:

JURISDICTION

1. This original action is brought pursuant to Rule X of the Rules of Practice of the Supreme Court of Ohio and Article IV, Section 2 of the Ohio Constitution.
2. No prohibition action is pending in any other court regarding the actions that are the subject of this Complaint.
3. No mandamus action is pending in any other court regarding the actions that are the subject of this Complaint. A related action is pending before this Court, Case No. 08-1478.
4. No “other writ” action, pursuant to R.C. § 2503.40, is pending in any other court regarding the actions that are the subject of this Complaint.
5. Relator Associated Builders & Contractors, Inc., Central Ohio Chapter (“ABC”) is a non-profit trade association principally located in Franklin County, Ohio. (Affidavit of Mary Tebeau, President of ABC, incorporated herein and attached hereto as Exhibit A, at ¶ 1)
6. Relator The Painting Company is a commercial/industrial painting contractor duly authorized to conduct business in Ohio and is principally located in Union County, Ohio. (Affidavit of David Asman, incorporated herein and attached hereto as Exhibit B, at ¶ 1))

7. Respondent Kimberly A. Zurz, in her official capacity, is the Director of the Ohio Department of Commerce with her office located in Franklin County, Ohio.
8. Respondent Nancy Rogers, in her official capacity, is the Attorney General for the State of Ohio, with her office located in Franklin County, Ohio.

STATEMENT OF FACTS GIVING RISE TO COMPLAINT

9. All previous paragraphs of this Complaint are incorporated herein by reference as if fully stated.
10. Relator ABC is a non-profit trade association made up of contractors, subcontractors, material suppliers, and related entities that provide construction services within Ohio. Many of ABC's contractors and their employees work on "public improvement projects" which are subject to Ohio's Prevailing Wage Law. (Ex. A at ¶ 2)
11. Relator The Painting Company is a family-owned contractor and member of Relator ABC. (Ex. B at ¶ 2)
12. Chapter 4115 of the Ohio Revised Code governs alleged violations of Ohio's Prevailing Wage Laws. (R.C. § 4115)
13. The State of Ohio Department of Commerce, Labor and Worker Safety Division ("the Department"), is the entity charged under Ohio Revised Code §4115.03 et seq. with administering Ohio's Prevailing Wage Laws. (R.C. § 4115)
14. Under the statute, the Department or its designee is charged with the power and responsibility to investigate Complaints of violations of Ohio's Prevailing Wage Laws. Upon the completion of its investigation, the Department has the power to issue a "determination." A determination is issued without a hearing, without an adjudication as to the merits of the allegation, and holds no force in law. (R.C. § 4115.13)

15. When Respondents issue a determination that a contractor intentionally violated Ohio's Prevailing Wage Laws, the contractor has the right to a hearing to adjudicate allegations. After such a hearing, if found to have committed an intentional violation, the contractor is debarred for one (1) year. (R.C. § 4115.13)
16. The Secretary of State keeps a list of all contractors that have been found, after completion of a hearing and the appeals process, to have committed intentional violations. (R.C. § 4115.133(A))
17. When Respondents issue a determination alleging a contractor unintentionally violated Ohio's Prevailing Wage Law, it may order the contractor to pay restitution. Such a determination is made without a hearing and is not an adjudication as to the merits of the allegation. (R.C. § 4115.13)
18. Under the law, should a contractor refuse to pay the restitution, either the employee(s) affected or the Department may file a lawsuit against the contractor alleging violations of Ohio's Prevailing Wage Laws and seeking restitution. The allegations asserted in the determination are then adjudicated in a court of law. (R.C. § 4115.13)
19. The Department keeps a list of all contractors against whom determinations of unintentional violations of Ohio's Prevailing Wage Laws have been made but not adjudicated. This list includes determinations settled by the State and the contractor out of court. (Ex. A at ¶ 6)
20. Chapter 4115 does not explicitly grant the power to the Department or Respondents to compile or keep such a list. (R.C. § 4115)

21. Respondent Ms. Zurz and The Department have shared its list of unadjudicated determinations with local officials, couching such determinations as violations of Ohio's Prevailing Wage Laws. (Ex. A at ¶ 7)
22. In the past ten (10) years, fifteen (15) prevailing wage complaints have been filed against The Painting Company. (Ex. B at ¶ 23)
23. The Department investigated each complaint but did not formally adjudicate any of them. Three of the complaints resulted in "zero" determinations; the rest in determinations of underpayment due to clerical errors or misinformation about the law. (Ex. B at ¶ 24)
24. Relator The Painting Company contested the determinations by Respondent by asserting that it owed no money. Relator has denied liability and has never made an admission of guilt or liability regarding the determinations. (Ex. B at ¶ 25)
25. The Department, through the Ohio Attorney General, brought a lawsuit against The Painting Company after it refused to pay on the determinations, seeking roughly \$190,000 plus attorney fees. At issue in the lawsuit was whether The Painting Company received notice of a change in the prevailing wage rates, allegedly leading it to inadvertently underpay some employees. (Ex. B at ¶ 27)
26. Relator The Painting Company and the Attorney General settled said lawsuit through mediation, prior to a verdict, for a fraction of the amount that the Department originally determined. (Ex. B at ¶ 29)
27. Relator The Painting Company and the Department, through Respondent Attorney General, entered into a settlement agreement ("Settlement Agreement") that contained the following non-admission clause:

It is understood and agreed by Commerce that this release constitutes a compromise settlement of the disputed claim or claims and that payment

by The Painting Company of the above-stated settlement is not to be construed and does not constitute an admission of liability or wrongdoing on the part of The Painting Company.

(Ex. B at ¶ 30)

28. In its Decision of March 31, 2008, the Franklin County Court of Common Pleas in Case No. 08CVH03-3328 determined that The Painting Company entered into the Settlement Agreement with the Attorney General, stating on page 19: “The evidence demonstrates that the Commissioners were aware that The Painting Company had entered into a settlement containing a non-admission clause with the Attorney General on the majority of the violations presented.” (Ex. B at ¶ 30)
29. Thus, Respondent Attorney General agreed in the Settlement Agreement that said settlement was “not to be construed” as an “admission of liability or wrongdoing” on the part of The Painting Company. (Ex. B at ¶ 30)
30. The Attorney General bound the State of Ohio and all of its departments, agencies and divisions, including the Department of Commerce, Labor and Worker Safety Division, to the terms of the Settlement Agreement.
31. Upon information and belief, the Attorney General has settled other prevailing wage determinations with other Ohio contractors by signing settlement agreements containing the same or substantially similar non-admissions clauses.
32. Upon execution of the Settlement Agreement, the Attorney General dismissed the lawsuit with prejudice. (Ex. B at ¶ 31)
33. There was never a hearing or trial on the merits regarding any of the Department’s determinations asserted against The Painting Company. (Ex. B at ¶ 26, 28)

34. The Franklin County Board of Commissioners (“The Commissioners”) award contracts on Franklin County construction projects. (Ex. A at ¶ 5)
35. On or about April 15, 2005, the Commissioners formally announced their intention to build a new Minor League baseball stadium, to be called “Huntington Park,” in the Arena District at or near 372 W. Nationwide Boulevard, Columbus, Ohio. (Ex. B at ¶ 4)
36. On or about March 28, 2006, the Commissioners formally chose Nationwide Realty Investors (“Nationwide”) as their “Owner’s Representative” to oversee the development of Huntington Park. (Ex. B at ¶ 5)
37. On or about November 14, 2006, the Commissioners formally passed a resolution approving a contract with Turner Construction Company (“Turner”) to manage construction of the Project. Turner is the Construction Manager for the Project charged with responsibilities including providing project management services. (Ex. B at ¶ 6)
38. On June 13, 2006, the Commissioners passed Resolution No. 476-06 application of the Quality Contracting Standard for use in the Invitation to Bid documents for the Project. (Ex. B at ¶ 7)
39. Section 8.2.4.15 of the Quality Contracting Standard, adopted in 2002, requires contractors bidding on Franklin County projects to certify that they “have not been debarred from public contracts or found by the state (after all appeals) to have violated prevailing wage laws more than three times in a two-year period in the last ten years.” (Ex. B at ¶ 8)
40. As part of their responsibilities to Franklin County, both Nationwide and Turner are charged with verifying that bidders meet the “Bid Evaluation Criteria” which includes 8.2.4.15. (Ex. B at ¶ 9)

41. The Project is a publicly-funded project which is subject to Ohio's competitive bidding laws, requiring, *inter alia*, that the contract be awarded to "the lowest and best bidder."
(Ex. B at ¶ 10)
42. On or about October 19, 2007, the Commissioners advertised Bid Package No. 3 for the Project (Invitation to Bid: 2007-03-76; Contract No. 09900) ("Paint Bid"). Bids in response to the Invitation to Bid for Bid Package No. 3 were due on November 16, 2007. All bids were presented sealed and then opened publically on November 16, 2007. (Ex. B at ¶ 11)
43. Relator The Painting Company timely presented a complete bid totaling \$770,010.00 for the painting portion of Big Package No. 3. (Ex. B at ¶ 12)
44. W.F. Bolin Co. was the only other company to bid on the painting portion of Bid Package No. 3. W.F. Bolin Co.'s bid was \$816,100.00, \$46,090.00 more than The Painting Company's bid. (Ex. B at ¶ 13)
45. Relator The Painting Company submitted a responsive bid, the lowest bid, and the best bid for the painting portion of the Project. (Ex. B at ¶ 14)
46. On December 19, 2007, after a thorough review of the bids received, Turner, the Project's Construction Manager, recommended that the Commissioners award the painting contract to The Painting Company. Specifically, Turner stated: "Based on our review, The Painting Company was found to be the lowest and best bidder, as required by the Franklin County Bid Evaluation Criteria." (Ex. B at ¶ 15)
47. On December 20, 2007, Nationwide, the Commissioners' Owner's Representative, recommended that the Commissioners award The Painting Company the painting contract portion of Bid Package No. 3. Specifically, Nationwide stated:

NRI [Nationwide] participated in the bid review and we have previous project experience with The Painting Company. We are confident that they are qualified to perform this scope of work and agree with Turner's recommendation that the Board of Commissioners of Franklin County proceed with the award of this contract.

(Ex. B at ¶ 16)

48. On December 26, 2007, Richard E. Myers, Assistant Director for Construction for Franklin County's Public Facilities Management, or his designee, sent a facsimile to the Department to inquire about "any kind of complaint or determination" for The Painting Company. (Ex. B at ¶ 17)

49. The Department thereafter provided to Mr. Myers, or his designee, a list of unadjudicated determinations against The Painting Company, referring to them as "violations." (Ex. B at ¶ 18)

50. Relying on the records received from the Department, Mr. Myers, or his designee, determined that the State had found The Painting Company to have had numerous prevailing wage violations, even though they were only determinations that were ultimately settled by the State and The Painting Company. (The Commissioners' Memorandum Opposing Jurisdiction filed with this Court in Case No. 08-1478 at p. 4, incorporated herein and attached hereto as Exhibit C; Ex. A at ¶ 8)

51. On January 15, 2008, Mr. Myers informed Nationwide and Turner that he believed that The Painting Company did not meet the Quality Contracting Standards because of fifteen (15) "Prevailing Wage issues" since 2000. (Ex. B at ¶ 19)

52. On or about January 16, 2008, Mr. Myers noted that:

The Painting Company will not pass the [Quality Contracting Standards] even though they have provided documentation from the state that indicated that payment of Prevailing Wage Determinations would not

'constitute an admission of liability or wrongdoing on the part of TPC [The Painting Company.]'

(Ex. B at ¶ 20)

53. On January 18, 2008, the Commissioners formally rejected The Painting Company's bid, stating:

The Painting Company has been found by the State of Ohio to have violated the State's prevailing wage laws more than three times in a two-year period within the last ten years; therefore, The Painting Company is not eligible for award of this contract.

(Ex. B at ¶ 21)

54. Specifically, the Commissioners cited to and attached fifteen (15) reports of unadjudicated determinations from the Department as their evidence that the State had found violations of the prevailing wage laws. (Ex. B at ¶ 22)

55. On January 22, 2008, The Painting Company timely objected to the Commissioners' rejection of its bid and requested a formal hearing in accordance with the procedures detailed in the Paint Bid. (Ex. B at ¶ 32)

56. On February 1, 2008, a formal Bid Protest Meeting was held at which The Painting Company reiterated its position that it satisfied the requirements of 8.2.4.15. (Ex. B at ¶ 33)

57. On March 4, 2008, the Commissioners voted at their General Session to affirm the rejection of The Painting Company's bid. (Ex. B at ¶ 34)

58. On March 5, 2008, ABC and The Painting Company filed their Verified Complaint for Declaratory Judgment and Injunctive Relief and Petition for a Writ of Mandamus with the Franklin County Court of Common Pleas against The Franklin County Board of

Commissioners and each Commissioner individually, Case No. 08C H03-3328.

Respondent was not a party to this lawsuit. (Ex. B at ¶ 35)

59. Following a trial on the merits, the Court of Common Pleas rendered its decision in Case No. 08C H03-3328 in the Commissioners' favor, denying Relators' request for injunctive relief and mandamus and dismissing the Verified Complaint. (Ex. B at ¶ 36)

60. Relators filed its Notice of Appeal of said decision with the Tenth District Court of Appeals. (Ex. B at ¶ 37)

61. The Tenth District Court of Appeals affirmed the lower court's decision. (Ex. B at ¶ 38)

62. On September 28, 2008, Relators filed their Notice of Appeal and Memorandum in Support of Jurisdiction with the Supreme Court of Ohio, Case No. 08-1478. As of the date of the filing of this Complaint, the Supreme Court's decision on jurisdiction in Case No. 08-1478 is pending. (Ex. B at ¶ 39)

63. On or about August 27, 2008, the Commissioners filed their Memorandum Opposing Jurisdiction of Appellees Franklin County Board of Commissioners in Case No. 08-1478. In their Memorandum, the Commissioners admit that they were relying on the Department's report and its findings that The Painting Company had violated the Prevailing Wage Act fifteen times, stating:

In order to evaluate The Painting Company's compliance with section 8.2.4.15, the Franklin County Board of Commissioners relied upon information provided by the Ohio Department of Commerce. That information provided a basis for determining that The Painting Company had been found by the state to violated Ohio prevailing wage laws more than three times in a two-year period in the last ten years...

(Ex. A at ¶ 8; Ex. C at p. 4)

COUNT ONE: PROHIBITION (MS. ZURZ)

64. All previous paragraphs of this Complaint are incorporated herein by reference as if fully restated.
65. Respondent, in her official capacity as Director of the Ohio Department of Commerce, exercised quasi-judicial power by reporting unadjudicated prevailing wage determinations as actual adjudicated findings of violations, even when required hearings have not been held and the determinations have been settled with a non-admission clause in the settlement agreement.
66. Respondent is continuing to exercise quasi-judicial power by continuing to report unadjudicated determinations of prevailing wage violations as actual adjudicated finding of violations, even when required hearings have not been held and the determinations have been settled with a non-admission clause in the settlement agreement.
67. Respondent's exercise of quasi-judicial power was unauthorized by law because Ms. Zurz does not have the statutory authority to maintain a list of unadjudicated determinations and characterize and report them as actual adjudicated findings of violations of the prevailing wage law in reports sent to localities, including Franklin County.
68. Respondent's exercise of quasi-judicial power was unauthorized by law because her characterization of unadjudicated determinations as actual adjudicated findings of violations of the prevailing wage law, despite not holding a hearing and the fact the determinations were settled with a non-admission clause in the settlement agreement, violates Relators' constitutional rights to due process set forth in Article I, Section 16 of the Ohio Constitution and the Fourteenth Amendment to the United States Constitution.
69. Respondent's actions have deprived Relators of their liberty interest without due process.

70. Respondent's actions have damaged the reputation of The Painting Company and other similarly situated members of ABC.
71. Respondent's actions have damaged Relators' ability to enter into government contracts.
72. Relators lack an adequate remedy at law that will timely and immediately repair the damage to The Painting Company's reputation and ability to contract on government projects.
73. Relators are entitled to a writ of prohibition ordering Respondent to cease and desist from reporting unadjudicated determinations of prevailing wage violations as actual adjudicated findings of violations of the law where no hearing has been held and/or the determinations were settled with a non-admission clause in the settlement agreement.
74. Relators are entitled to a writ of prohibition ordering Respondent to cease maintaining and disseminating a list(s) of unadjudicated determinations of prevailing wage violations for contractors, which is contrary to R.C. Chapter 4115 unless also reporting that "no violations have been adjudicated."

COUNT TWO: PROHIBITION (MS. ROGERS)

75. All previous paragraphs of this Complaint are incorporated herein by reference as if fully restated.
76. Respondent, in her official capacity as Ohio Attorney General, exercised quasi-judicial power by usurping the power of the Director of Commerce, not enforcing the settlement agreements executed by the Attorney General, interpreting the settlement agreements to be violations of the prevailing wage laws, and allowing the Department to report unadjudicated determinations of prevailing wage violations as actual adjudicated finding

of violations, even when required hearings have not been held and the determinations have been settled with a non-admission clause in the settlement agreement.

77. Respondent is continuing to exercise quasi-judicial power by continuing to not enforce the settlement agreements executed by the Attorney General, to interpret the settlement agreements to be violations of the prevailing wage laws, and to allow the Department to report unadjudicated determinations of prevailing wage violations as actual adjudicated finding of violations, even when required hearings have not been held and the determinations have been settled with a non-admission clause in the settlement agreement.
78. Respondent's exercise of quasi-judicial power is unauthorized by law because Ms. Rogers does not have the statutory authority to interpret and allow the Department to interpret unadjudicated and settled determinations to be actual adjudicated findings of violations of the prevailing wage law in reports sent to localities, including Franklin County.
79. Respondent Ms. Rogers' exercise of quasi-judicial power was unauthorized by law because her characterization of unadjudicated determinations as actual adjudicated findings of violations of the prevailing wage law, despite not holding a hearing and the fact the determinations were settled with a non-admission clause in the settlement agreement, violates Relators' constitutional rights to due process set forth in Article I, Section 16 of the Ohio Constitution and the Fourteenth Amendment to the United States Constitution.
80. Respondent's actions have deprived Relators of their liberty interest without due process.

81. Respondent's actions have damaged the reputation of The Painting Company and other similarly situated members of ABC.
82. Respondent's actions have damaged Relators' ability to enter into government contracts.
83. Relators lack an adequate remedy at law that will timely and immediately repair the damage to The Painting Company's reputation and ability to contract on government projects.
84. Relators are entitled to a writ of prohibition ordering Respondent Ms. Rogers to enforce the settlement agreements executed by the Attorney General.
85. Relators are entitled to a writ of prohibition ordering Respondent Ms. Rogers to instruct the Department and State localities and counties to enforce the settlement agreement by ceasing to report unadjudicated determinations of prevailing wage violations as actual adjudicated findings of violations of the law where no hearing has been held and/or the determinations were settled with a non-admission clause in the settlement agreement.
86. Relators are entitled to a writ of prohibition ordering Respondent Ms. Rogers to cease and desist from considering and reporting unadjudicated prevailing wage determinations as actual findings of adjudicated findings of violations of the law where no hearing has been held and/or the determinations were settled with a non-admission clause in the settlement agreement.

ALTERNATIVE COUNT THREE: MANDAMUS (BOTH)

87. All previous paragraphs of this Complaint are incorporated herein by reference as if fully restated.
88. Relators have a clear legal right to the requested relief because Respondents have and continues to violate Relators' constitutionally protected rights to due process set forth in

Article I, Section 16 of the Ohio Constitution and the Fourteenth Amendment to the United States Constitution.

89. Relators have a to abide by and enforce their agreements as written, and ensure counties and localities do not consider the determinations subject to settlement agreements containing non-admissions clauses to be “findings” of “violations” of prevailing wage laws.
90. Relators have a clear legal right to ensure they are not deprived of their liberty interest without a hearing, repair damage to professional reputations, and resume the ability to enter into government contracts for which they have been wrongfully prohibited from entering.
91. Respondents have the clear legal duty to exercise the relief requested because they have the legal duty to enforce the settlement agreements executed by the State as they are written.
92. Respondents have the clear legal duty to make certain the statutory mandates of a hearing or adjudication in a court of law have been fulfilled before reporting a contractor as a violator of the prevailing wage laws.
93. Respondents have the clear legal duty to protect its citizen’s constitutional guarantees of due process set forth in Article I, Section 16 of the Ohio Constitution and the Fourteenth Amendment to the United States Constitution, and make certain State employees, counties and localities do not act in a manner violative of these rights and guarantees.
94. Respondents’ actions have deprived Relators of their liberty interest without due process.
95. Respondents’ actions have damaged the reputation of The Painting Company and other similarly situated members of ABC.

96. Respondents' actions have interfered with Relators' ability to enter into government contracts.
97. Relators lack an adequate remedy at law that will timely and immediately repair the damage to The Painting Company's reputation and ability to contract on government projects.
98. Relators are entitled to a writ of mandamus ordering Respondents to cease and desist from considering and reporting unadjudicated prevailing wage determinations as actual findings of violations of the law where no hearing has been held and/or the determinations were settled with a non-admission clause in the settlement agreement.
99. Relators are entitled to a writ of mandamus ordering Respondents to enforce the settlement agreements executed by the State, including the non-admissions clauses, and ensure the State, counties and localities are not considering the determinations subject to said settlement agreements to be adjudicated violations of prevailing wage laws.
100. Relators are entitled to a writ of prohibition ordering Respondents to cease maintaining and disseminating a list(s) of unadjudicated prevailing wage determinations for contractors, which is contrary to R.C. Chapter 4115 unless also reporting that "no violations have been adjudicated."

ALTERNATIVE COUNT FIVE: OTHER WRIT (BOTH)

101. All previous paragraphs of this Complaint are incorporated herein by reference as if fully restated.
102. This Court has the power pursuant to R.C. § 2503.40 to issue any "other writ" not specifically provided for and not prohibited by law when necessary to enforce the administration of justice.

103. Alternatively, should this Court find writs of prohibition and mandamus to be inappropriate in this case, Relators are entitled to an “other writ” pursuant to R.C. § 2503.40 because the administration of justice demands that Respondents immediately cease and desist from violating Relators’ constitutionally protected rights of due process set forth in Article I, Section 16 of the Ohio Constitution and the Fourteenth Amendment to the United States Constitution.
104. Relators are entitled to an “other writ” ordering Respondents to cease and desist from reporting unadjudicated prevailing wage determinations as actual adjudicated findings of violations of the law where no hearing has been held and/or the determinations were settled with a non-admission clause in the settlement agreement.
105. Relators are entitled to a writ of prohibition ordering Respondents to cease maintaining and disseminating a list(s) of unadjudicated determinations of prevailing wage violations for contractors, which is contrary to R.C. Chapter 4115 unless also reporting that “no violations have been adjudicated.”
106. Relators are entitled to an “other writ” ordering Respondents to enforce the settlement agreements executed by the State, including the non-admissions clauses, and ensure that the State, counties and localities are not considering the determinations subject to said settlement agreements to be adjudicated violations of prevailing wage laws.

WHEREFORE, Relators are entitled to a Writ of Prohibition ordering Respondent Kimberly A. Zurz to (1) to cease and desist from reporting unadjudicated determinations of prevailing wage violations as actual adjudicated findings of violations

of the law where no hearing has been held and/or the determinations were settled with a non-admission clause in the settlement agreement; (2) cease maintaining and disseminating a list(s) of unadjudicated determinations of prevailing wage violations for contractors, which is contrary to R.C. Chapter 4115 unless also reporting that “no violations have been adjudicated”; (3) enforce the prevailing wage settlement agreements executed by the State, including the non-admissions clauses, and ensure that the State, counties and localities are not considering the determinations subject to said settlement agreements to be adjudicated violations of prevailing wage laws.

WHEREFORE, Relators are entitled to a Writ of Prohibition ordering Respondent Nancy Rogers to (1) cease and desist from reporting unadjudicated determinations of prevailing wage violations as actual adjudicated findings of violations of the law where no hearing has been held and/or the determinations were settled with a non-admission clause in the settlement agreement; and (2) enforce the prevailing wage settlement agreements executed by the State, including the non-admissions clauses, and ensure that the State, counties and localities are not considering the determinations subject to said settlement agreements to be adjudicated violations of prevailing wage laws.

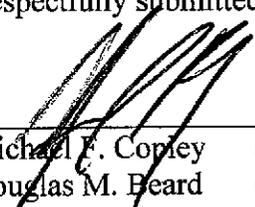
WHEREFORE, alternatively, Relators are entitled to a Writ of Mandamus ordering Respondents to (1) cease and desist from reporting unadjudicated determinations of prevailing wage violations as actual adjudicated findings of violations of the law where no hearing has been held and/or the determinations were settled with a non-admission clause in the settlement agreement; (2) cease maintaining and disseminating a list(s) of unadjudicated determinations of prevailing wage violations for contractors,

which is contrary to R.C. Chapter 4115 unless also reporting that “no violations have been adjudicated”; (3) enforce the prevailing wage settlement agreements executed by the State, including the non-admissions clauses, and ensure that the State, counties and localities are not considering the determinations subject to said settlement agreements to be adjudicated violations of prevailing wage laws.

WHEREFORE, alternatively, Relators are entitled to an “Other Writ” pursuant to R.C. § 2503.40 ordering Respondents to (1) cease and desist from reporting unadjudicated determinations of prevailing wage violations as actual adjudicated findings of violations of the law where no hearing has been held and/or the determinations were settled with a non-admission clause in the settlement agreement; (2) cease maintaining and disseminating a list(s) of unadjudicated determinations of prevailing wage violations for contractors, which is contrary to R.C. Chapter 4115 unless also reporting that “no violations have been adjudicated”; (3) enforce the prevailing wage settlement agreements executed by the State, including the non-admissions clauses, and ensure that the State, counties and localities are not considering the determinations subject to said settlement agreements to be adjudicated violations of prevailing wage laws.

Relators are also entitled to court costs, reasonable attorneys’ fees, statutory damages, and all other relief this Court deems equitable.

Respectfully submitted,



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Douglas M. Beard (0073759)
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Counsel for Relators

IN THE SUPREME COURT OF OHIO

State of Ohio on Relation of Associated Builders & Contractors of Central Ohio, et al.,
Relators,
v.
Kimberly A. Zurz, Director, The Ohio Department of Commerce, et al.,
Respondents.

AFFIDAVIT OF MARY TEBEAU, PRESIDENT OF ASSOCIATED BUILDERS & CONTRACTORS OF CENTRAL OHIO

STATE OF OHIO)
) SS:
COUNTY OF UNION)

COMES NOW Affiant, Mary Tebeau, being duly sworn and cautioned, and assuring her competency to testify to the matters stated below based on personal knowledge, states as follows:

1. My name is Mary Tebeau and I am the President of the Associated Builders & Contractors of Central Ohio (“ABC”), a non-profit trade association principally located at 2222 Wilson Road, Columbus, Franklin County, Ohio 43228.
2. ABC is a non-profit trade association made up of contractors, subcontractors, material suppliers, and related entities that provide construction services within Ohio. Many of ABC’s contractors and their employees work on “public improvement projects” which are subject to Ohio’s Prevailing Wage Law.
3. The Painting Company, located at 6969 Industrial Parkway, Plain City, Ohio, is a member of ABC.



4. ABC has an interest in this case on behalf of its member The Painting Company as well as on behalf of its other members who work on “public improvement projects” which are subject to Ohio’s Prevailing Wage Law.

5. The Franklin County Board of Commissioners (“the Commissioners”) award contracts on Franklin County construction projects.

6. It is my information and belief that the Ohio Department of Commerce, Labor and Worker Safety Division (the “Department”), keeps a list of all contractors against whom determinations of unintentional violations of Ohio’s Prevailing Wage Laws have been made but not adjudicated.

7. It is my information and belief that The Department has shared and continues to share its list of unadjudicated determinations with local officials and others, couching such determinations as “violations” of Ohio’s Prevailing Wage Laws.

8. On or about August 27, 2008, the Commissioners filed with the Ohio Supreme Court their Memorandum Opposing Jurisdiction of Appellees Franklin County Board of Commissioners in Case No. 08-1478. On page 4 of their Memorandum, the Commissioners state as follows:

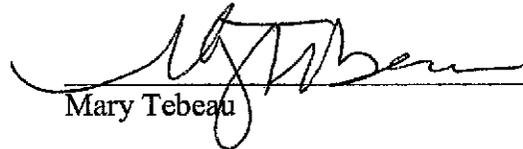
In order to evaluate The Painting Company’s compliance with section 8.2.4.15, the Franklin County Board of Commissioners relied upon information provided by the Ohio Department of Commerce. That information provided a basis for determining that The Painting Company had been found by the state to violated Ohio prevailing wage laws more than three times in a two-year period in the last ten years...

I hereby certify that a true and accurate copy of the Commissioners’ Memorandum Opposing Jurisdiction is attached to the Complaint Petitioning For Writs of Prohibition; Alternative Writs of Mandamus; Alternative “Other Writs” as Exhibit C.

9. I hereby certify that a true and accurate copy of an editorial authored by Mary Jo Kilroy, Franklin County Commissioner, published in The Columbus Dispatch on July 12, 2008, page A9, is attached hereto as Exhibit 1. In the editorial, Ms. Kilroy takes the position that companies with mere prevailing wage determinations against it must certify that they have actual violations of the prevailing wage laws when bidding or they are barred from receiving contracts with the County.

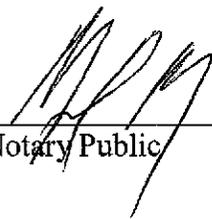
10. The Commissioners have publicly accused contractors of falsely certifying their prevailing wage reports to Franklin County, a crime, for failing to include in the report unadjudicated and settled determinations of the Department. In doing so, the Commissioners have publically declared these contractors to be criminals.

FURTHER AFFIANT SAYETH NAUGHT



Mary Tebeau

Sworn and subscribed to before me this 29th day of September, 2008.



Notary Public

My Commission expires on: _____
Date

MICHAEL F. COPLEY
Attorney at Law
Notary Public, State of Ohio
My Commission Has No Expiration
Section 147.03 R.C.

Editorial on ballpark was way off base

The Dispatch's July 3 editorial "Ballpark bungle" completely missed the mark. The editorial board failed to address several serious problems with TP Mechanical's bid. Not only did the company falsely certify its bid documents about its violation history, it also broke prevailing-wage laws numerous times. These facts alone should have disqualified the company's bid.

Furthermore, TP Mechanical failed to meet the minimum accepted standards required of all companies during the bidding process. A bipartisan panel of commissioners passed these basic bidding standards in 2002 to safeguard the process's fairness and integrity. The landmark standards have served as a model for other counties and are used by the Ohio School Facilities Commission, which is in charge of state school construction and rehabilitation.

In keeping with these widely used standards, a company should have no more than three prevailing-wage violations in any 24-month period during the past 10 years. TP Mechanical routinely flaunted this provision by severely underpaying its workers. In 2002 alone, the company had 13 violations. In the four-year period leading up to its bid, it racked up another four. All told, since 1998, TP Mechanical logged at least 21 separate violations.

The bidding process required all companies to submit their previous four-year violation history. TP Mechanical failed to do so. To be fair, we must apply the basic and established bidding standards uniformly. Since the company could not even meet the minimum accepted standards, we could not in good faith accept its bid.

In the end, the ballpark is being completed on time and under budget. During these tough economic times, the people of Franklin County could use an objective newspaper to guide and inform them. It's unfortunate that The Dispatch has forgone this mission in favor of political grandstanding.

MARY JO KILROY

Franklin County commissioner
Columbus

IN THE SUPREME COURT OF OHIO

State of Ohio on Relation of Associated Builders & Contractors of Central Ohio, et al.,
Relators,
v.
Kimberly A. Zurz, Director, The Ohio Department of Commerce, et al.,
Respondents.

AFFIDAVIT OF DAVID ASMAN, VICE PRESIDENT OF THE PAINTING COMPANY

STATE OF OHIO)
) SS:
COUNTY OF UNION)

COMES NOW Affiant, David Asman, being duly sworn and cautioned, and assuring his competency to testify to the matters stated below based on personal knowledge, states as follows:

1. My name is David Asman and I am the Vice President of The Painting Company, a commercial/industrial painting contractor duly authorized to conduct business in Ohio and principally located at 6969 Industrial Parkway, Plain City, Union County, Ohio, 43064.
2. The Painting Company is a family-owned contractor and member of Associated Builders & Contractors, Inc., Central Ohio Chapter (“ABC”).
3. I have served as Vice President of The Painting Company for the duration of the events at issue in this case.
4. On or about April 15, 2005, the Franklin County Board of Commissioners (“Commissioners”) formally announced their intention to build a new Minor League baseball stadium, to be called “Huntington Park,” in the Arena District at or near 372 W. Nationwide Boulevard, Columbus, Ohio (the “Project”).



5. On or about March 28, 2006, the Commissioners formally chose Nationwide Realty Investors (“Nationwide”) as their Owner’s Representative to oversee the development of the Project.
6. On or about November 14, 2006, the Commissioners formally passed a resolution approving a contract with Turner Construction Company (“Turner”) to manage construction of the Project. Turner’s responsibilities include providing project management services.
7. On June 13, 2006, the Commissioners passed Resolution No. 476-06 application of the Quality Contracting Standard for use in the Invitation to Bid documents for the Project. I hereby certify that a true and accurate copy of Resolution No. 476-06 is attached hereto as Exhibit 1.
8. Section 8.2.4.15 of the Quality Contracting Standard requires contractors bidding on Franklin County projects to certify that they “have not been debarred from public contracts or found by the state (after all appeals) to have violated prevailing wage laws more than three times in a two-year period in the last ten years.” I hereby certify that a true and accurate copy of Section 8.2.4.15 of the Quality Contracting Standard is attached hereto as Exhibit 2.
9. As part of their responsibilities to Franklin County, both Nationwide and Turner are charged with verifying that bidders meet the “Bid Evaluation Criteria” which includes 8.2.4.15.
10. The Project is a publicly-funded project which is subject to Ohio’s competitive bidding laws, requiring that the contract be awarded to “the lowest and best bidder.”
11. On or about October 19, 2007, the Commissioners advertised Bid Package No. 3 for the Project (Invitation to Bid: 2007-03-76; Contract No. 09900). Bids in response to the Invitation to Bid for Bid Package No. 3 were due on November 16, 2007. To my knowledge and belief, all bids were presented sealed and then opened publically on November 16, 2007. I hereby certify

that a true and accurate copy of Bid Package No. 3 for Huntington Park is attached hereto as Exhibit 3.

12. The Painting Company timely presented a complete bid totaling \$770,010.00 for the painting portion of Big Package No. 3.

13. W.F. Bolin Co. was the only other company to bid on the painting portion of Bid Package No. 3. W.F. Bolin Co.'s bid was \$816,100.00, \$46,090.00 more than The Painting Company's bid.

14. The Painting Company submitted a responsive bid, the lowest bid, and the best bid for the painting portion of the Project.

15. On December 19, 2007, after a thorough review of the bids received, Turner recommended that the Commissioners award the painting contract to The Painting Company.

Specifically, Turner stated:

Based on our review, The Painting Company was found to be the lowest and best bidder, as required by the Franklin County Bid Evaluation Criteria.

16. On December 20, 2007, Nationwide also recommended that the Commissioners award Relator The Painting Company the painting contract portion of Bid Package No. 3. Specifically, Nationwide stated:

NRI [Nationwide] participated in the bid review and we have previous project experience with The Painting Company. We are confident that they are qualified to perform this scope of work and agree with Turner's recommendation that the Board of Commissioners of Franklin County proceed with the award of this contract.

17. I have come to learn and know that on December 26, 2007, Richard E. Myers, Assistant Director for Construction for Franklin County's Public Facilities Management, or his designee, sent a facsimile to the Ohio Department of Commerce ("the Department") to inquire about "any kind of complaint or determination" for The Painting Company.

18. I have come to learn and know that the Department thereafter provided to Mr. Myers, or his designee, a list of unadjudicated and settled determinations against The Painting Company, referring to them as “violations.”

19. On January 15, 2008, Mr. Myers informed Nationwide and Turner that he believed that The Painting Company did not meet the Quality Contracting Standards because of fifteen (15) “Prevailing Wage issues” since 2000.

20. On or about January 16, 2008, Mr. Myers noted that: “The Painting Company will not pass the [Quality Contracting Standards] even though they have provided documentation from the state that indicated that payment of Prevailing Wage Determinations would not ‘constitute an admission of liability or wrongdoing on the part of TPC [The Painting Company].’”

21. On January 18, 2008, the Commissioners formally rejected The Painting Company’s bid stating that “The Painting Company has been found by the State of Ohio to have violated the State’s prevailing wage laws more than three times in a two-year period within the last ten years; therefore, The Painting Company is not eligible for award of this contract.” I hereby certify that a true and accurate copy of the January 18, 2008 rejection letter is attached hereto as Exhibit 4.

22. The Commissioners cited to and attached fifteen (15) reports, unadjudicated determinations, from the Department as their evidence that The Painting Company did not meet the requirements of 8.2.4.15.

23. In the past ten (10) years, fifteen Prevailing Wage complaints have been filed against The Painting Company.

24. The Department investigated each prevailing wage complaint filed against The Painting Company. The Commissioner did not formally adjudicate any of them. Three of the complaints

resulted in “zero” determinations; the rest in inadvertent determinations of underpayment due to clerical errors or misinformation about the law.

25. The Painting Company contested the determinations by the Department by asserting that it owed no money. The Painting Company has denied liability and has never made an admission of guilt or liability regarding the determinations.

26. The Painting Company has not taken part in any formal hearing or trial regarding any the Department’s determinations asserted against it.

27. The Department brought a lawsuit against The Painting Company after it refused to pay on the determinations, seeking roughly \$190,000 plus attorney fees. At issue in the lawsuit was whether The Painting Company received notice of a change in the prevailing wage rates, allegedly leading it to inadvertently underpay some employees.

28. The Department’s lawsuit did not go to trial or verdict.

29. The Painting Company and Attorney General settled said lawsuit through mediation, prior to a verdict, for a fraction of the amount that the Department originally determined.

30. The Painting Company and the Department, through the Attorney General, entered into a settlement agreement (“Settlement Agreement”) that contained the following non-admission clause:

It is understood and agreed by Commerce that this release constitutes a compromise settlement of the disputed claim or claims and that payment by The Painting Company of the above-stated settlement is not to be construed and does not constitute an admission of liability or wrongdoing on the part of The Painting Company.

The March 31, 2008, Decision of the Franklin County Court of Common Pleas in Case No. 08CVH03-3328 determined that The Painting Company entered into the settlement agreement with the Attorney General. I hereby certify that true and accurate copies of the Settlement

Agreement and the applicable pages of the Franklin County Court of Common Pleas Decision in Case No. 08CVH03-3328 are attached hereto as Exhibit 5.

31. After signing the Settlement Agreement, the Ohio Attorney General dismissed the lawsuit with prejudice.

32. On January 22, 2008, The Painting Company timely objected to the Commissioners' rejection of its bid and requested a formal hearing in accordance with the procedures detailed in the Paint Bid.

33. On February 1, 2008, a formal Bid Protest Meeting was held at which The Painting Company reiterated its position that it satisfied the requirements of 8.2.4.15.

34. On March 4, 2008, the Commissioners voted at their General Session to affirm the rejection of The Painting Company's bid.

35. On March 5, 2008, ABC and The Painting Company filed their Verified Complaint for Declaratory Judgment and Injunctive Relief and Petition for a Writ of Mandamus with the Franklin County Court of Common Pleas against The Franklin County Board of Commissioners and each Commissioner individually, Case No. 08C H03-3328.

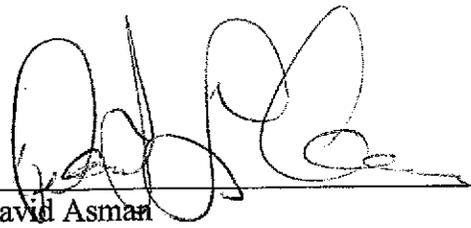
36. The Court of Common Pleas decided against The Painting Company.

37. ABC and The Painting Company appealed the Common Pleas Court's decision to the Tenth District Court of Appeals.

38. The Tenth District Court of Appeals affirmed the Common Pleas Court's decision.

39. ABC and The Painting Company have filed a Notice of Appeal and Memorandum of Jurisdiction with the Ohio Supreme Court.

FURTHER AFFIANT SAYETH NAUGHT



David Asman

Sworn and subscribed to before me this 26 day of September, 2008.



Notary Public My Commission expires on: 12-17-2012
Date

 SANDRA R. CONTORNO-MILNE
Notary Public, State of Ohio
My Commission Expires 12-17-2012

**RESOLUTION TO AFFIRM THE APPLICATION
AND ENFORCEMENT OF FRANKLIN COUNTY'S
QUALITATIVE CONTRACTING STANDARDS
TO THE COMPLETION OF HUNTINGTON PARK
(COMMISSIONERS)**

WHEREAS, Franklin County, Ohio, through its Board of Commissioners of Franklin County, Ohio (collectively the "Owner") desires to provide for the cost effective, safe, quality and timely completion of Huntington Park, a new downtown ballpark for the County's AAA-professional baseball team, the "Columbus Clippers" in a manner designed to afford the lowest costs to the Owner and the Public it represents; and,

WHEREAS, application and enforcement of Franklin County's qualitative contracting standards will foster achievement of these goals, by:

- expediting the construction process;
- providing enhancement of fair and quality employment practices for all Project participants; and
- creating a safer construction site, including providing a mechanism for responding to the unique construction needs associated with the Project.

WHEREAS, the Commissioners desire to further ensure that the County's contractors are compliant with the law, financially stable, and capable of executing construction contracts in a competent and professional manner; and,

WHEREAS, the Commissioners desire to achieve the Goals outlined above as well as to provide for the stability, security and work opportunities generated by the construction of Huntington Park; and,

NOW THEREFORE, upon motion of Commissioner Kilroy, seconded by Commissioner Stokes

**BE IT RESOLVED BY THE BOARD OF COMMISSIONERS,
FRANKLIN COUNTY, OHIO:**

That the qualitative criteria set forth in Franklin County Resolutions 421-02 and 422-02 are hereby reaffirmed as bid conditions which will bind all parties working on the Huntington Park construction project including contractors and subcontractors of whatever tier.



RESOLUTION ADDING CERTAIN
QUALITATIVE CRITERIA TO THE
FRANKLIN COUNTY INVITATION
TO BID FOR CONSTRUCTION
PROJECTS WHERE PREVAILING
WAGE REGULATIONS APPLY

(PUBLIC FACILITIES MANAGEMENT)

WHEREAS, the Franklin County Board of Commissioners wish to add qualitative criteria to the Invitation to Bid for County Commissioner construction projects where prevailing wage regulations apply; and

WHEREAS, the Commissioners themselves and members of their immediate staff along with the Purchasing Department, Public Facilities Management Department, representatives of the construction industry, and representatives of the Small and Emerging Business Commission have met to deliberate on said criteria; and

WHEREAS, the Commissioners desire to further ensure that the County's contractors are compliant with the law, financially stable, and capable of executing construction contracts in a competent and professional manner; and

WHEREAS, the qualitative criteria enumerated in the attached document will be appropriately included in the Franklin County Invitation to Bid for construction projects where prevailing wage regulations apply, now, therefore, upon motion of Commissioner Kilroy, seconded by Commissioner Stokes

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS, FRANKLIN COUNTY, OHIO:

That the qualitative criteria enumerated in the attached document are hereby approved and will be added to the Franklin County Invitation to Bid for construction projects managed by the Franklin County Commissioners where prevailing wage regulations apply.

Arlene Shoemaker
ARLENE SHOEMAKER, PRESIDENT

Dewey R. Stokes
DEWEY R. STOKES

Mary Jo Kilroy
MARY JO KILROY
BOARD OF COUNTY
COMMISSIONERS
FRANKLIN COUNTY, OHIO

Voting Nay thereon:

ARLENE SHOEMAKER, PRESIDENT

DEWEY R. STOKES

MARY JO KILROY
BOARD OF COUNTY
COMMISSIONERS
FRANKLIN COUNTY, OHIO

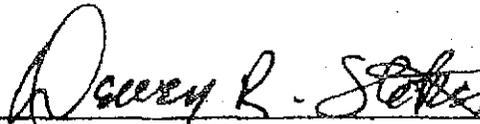
cc: Journal
Auditor, Fiscal & Administration
Purchasing
Public Facilities Management

The following language shall be added to all Franklin County Invitations to Bid for construction projects managed by the Franklin County Commissioners where prevailing wage regulations apply:

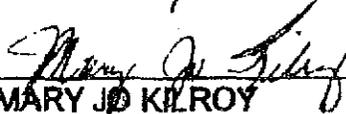
1. As a condition precedent to contract award after bid, Owner shall undertake with bidder a "Constructibility" and Scope review on projects of one hundred thousand dollars (\$100,000) or more, at the discretion of the Owner, to verify that bidder included all required work.
2. The Low Bidder whose bid is more than twenty percent (20%) below the next lowest bidder shall list three (3) projects that are each within seventy-five percent (75%) of the bid project estimate for similar projects and that were successfully completed by the bidder not more than five (5) years ago. This information shall be provided, if necessary, at the post-bid scope review.
3. Bidder certifies that Bidder will employ supervisory personnel on this project that have three (3) or more years in the specific trade and/or maintain the appropriate state license, if any.
4. Bidder certifies that Bidder has not been penalized or debarred from any public contracts for falsified certified payroll records or any other violation of the Fair Labor Standards Act in the last five (5) years.
5. Bidder certifies that Bidder has not been debarred from public contracts or found by the state (after all appeals) to have violated prevailing wage laws more than three times in a two-year period in the last ten years.
6. Bidder certifies that Bidder has implemented an OSHA compliant Safety Program and will provide evidence of such upon request.
7. Bidder certifies that Bidder maintains a substance abuse policy that its personnel are subject to on this project. Bidder will provide this policy or evidence thereof upon request.
8. Bidder for a skilled trade contract or fire safety contract certifies that Bidder is a state licensed heating, ventilating, and air conditioning contractor, refrigeration contractor, electrical contractor, plumbing contractor, or hydronics contractor or licensed by the State Fire Marshal.
9. All financial information identified by the bidder as a trade secret and contained herein shall be treated as a trade secret and presumed to be exempt from Ohio's Public Records laws.
10. Bidder certifies that Bidder's construction license has not been revoked in any state.

Voting Aye thereon:

ARLENE SHOEMAKER, PRESIDENT

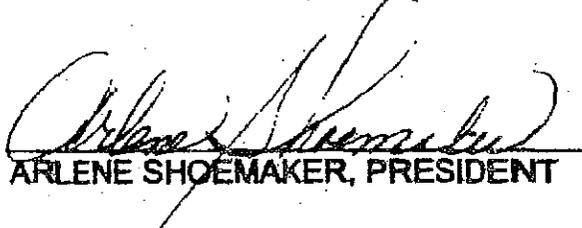


DEWEY R. STOKES



MARY JO KILROY
BOARD OF COUNTY
COMMISSIONERS
FRANKLIN COUNTY, OHIO

Voting Nay thereon:



ARLENE SHOEMAKER, PRESIDENT

DEWEY R. STOKES

MARY JO KILROY
BOARD OF COUNTY
COMMISSIONERS
FRANKLIN COUNTY, OHIO

cc: Journal
Auditor, Fiscal & Administration
Purchasing
Public Facilities Management

8.2.4.14 Information that the Bidder has not been penalized or debarred from any public contracts for falsified certified payroll records or any other violation of the Fair Labor Standards Act in the last five (5) years.

8.2.4.15 Information that the Bidder has not been debarred from public contracts or found by the state (after all appeals) to have violated prevailing wage laws more than three times in a two-year period in the last ten years.

8.2.4.16 Information that the Bidder has implemented an OSHA compliant Safety Program and will provide evidence of such upon request.

8.2.4.17 Information that upon the execution of the Contract Form; the Contractor will make a good faith effort to ensure that all of the Contractor's employees, while working on the Project site, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

8.2.4.18 Information that the Bidder maintains a substance abuse policy that its personnel are subject to on the Project and will provide this policy or evidence thereof upon request.

8.2.4.19 To the extent applicable, information that the Bidder is licensed by the Ohio Construction Industry Licensing Board or the State Fire Marshal.

8.2.4.20 Information that the Bidder's construction license has not been revoked in any state.

8.2.4.21 Information that the Bidder has no final judgments against it that have not been satisfied at the time of award in the total amount of fifty percent (50%) of the bid amount of the applicable Contract.

8.2.4.22 Information that the Bidder has complied with unemployment and workers' compensation laws for at least the nine months preceding the date of bid opening.

8.2.4.23 Information that the Bidder for a plumbing, electrical, HVAC, or fire contract will not subcontract greater than seventy-five percent (75%) of the Work under such Contract.

8.2.4.24 Information that the Bidder does not have an Experience Modification Rating of Greater than 3.0 (a penalty-rated employer) with respect to the Bureau of Workers' Compensation risk assessment rating.

If the lowest responsive Bidder is best, the Contract shall be awarded to such Bidder unless all bids are rejected.

8.2.5 If the lowest responsive Bidder is not best, and all bids are not rejected, the County shall follow the procedure set forth in subparagraph 8.2.4 with each next lowest responsive Bidder until the Contract is awarded, all bids are rejected or all responsive Bidders are determined to be not best.

8.2.6 The Construction Manager may obtain the information described in subparagraph 8.2.4 from several Bidders simultaneously, but shall review each Bidder's information separately and not comparatively.

8.3 Rejection

8.3.1 If the lowest Bidder is not responsive or best, the County shall reject such bid and the Project Representative shall notify the Bidder in writing by certified mail of the finding and the reasons for the finding.



PROJECT MANUAL

for

BIDS TO PERFORM

Huntington Park

BID PACKAGE NO.: 3 – Main Building Masonry, Left Field Building
Masonry, General Trades, Glazing, Drywall &
Ceilings, Flooring, Painting, Fire Protection,
Plumbing, HVAC, Electrical & Data

ITB: 2007-03-76

PROJECT NO.: P0641

PREPARED FOR:



FRANKLIN COUNTY BOARD OF COMMISSIONERS

Mary Jo Kilroy, President
Paula Brooks, Commissioner
Marilyn Brown, Commissioner

Public Facilities Management

Ronald T. Keller, Director
Don Montgomery, Nationwide Realty Investors (Owner's Representative)

PROJECT ARCHITECT:
360 Architecture
375 N. Front Street
Columbus, OH 43215

CONSTRUCTION MANAGER:
Turner Construction Company
250 E. Wilson Bridge Road
Worthington, OH 43085

October 2007

VOLUME 2 OF 4

SET NO. _____



8.1.3 The County reserves the right to waive or to allow any Bidder a reasonable opportunity to cure a minor irregularity or technical deficiency in a bid, provided the irregularity or deficiency does not affect the bid amount or otherwise give the Bidder a competitive advantage. Noncompliance with any requirements of the Contract Documents may cause a bid to be rejected.

8.1.4 If the County rejects all bids and advertises for other bids, such advertisement will be for such time, in such form and in such newspapers as may be determined by the County in accordance with applicable law.

8.2 BID EVALUATION PROCEDURE

8.2.1 The Contract will be awarded to the lowest and best Bidder as determined in the discretion of the County or all bids will be rejected in accordance with the following procedures:

8.2.1.1 In determining which Bidder is the lowest, the County shall consider the Base Bid and any Alternate or Alternates which the County determines to accept. Substitutions shall not be considered.

8.2.1.2 The total of the bids for the accepted Alternate(s) shall be added to or deducted from the Base Bid, as applicable, for the purpose of determining the lowest Bidder.

8.2.2 A Bidder for a Contract shall be considered responsive if the Bidder's bid responds the Contract Documents in all material respects and contains no irregularities or deviations from the Contract Documents which would affect the amount of the bid or otherwise give the Bidder a competitive advantage.

8.2.2.1 A Bidder shall be rejected as nonresponsive if the Bidder's bid contains a Bid Guaranty executed by a Surety not licensed in Ohio or a Bid Guaranty that is otherwise determined to be insufficient by the County.

8.2.2.2 A Bidder may be rejected as non-responsive if an interview under paragraph 10.2 discloses that substantial Work has been overlooked.

8.2.2.3 If the lowest Bidder is not responsive, such Bidder shall be notified according to paragraph 8.3.

8.2.3 In determining whether a Bidder is best, factors to be considered include, without limitation:

8.2.3.1 Preferences required by law, where applicable;

8.2.3.2 The experience of the Bidder;

8.2.3.3 The financial condition of the Bidder;

8.2.3.4 The conduct and performance of the Bidder on previous contracts, which shall include, without limitation, compliance with prevailing wage laws and equal opportunity requirements;

8.2.3.5 The facilities of the Bidder;

8.2.3.6 The management skills of the Bidder;

8.2.3.7 The ability of the Bidder to execute the Contract properly;

8.2.3.8 The evaluation of a bid below the median of other bids pursuant to paragraph 9.2;

8.2.3.9 A Bidder who submits a bid for Work for electrical, plumbing, hydronics, refrigeration or heating, ventilating, and air conditioning, may be required to submit evidence of a license from the Ohio Construction Industry Licensing Board;

8.2.3.10 A Bidder who submits a bid for work for fire safety, may be required to submit evidence of a license from the State Fire Marshal.

8.2.4 The Construction Manager shall obtain from the lowest responsive Bidder any information the Project Representative deems appropriate to the consideration of factors showing that such Bidder's bid is best, including without limitation the following:

8.2.4.1 Overall experience of the Bidder, including number of years in business under present and former business names;

8.2.4.2 Complete listing of all ongoing and completed public and private construction contracts of the Bidder in the last three years, including the nature and value of each contract and name, address, and phone number for a representative of the owner of each related project;

8.2.4.3 Complete listing of any Environmental Protection Agency (EPA), Occupational Safety and Health Administration (OSHA) or other regulatory entity issues or citations in the last 10 years;

8.2.4.4 Certified financial statement with trade and bank references;

8.2.4.5 Description of relevant facilities to the Bidder;

8.2.4.6 Description of the management experience of the Bidder's project manager(s) and superintendent(s);

8.2.4.7 To support a Bond, a current and signed Certificate of Compliance required under Section 9.311, ORC, issued by the Department of Insurance, showing the Surety is licensed to do business in Ohio;

8.2.4.8 Current Ohio Workers' Compensation Certificate;

8.2.4.9 If the Bidder is a foreign corporation, i.e. not incorporated under the laws of Ohio, a Certificate of Good Standing from the Secretary of State showing the right of the Bidder to do business in the State; or, if the Bidder is an individual or partnership, the Bidder has filed with the Secretary of State a Power of Attorney designating the Secretary of State as the Bidder's agent for the purpose of accepting service of summons in any action brought under Section 153.05, ORC, or under Sections 4123.01 to 4123.95, inclusive, ORC.

8.2.4.10 Information that the Bidder provides a minimum health care medical plan for those employees working on the Project.

8.2.4.11 Information that the Bidder contributes to an employee pension or retirement program for those employees working on the Project.

8.2.4.12 Information that the Bidder only uses skilled trade personnel trained or enrolled in a state or federally approved apprenticeship program or personnel with five (5) years of experience in the specific trade. Skilled trade is defined as those individuals in mechanical, electrical, plumbing, carpentry, and fire suppression trades. The labor classification is excluded, as there is not current apprenticeship program for this classification.

8.2.4.13 Information that the Bidder will employ supervisory personnel on this Project that have three (3) or more years in the specific trade and/or maintain the appropriate state license, if any.

8.2.4.14 Information that the Bidder has not been penalized or debarred from any public contracts for falsified certified payroll records or any other violation of the Fair Labor Standards Act in the last five (5) years.

8.2.4.15 Information that the Bidder has not been debarred from public contracts or found by the state (after all appeals) to have violated prevailing wage laws more than three times in a two-year period in the last ten years.

8.2.4.16 Information that the Bidder has implemented an OSHA compliant Safety Program and will provide evidence of such upon request.

8.2.4.17 Information that upon the execution of the Contract Form; the Contractor will make a good faith effort to ensure that all of the Contractor's employees, while working on the Project site, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

8.2.4.18 Information that the Bidder maintains a substance abuse policy that its personnel are subject to on the Project and will provide this policy or evidence thereof upon request.

8.2.4.19 To the extent applicable, information that the Bidder is licensed by the Ohio Construction Industry Licensing Board or the State Fire Marshal.

8.2.4.20 Information that the Bidder's construction license has not been revoked in any state.

8.2.4.21 Information that the Bidder has no final judgments against it that have not been satisfied at the time of award in the total amount of fifty percent (50%) of the bid amount of the applicable Contract.

8.2.4.22 Information that the Bidder has complied with unemployment and workers' compensation laws for at least the nine months preceding the date of bid opening.

8.2.4.23 Information that the Bidder for a plumbing, electrical, HVAC, or fire contract will not subcontract greater than seventy-five percent (75%) of the Work under such Contract.

8.2.4.24 Information that the Bidder does not have an Experience Modification Rating of Greater than 3.0 (a penalty-rated employer) with respect to the Bureau of Workers' Compensation risk assessment rating.

If the lowest responsive Bidder is best, the Contract shall be awarded to such Bidder unless all bids are rejected.

8.2.5 If the lowest responsive Bidder is not best, and all bids are not rejected, the County shall follow the procedure set forth in subparagraph 8.2.4 with each next lowest responsive Bidder until the Contract is awarded, all bids are rejected or all responsive Bidders are determined to be not best.

8.2.6 The Construction Manager may obtain the information described in subparagraph 8.2.4 from several Bidders simultaneously, but shall review each Bidder's information separately and not comparatively.

8.3 Rejection

8.3.1 If the lowest Bidder is not responsive or best, the County shall reject such bid and the Project Representative shall notify the Bidder in writing by certified mail of the finding and the reasons for the finding.



Commissioners
Marilyn Brown, President
Mary Jo Kilroy,
Paula Brooks

Public Facilities Management
James A Goodenow, Director

January 18, 2008



Mr. Dave Asman
The Painting Company
6969 Industrial Parkway
Plain City, Ohio 43064

Re: Huntington Park ITB #. 2007-03-76
Painting Bid Package

Dear Mr. Dave Asman:

This letter is being sent to you pursuant to Section 8.3 of the above referenced bid package. Please be advised that Franklin County has determined that the bid The Painting Company submitted in the above referenced project is not the best bid, and therefore it is rejecting the same.

Specifically, The Painting Company does not satisfy Section 8.2.4.15 of the ITB documents which reads as follows:

8.2.4.15 Information that the bidder has not been debarred from public contracts or found by the state (after all appeals) to have violated prevailing wage laws more than three times in a two-year period in the last ten years.

The attached information demonstrates that The Painting Company has been found by the State of Ohio to have violated the State's prevailing wage laws more than three times in a two-year period within the last ten years; therefore, The Painting Company is not eligible for award of this contract.

Pursuant to Section 8.3.1.1, The Painting Company may object to this rejection by filing a written protest which must be received by me within five days of this notification.

Please feel free to contact me if you should have any questions regarding this matter.

Very truly yours,

Richard E. Myers
Assistant Director, Construction
Franklin County Public Facilities Management
Office (614) 462-5344
Fax (614) 462-3180
E-mail: remyers@franklincountyohio.gov



ADVENTURE RECREATIONAL CENTER Project Information
View Project and Prevailing Wage Database Information click here

Name:	ADVENTURE RECREATIONAL CENTER
Address:	855 WOODY HAYES BLVD
City, State ZIP:	COLUMBUS, OH 43210
County:	FRANKLIN
Phone:	

Project Investigator: Camilia Grosswiler

OHIO STATE UNIVERSITY Public Authority Information

Name:	OHIO STATE UNIVERSITY
Address:	2009 MILLIKIN ROAD
City, State ZIP:	COLUMBUS, OH 43210
County:	FRANKLIN
Phone:	614-292-0174

Public Authority Investigator: Alice Blackburn

PAINTING COMPANY, THE Contractor Information

Name:	PAINTING COMPANY, THE
Address:	6969 INDUSTRIAL PARKWAY
City, State ZIP:	PLAIN CITY, OH 43064
County:	UNION
Contact:	
Phone:	614-873-1334 Other Phone

Contractor Investigator: Camilia Grosswiler

Complainant Information

Name: <i>First Last</i>	First JAMES Last RAREY
Interested Party:	YES
Address:	555 E RICH STREET SUITE 217
City, State ZIP:	COLUMBUS, OH 43215
County:	FRANKLIN
Phone:	614-221-7171 Other Phone
SS#:	

Status

Complaint approval status: Accept

	DR - 10/26/2005 Date Received
	CE - 10/31/2005 Date Complaint Entered
	CA - 10/28/2005 Complaint Approved
	CR - Complaint Rejected
	AI - Date Received Additional Information
	CD - Complaint Denied
	IN - 10/31/2005 This date is filled in when Notify Investigator button is pushed.
	PA - Public Authority Visit
	AR - 10/02/2005 Awaiting Contractor Records
	SI - Subpoena Issued
	SE - Subpoena Enforcement
	AP - Audit in Progress
	AS - 03/08/2006 Audit Submitted or Request to Close
	VF - Violation Found
	DT - 04/18/2006 Determination Issued

- Date Complaint Entered in the Database
- Complaint Approved
- Complaint Rejected
- Date Received Additional Information
- Complaint Denied
- Date Investigator Notified
- Public Authority Visit
- Awaiting Contractor Records
- Subpoena Issued
- Subpoena Enforcement
- Audit in Progress
- Audit Submitted
- Violation Found
- Determination Issued
- Re-determination Issued
- Case forward to the AG Office
- Settlement by AG's Office
- Settlement by Director
- Payment Plan
- Open / Inactive
- Closed

RD - Re-determination Issued
AG - Case forward to the AG Office
SA - Settlement by AG's Office
SD- Settlement by Director
PP - Payment Plan
IA - Open / Inactive
CL - 05/31/2006 Closed

Paid in Full

Closed Comments:

ATTACHMENTS -- CERTIFIED PAYROLL, LETTER OF INQUIRY, SIGNED AFFIDAVIT...10/31/05...JKJ

Determination Area

Determination Amount: \$2,153.78

Determination Comments: These 4 men were not registered as apprentice's. Made them journeymen
 CONTRACTOR PAID NO DT. ORIG. PAID IN FULL DATE.5/4/06.DJMSENT CHECK TO
 CUSTOMERS.5/31/06.DJM****

Detail Complaint Information

Claimant status: Interested Party
Reason for filing complaint: Prevailing wages not paid, Misclassifications, NO APPRENTICE PROGRAM / RATIO
Work Classification
(Apprentices show level/year): PAINTER
Hourly Rate Paid: \$\$28.12
Total hours on project?
Regular:
Over Time:
P.W. Rate: 28.74
Dates worked from 06/01/2003 **to** 08/30/2004

- Yes No **Were you paid time and 1/2 for hours worked over 40 hours per work?**
- Yes No **Did employer provide written notice of job classification?**
- Yes No **Did employer provide written notice of Prevailing Wage Rate?**
- Yes No **Did employer provide written notice of name of Prevailing Wage Coordinator?**
- Yes No **Were you threatened, intimidated or coerced into giving up any of your pay?**

What Fringe Benefits were paid by the company?

- Yes No **Health Insurance**
- Yes No **Paid Vacation**
- Yes No **Paid Sick Leave**
- Yes No **Bonus**
- Yes No **Training**
- Yes No **Life Insurance**
- Yes No **Paid Holidays**

Yes No Revision
 Yes No **Other**

Hours worked recorded by:

Other:

List names of employees you worked with on this project:

Approval Area

Complaint: Accept Reject Deny None

Project Investigator: Camilia Grosswiler

Public Authority Investigator: Alice Blackburn

Contractor Investigator: Camilia Grosswiler

Please use the drop down box to enter names DO NOT TYPE THEM IN!!!!

Notify Investigator This button will notify the investigator and fill in the notification date.
No longer does it over write the notification date.

Closed Comments:

ATTACHMENTS -- CERTIFIED PAYROLL, LETTER OF INQUIRY, SIGNED AFFIDAVIT...10/31/05...JKJ

Mailed to:

Revision History:

Prevailing Wage Complaint

Case Number: 05-478-2

LARKINS HALL REPLACEMENT Project Information

View Project and Prevailing Wage Database Information click here

Name:	LARKINS HALL REPLACEMENT
Address:	17TH AVENUE
City, State ZIP:	COLUMBUS, OH 43210
County:	FRANKLIN
Phone:	

Project Investigator: Camilia Grosswiler

OHIO STATE UNIVERSITY Public Authority Information

Name:	OHIO STATE UNIVERSITY
Address:	2009 MILLIKIN ROAD
City, State ZIP:	COLUMBUS, OH 43210
County:	FRANKLIN
Phone:	614-292-0174

Public Authority Investigator: Alice Blackburn

PAINTING COMPANY, THE Contractor Information

Name:	PAINTING COMPANY, THE
Address:	6969 INDUSTRIAL PARKWAY
City, State ZIP:	PLAIN CITY, OH 43064
County:	UNION
Contact:	
Phone:	614-873-1334 Other Phone

Contractor Investigator: Camilia Grosswiler

Complainant Information

Name: <i>First Last</i>	First JAMES Last RAREY
Interested Party:	YES
Address:	555 E RICH STREET SUITE 217
City, State ZIP:	COLUMBUS, OH 43215
County:	FRANKLIN
Phone:	614-221-7171 Other Phone
SS#:	

Status

Complaint approval status: Accept

	DR - 10/26/2005 Date Received
	CE - 10/31/2005 Date Complaint Entered
	CA - 10/28/2005 Complaint Approved
	CR - Complaint Rejected
	AI - Date Received Additional Information
	CD - Complaint Denied
	IN - 10/31/2005 This date is filled in when Notify Investigator button is pushed.
	PA - Public Authority Visit
	AR - 10/02/2005 Awaiting Contractor Records
	SI - Subpoena Issued
	SE - Subpoena Enforcement
	AP - Audit in Progress
	AS - 03/03/2006 Audit Submitted or Request to Close
	VF - Violation Found
	DT - 04/18/2006 Determination Issued

- Date Complaint Entered in the Database
- Complaint Approved
- Complaint Rejected
- Date Received Additional Information
- Complaint Denied
- Date Investigator Notified
- Public Authority Visit
- Awaiting Contractor Records
- Subpoena Issued
- Subpoena Enforcement
- Audit in Progress
- Audit Submitted
- Violation Found
- Determination Issued
- Re-determination Issued
- Case forward to the AG Office
- Settlement by AG's Office
- Settlement by Director
- Payment Plan
- Open / Inactive
- Closed

RD - Re-determination Issued
AG - Case forward to the AG Office
SA - Settlement by AG's Office
SD- Settlement by Director
PP - 06/26/2007 Payment Plan
IA - Open / Inactive
CL - 11/06/2007 Closed

Paid in Full

Closed Comments:

ATTACHMENTS -- KETTER IF UBQYURTM SIGNED AFFIDAVIT, CERTIFIED PAYROLL...10/31/05...JKJ

Determination Area

Determination Amount: \$1,375.30

Determination Comments: 4 men not registered as apprentice's All the rest were ****ORIG. DT. 1426.96 SETTLEMENT 1375.30 PART OF 45000.00 SETTLEMENT. DJM SENT CHECKS TO EMPLOYEES. 11/6/07.DJM***

Detail Complaint Information

Claimant status: Interested Party
Reason for filing complaint: Prevailing wages not paid, Misclassifications, NO APPRENTICE PROGRAM / RATIO
Work Classification
(Apprentices show level/year): PAINTER
Hourly Rate Paid: \$26.45
Total hours on project?
Regular:
Over Time:
P.W. Rate: 28.74
Dates worked from 10/01/2003 **to** []

- Yes No **Were you paid time and 1/2 for hours worked over 40 hours per work?**
- Yes No **Did employer provide written notice of job classification?**
- Yes No **Did employer provide written notice of Prevailing Wage Rate?**
- Yes No **Did employer provide written notice of name of Prevailing Wage Coordinator?**
- Yes No **Were you threatened, intimidated or coerced into giving up any of your pay?**

What Fringe Benefits were paid by the company?

- Yes No **Health Insurance**
- Yes No **Paid Vacation**
- Yes No **Paid Sick Leave**
- Yes No **Bonus**
- Yes No **Training**
- Yes No **Life Insurance**

Yes No Pension
 Yes No Other

Hours worked recorded by:

Other:

List names of employees you worked with on this project:

Approval Area

Complaint: Accept Reject Deny None

Project Investigator: Camilia Grosswiler

Public Authority Investigator: Alice Blackburn

Contractor Investigator: Camilia Grosswiler

Please use the drop down box to enter names DO NOT TYPE THEM IN!!!!

Notify Investigator This button will notify the investigator and fill in the notification date.

No longer does it over write the notification date.

Closed Comments:

ATTACHMENTS -- KETTER IF UBQYURTM SIGNED AFFIDAVIT, CERTIFIED
PAYROLL...10/31/05...JKJ

Mailed to:

Revision History:

Prevailing Wage Complaint

Case Number: 05-477-2

ROSS HEART HOSPITAL Project Information

View Project and Prevailing Wage Database Information [click here](#)

Name:	ROSS HEART HOSPITAL
Address:	452 W TENTH AVENUE
City, State ZIP:	COLUMBUS, OH 43210
County:	FRANKLIN
Phone:	

Project Investigator: Camilia Grosswiler

OHIO STATE UNIVERSITY Public Authority Information

Name:	OHIO STATE UNIVERSITY
Address:	2009 MILLIKIN ROAD
City, State ZIP:	COLUMBUS, OH 43210
County:	FRANKLIN
Phone:	614-292-0174

Public Authority Investigator: Alice Blackburn

PAINTING COMPANY, THE Contractor Information

Name:	PAINTING COMPANY, THE
Address:	6969 INDUSTRIAL PARKWAY
City, State ZIP:	PLAIN CITY, OH 43064
County:	UNION
Contact:	
Phone:	614-873-1334 Other Phone

Contractor Investigator: Camilia Grosswiler

Complainant Information

Name: <i>First Last</i>	First JAMES Last RAREY
Interested Party:	YES
Address:	555 E RICH STREET SUITE 217
City, State ZIP:	COLUMBUS, OH 43215
County:	FRANKLIN
Phone:	614-221-7171 Other Phone
SS#:	

Status

Complaint approval status: Accept

	DR - 10/26/2005 Date Received
	CE - 10/31/2005 Date Complaint Entered
	CA - 10/28/2005 Complaint Approved
	CR - Complaint Rejected
	AI - Date Received Additional Information
	CD - Complaint Denied
	IN - 10/31/2005 This date is filled in when Notify Investigator button is pushed.
	PA - Public Authority Visit
	AR - 10/02/2005 Awaiting Contractor Records
	SI - Subpoena Issued
	SE - Subpoena Enforcement
	AP - Audit in Progress
	AS - 02/28/2006 Audit Submitted or Request to Close
	VF - Violation Found
	DT - 04/18/2006 Determination Issued

- Date Received
- Date Complaint Entered in the Database
- Complaint Approved
- Complaint Rejected
- Date Received Additional Information
- Complaint Denied
- Date Investigator Notified
- Public Authority Visit
- Awaiting Contractor Records
- Subpoena Issued
- Subpoena Enforcement
- Audit in Progress
- Audit Submitted
- Violation Found
- Determination Issued
- Re-determination Issued
- Case forward to the AG Office
- Settlement by AG's Office
- Settlement by Director
- Payment Plan
- Open / Inactive
- Closed

RD - Re-determination Issued
AG - Case forward to the AG Office
SA - Settlement by AG's Office
SD- Settlement by Director
PP - 06/26/2007 Payment Plan
IA - Open / Inactive
CL - 11/05/2007 Closed
<input type="checkbox"/> Paid in Full

Closed Comments:

ATTACHMNTS -- CERTIFIED PAYROL, LETTER OF INQUIRY, SIGNED AFFIDAVIT...10/31/05...JKJ

Determination Area

Determination Amount: \$7,806.11

Determination Comments: 6 apprentice's were registered on 12/8/04 - I gave the 90 days prior to this date but made them journeymen before 9/8/04. As per Jean Sickle 13 listed as apprentice's were not registered - Made them journeymen. 2 registered 12/8/04 but didn't work on this project before 9/8/04 so no wages due them. ORIG. DT. \$37,661.40 SETTLEMENT \$ 7806.11 SENT CHECKS TO EMPLOYEES. 11/5/07.DJM***

Detail Complaint Information

Claimant status: Interested Party
Reason for filing complaint: Prevailing wages not paid, Misclassifications, APPRENTICE PROGRAM / RATIO
Work Classification
(Apprentices show level/year): PAINTER
Hourly Rate Paid: \$\$25.69
Total hours on project?
Regular:
Over Time:
P.W. Rate: 28.54

Dates worked from **to**

- Yes No **Were you paid time and 1/2 for hours worked over 40 hours per work?**
- Yes No **Did employer provide written notice of job classification?**
- Yes No **Did employer provide written notice of Prevailing Wage Rate?**
- Yes No **Did employer provide written notice of name of Prevailing Wage Coordinator?**
- Yes No **Were you threatened, intimidated or coerced into giving up any of your pay?**

What Fringe Benefits were paid by the company?

- Yes No **Health Insurance**
- Yes No **Paid Vacation**
- Yes No **Paid Sick Leave**
- Yes No **Bonus**
- Yes No **Training**

- Yes No **Paid Holidays**
 Yes No **Pension**
 Yes No **Other**

Hours worked recorded by:

Other:

List names of employees you worked with on this project:

Approval Area

Complaint: Accept Reject Deny None

Project Investigator: Camilia Grosswiler

Public Authority Investigator: Alice Blackburn

Contractor Investigator: Camilia Grosswiler

Please use the drop down box to enter names DO NOT TYPE THEM IN!!!!

Notify Investigator This button will notify the investigator and fill in the notification date.
No longer does it over write the notification date.

Closed Comments:

ATTACHMNTS -- CERTIFIED PAYROL, LETTER OF INQUIRY, SIGNED AFFIDAVIT...10/31/05...JKJ

Mailed to:

Revision History:

Prevailing Wage Complaint

Case Number: 05-192-2

DORMITORY REPLACEMENT / PICKAWWAY CORRECTIONAL INSTITUTE Project Information

View Project and Prevailing Wage Database Information [click here](#)

Name:	DORMITORY REPLACEMENT / PICKAWWAY CORRECTIONAL INSTITUTE
Address:	PICKAWAY CORRECTIONAL INSTITUTE
City, State ZIP:	ORIENT, OH
County:	FRANKLIN
Phone:	

Project Investigator: Camilia Grosswiler

DAS Public Authority Information

Name:	DAS
Address:	4200 SURFACE ROAD
City, State ZIP:	COLUMBUS, OH 43228
County:	FRANKLIN
Phone:	614-644-7226 & 644-5904

Public Authority Investigator: Alice Blackburn

PAINTING COMPANY THE Contractor Information

Name:	PAINTING COMPANY THE
Address:	6969 INDUSTRIAL PARKWAY
City, State ZIP:	PLAIN CITY, OH 43064
County:	MADISON
Contact:	SANDRA R CONTORNO
Phone:	740-873-1334 Other Phone

Contractor Investigator: Camilia Grosswiler

Complainant Information

Name: <i>First Last</i>	First JAMES Last RAREY
Interested Party:	YES
Address:	555 E RICH STREET SUITE 217
City, State ZIP:	COLUMBUS, OH 43215
County:	FRANKLIN
Phone:	614-221-7171 Other Phone
SS#:	

Status

Complaint approval status: Accept

DR - 04/26/2005 Date Received
CE - 05/03/2005 Date Complaint Entered
CA - 04/29/2005 Complaint Approved
CR - Complaint Rejected
AI - Date Received Additional Information
CD - Complaint Denied
IN - 05/09/2005 This date is filled in when Notify Investigator button is pushed.
PA - Public Authority Visit
AR - 05/09/2005 Awaiting Contractor Records
SI - 06/06/2005 Subpoena Issued
SE - Subpoena Enforcement
AP - Audit in Progress
AS - 07/13/2005 Audit Submitted or Request to Close
VF - Violation Found
DT - 08/02/2005 Determination Issued

- Date Received
- Date Complaint Entered in the Database
- Complaint Approved
- Complaint Rejected
- Date Received Additional Information
- Complaint Denied
- Date Investigator Notified
- Public Authority Visit
- Awaiting Contractor Records
- Subpoena Issued
- Subpoena Enforcement
- Audit in Progress
- Audit Submitted
- Violation Found
- Determination Issued
- Re-determination Issued
- Case forward to the AG Office
- Settlement by AG's Office
- Settlement by Director
- Payment Plan
- Open / Inactive
- Closed

RD - Re-determination Issued
AG - 01/24/2006 Case forward to the AG Office
SA - Settlement by AG's Office
SD- Settlement by Director
PP - 06/26/2007 Payment Plan
IA - Open / Inactive
CL - 11/05/2007 Closed

Paid in Full

Closed Comments:

ATTACHMENTS -- CERTIFIED PAYROLL, UNABLE TO LOCATE PROJECT LISTING...05/03/05...JKJ
 /// PER AG'S REPORTS DATED 06/20/06 & 07/22/07 AG'S OFFICE WORKING ON THIS
 CASE...03/16/07...JKJ

Determination Area

Determination Amount: \$16,472.00

Determination Comments: Apprentice's not registered**01/24/2006 Case forward to the AG
 Office.DJM**ORIG. DT. 16800.69 SETTLEMENT. SENT CHECK TO EMPLOYEES . 11/5/07.DJM***

Detail Complaint Information

Claimant status: Interested Party

Reason for filing complaint:

Work Classification

(Apprentices show level/year): PAINTER

Hourly Rate Paid: \$

Total hours on project?

Regular:

Over Time:

P.W. Rate:

Dates worked from **to**

- Yes No **Were you paid time and 1/2 for hours worked over 40 hours per work?**
- Yes No **Did employer provide written notice of job classification?**
- Yes No **Did employer provide written notice of Prevailing Wage Rate?**
- Yes No **Did employer provide written notice of name of Prevailing Wage Coordinator?**
- Yes No **Were you threatened, intimidated or coerced into giving up any of your pay?**

What Fringe Benefits were paid by the company?

- Yes No **Health Insurance**
- Yes No **Paid Vacation**
- Yes No **Paid Sick Leave**
- Yes No **Bonus**
- Yes No **Training**
- Yes No **Life Insurance**
- Yes No **Paid Holidays**

Yes No Other

Hours worked recorded by:

Other:

List names of employees you worked with on this project:

Approval Area

Complaint: Accept Reject Deny None

Project Investigator: Camilia Grosswiler

Public Authority Investigator: Alice Blackburn

Contractor Investigator: Camilia Grosswiler

Please use the drop down box to enter names DO NOT TYPE THEM IN!!!!

Notify Investigator This button will notify the investigator and fill in the notification date.

No longer does it over write the notification date.

Closed Comments:

ATTACHMENTS -- CERTIFIED PAYROLL, UNABLE TO LOCATE PROJECT LISTING...05/03/05...JKJ

/// PER AG'S REPORTS DATED 06/20/06 & 07/22/07 AG'S OFFICE WORKING ON THIS

CASE...03/16/07...JKJ

Mailed to:

Revision History:

Prevailing Wage Complaint

Case Number: 05-191-2A

POLICE ACADEMY Project Information

View Project and Prevailing Wage Database Information [click here](#)

Name:	POLICE ACADEMY
Address:	1000 N HAGUE AVENUE
City, State ZIP:	COLUMBUS, OH 43228
County:	FRANKLIN
Phone:	

Project Investigator: Camilia Grosswiler

COLUMBUS CITY OF Public Authority Information

Name:	COLUMBUS CITY OF
Address:	1800 E 17TH AVENUE
City, State ZIP:	COLUMBUS, OH 43219
County:	FRANKLIN
Phone:	614-645-0437

Public Authority Investigator: Camilia Grosswiler

PAINTING COMPANY THE Contractor Information

Name:	PAINTING COMPANY THE
Address:	6969 INDUSTRIAL PARKWAY
City, State ZIP:	PLAIN CITY, OH 43064
County:	MADISON
Contact:	SANDRA R CONTORNO
Phone:	740-873-1334 Other Phone

Contractor Investigator: Camilia Grosswiler

Complainant Information

Name: <i>First Last</i>	First MARY Last SEIDLE
Interested Party:	YES
Address:	1800 E 17TH AVENUE
City, State ZIP:	COLUMBUS, OH 43219
County:	FRANKLIN
Phone:	614-645-0437 Other Phone
SS#:	

Status

Complaint approval status: Accept

	DR - 05/26/2005 Date Received
	CE - 05/31/2005 Date Complaint Entered
	CA - 05/27/2005 Complaint Approved
	CR - Complaint Rejected
	AI - Date Received Additional Information
	CD - Complaint Denied
	IN - 05/31/2005 This date is filled in when Notify Investigator button is pushed.
	PA - Public Authority Visit
	AR - Awaiting Contractor Records
	SI - Subpoena Issued
	SE - Subpoena Enforcement
	AP - Audit in Progress
	AS - 07/12/2005 Audit Submitted or Request to Close
	VF - Violation Found
	DT - 08/02/2005 Determination Issued

- Date Received
- Date Complaint Entered in the Database
- Complaint Approved
- Complaint Rejected
- Date Received Additional Information
- Complaint Denied
- Date Investigator Notified
- Public Authority Visit
- Awaiting Contractor Records
- Subpoena Issued
- Subpoena Enforcement
- Audit in Progress
- Audit Submitted
- Violation Found
- Determination Issued
- Re-determination Issued
- Case forward to the AG Office
- Settlement by AG's Office
- Settlement by Director
- Payment Plan
- Open / Inactive
- Closed

RD - Re-determination Issued
AG - Case forward to the AG Office
SA - Settlement by AG's Office
SD- Settlement by Director
PP - 06/26/2007 Payment Plan
IA - Open / Inactive
CL - Closed
<input type="checkbox"/> Paid in Full

Determination Area

Determination Amount: \$13,949.47

Determination Comments:

Detail Complaint Information

Claimant status: Prevailing Wage Coordinator
Reason for filing complaint: Prevailing wages not paid, Misclassifications, APPRENTICES NOT REGISTERED. APPRENTICES SHOULD BE JOURNEYMEN.

Work Classification

(Apprentices show level/year):

Hourly Rate Paid: \$

Total hours on project?

Regular:

Over Time:

P.W. Rate:

Dates worked from **to**

- Yes No **Were you paid time and 1/2 for hours worked over 40 hours per work?**
- Yes No **Did employer provide written notice of job classification?**
- Yes No **Did employer provide written notice of Prevailing Wage Rate?**
- Yes No **Did employer provide written notice of name of Prevailing Wage Coordinator?**
- Yes No **Were you threatened, intimidated or coerced into giving up any of your pay?**

What Fringe Benefits were paid by the company?

- Yes No **Health Insurance**
- Yes No **Paid Vacation**
- Yes No **Paid Sick Leave**
- Yes No **Bonus**
- Yes No **Training**
- Yes No **Life Insurance**
- Yes No **Paid Holidays**
- Yes No **Pension**
- Yes No **Other**

Hours worked recorded by:

List names of employees you worked with on this project:

Approval Area

Complaint: ● Accept ○ Reject ○ Deny ○ None

Project Investigator: Camilia Grosswiler

Public Authority Investigator: Camilia Grosswiler

Contractor Investigator: Camilia Grosswiler

Please use the drop down box to enter names DO NOT TYPE THEM IN!!!!

Notify Investigator This button will notify the investigator and fill in the notification date.

No longer does it over write the notification date.

Closed Comments:

ATTACHMENTS -- LIST OF MONEY OWED TO THE EMPLOYEES FOR THE INCORRECT CLASSIFICATION. THE COMPANY STILL HAS NOT PAID THE AMOUNT TO THE EMPLOYEES. CERTIFIED PAYROLL, PURCHASE ORDER...05/31/05...JKJ

Mailed to:

Revision History:

Prevailing Wage Complaint

Case Number: 05-191-2

POLICE ACADEMY Project Information

View Project and Prevailing Wage Database Information click here

Name:	POLICE ACADEMY
Address:	1000 HAGUE AVENUE
City, State ZIP:	COLUMBUS, OH 43228
County:	FRANKLIN
Phone:	

Project Investigator: Camilia Grosswiler

COLUMBUS CITY OF Public Authority Information

Name:	COLUMBUS CITY OF
Address:	1800 E 17TH AVENUE
City, State ZIP:	COLUMBUS, OH 43219
County:	FRANKLIN
Phone:	614-645-0437

Public Authority Investigator: Camilia Grosswiler

PAINTING COMPANY THE Contractor Information

Name:	PAINTING COMPANY THE
Address:	6969 INDUSTRIAL PARKWAY
City, State ZIP:	PLAIN CITY, OH 43064
County:	MADISON
Contact:	SANDRA R CONTORNO
Phone:	740-873-1334 Other Phone

Contractor Investigator: Camilia Grosswiler

Complainant Information

Name: <i>First Last</i>	First JAMES Last RAREY
Interested Party:	YES
Address:	555 E RICH STREET SUITE 217
City, State ZIP:	COLUMBUS, OH 43215
County:	FRANKLIN
Phone:	614-221-7171 Other Phone
SS#:	

Status

Complaint approval status: Accept

DR - 04/28/2005 Date Received
CE - 05/03/2005 Date Complaint Entered
CA - 04/29/2005 Complaint Approved
CR - Complaint Rejected
AI - Date Received Additional Information
CD - Complaint Denied
IN - 05/09/2005 This date is filled in when Notify Investigator button is pushed.
PA - 05/23/2005 Public Authority Visit
AR - 05/09/2005 Awaiting Contractor Records
SI - 06/06/2005 Subpoena Issued
SE - Subpoena Enforcement
AP - Audit in Progress
AS - 07/12/2005 Audit Submitted or Request to Close
VF - Violation Found
DT - 08/02/2005 Determination Issued

- Date Received
- Date Complaint Entered in the Database
- Complaint Approved
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- Date Received Additional Information
- Complaint Denied
- Date Investigator Notified
- Public Authority Visit
- Awaiting Contractor Records
- Subpoena Issued
- Subpoena Enforcement
- Audit in Progress
- Audit Submitted
- Violation Found
- Determination Issued
- Re-determination Issued
- Case forward to the AG Office
- Settlement by AG's Office
- Settlement by Director
- Payment Plan
- Open / Inactive
- Closed

RD - Re-determination Issued
AG - 01/24/2006 Case forward to the AG Office
SA - Settlement by AG's Office
SD- Settlement by Director
PP - 06/26/2007 Payment Plan
IA - Open / Inactive
CL - 11/06/2007 Closed

Paid in Full

Closed Comments:

ATTACHMENTS -- LETTER OF INQUIRY, SIGNED AFFIDAVIT, UNABLE TO LOCATE PROJECT LISTING...05/03/05...JKJ /// PER AG'S REPORTS DATED 06/20/06 & 07/22/07 THEY ARE STILL WORKING ON THIS CASE...03/16/07...JKJ

Determination Area

Determination Amount: \$13,949.47

Determination Comments: Doubled Apprentice's are registered changed to journeymen***01/24/2006 Case forward to the AG Office*DJM* ORIG. DT. 13949.47 SETTLEMENT 3093.62 ****SENT CHECKS TO CUSTOMERS. 11/6/07.DJM****

Detail Complaint Information

Claimant status: Interested Party
Reason for filing complaint: Misclassifications, UNREGISTERED APPRENTICES / RATIO
Work Classification
 (Apprentices show level/year):
Hourly Rate Paid: \$
Total hours on project?
Regular:
Over Time:
P.W. Rate:

Dates worked from **to**

- Yes No **Were you paid time and 1/2 for hours worked over 40 hours per work?**
- Yes No **Did employer provide written notice of job classification?**
- Yes No **Did employer provide written notice of Prevailing Wage Rate?**
- Yes No **Did employer provide written notice of name of Prevailing Wage Coordinator?**
- Yes No **Were you threatened, intimidated or coerced into giving up any of your pay?**

What Fringe Benefits were paid by the company?

- Yes No **Health Insurance**
- Yes No **Paid Vacation**
- Yes No **Paid Sick Leave**
- Yes No **Bonus**
- Yes No **Training**
- Yes No **Life Insurance**

Yes No Pension
 Yes No Other

Hours worked recorded by:

Other:

List names of employees you worked with on this project:

Approval Area

Complaint: Accept Reject Deny None

Project Investigator: Camilia Grosswiler

Public Authority Investigator: Camilia Grosswiler

Contractor Investigator: Camilia Grosswiler

Please use the drop down box to enter names DO NOT TYPE THEM IN!!!!

Notify Investigator This button will notify the investigator and fill in the notification date.

No longer does it over write the notification date.

Closed Comments:

ATTACHMENTS -- LETTER OF INQUIRY, SIGNED AFFIDAVIT, UNABLE TO LOCATE PROJECT LISTING...05/03/05...JKJ /// PER AG'S REPORTS DATED 06/20/06 & 07/22/07 THEY ARE STILL WORKING ON THIS CASE...03/16/07...JKJ

Mailed to:

Revision History:

Prevailing Wage Complaint

Case Number: 05-154-2

ORANGE TOWNSHIP FIRE STATION Project Information

View Project and Prevailing Wage Database Information click here

Name:	ORANGE TOWNSHIP FIRE STATION
Address:	7700 GOODING BLVD
City, State ZIP:	LEWIS CENTER, OH 43036
County:	DELAWARE
Phone:	

Project Investigator: Shawn Miles

ORANGE TWP DELAWARE CNTY Public Authority Information

Name:	ORANGE TWP DELAWARE CNTY
Address:	1680 E ORANGE RD
City, State ZIP:	LEWIS CENTER, OH 43035
County:	DELAWARE
Phone:	740-548-5430

Public Authority Investigator: Shawn Miles

PAINTING COMPANY, THE Contractor Information

Name:	PAINTING COMPANY, THE
Address:	6969 INDUSTRIAL PARKWAY
City, State ZIP:	PLAIN CITY, OH 43064
County:	UNION
Contact:	
Phone:	614-873-1334 Other Phone

Contractor Investigator: Shawn Miles

Complainant Information

Name: <i>First Last</i>	First JAMES Last RAREY
Interested Party:	YES
Address:	555 E RICH STREET SUITE 217
City, State ZIP:	COLUMBUS, OH 43215
County:	FRANKLIN
Phone:	614-221-7171 Other Phone
SS#:	

Status

Complaint approval status: Accept

	DR - 03/18/2005 Date Received
	CE - 04/08/2005 Date Complaint Entered
	CA - 04/05/2005 Complaint Approved
	CR - Complaint Rejected
	AI - Date Received Additional Information
	CD - Complaint Denied
	IN - 04/18/2005 This date is filled in when Notify Investigator button is pushed.
	PA - Public Authority Visit
	AR - 04/25/2005 Awaiting Contractor Records
	SI - Subpoena Issued
	SE - Subpoena Enforcement
	AP - 05/10/2005 Audit in Progress
	AS - Audit Submitted or Request to Close
	VF - Violation Found
	DT - 08/02/2005 Determination Issued

- Date Complaint Entered in the Database
- Complaint Approved
- Complaint Rejected
- Date Received Additional Information
- Complaint Denied
- Date Investigator Notified
- Public Authority Visit
- Awaiting Contractor Records
- Subpoena Issued
- Subpoena Enforcement
- Audit in Progress
- Audit Submitted
- Violation Found
- Determination Issued
- Re-determination Issued
- Case forward to the AG Office
- Settlement by AG's Office
- Settlement by Director
- Payment Plan
- Open / Inactive
- Closed

RD - Re-determination Issued
AG - 01/24/2006 Case forward to the AG Office
SA - Settlement by AG's Office
SD- Settlement by Director
PP - 06/26/2007 Payment Plan
IA - Open / Inactive
CL - 11/07/2007 Closed

Paid in Full

Closed Comments:

ATTACHMENTS -- CERTIFIED PAYROLL, LETTER OF INQUIRY, SIGNED AFFIDAVIT...04/08/05...JKJ
 /// PER AG'S REPORTS DATED 06/20/06 & 07/22/07 THEY ARE WORKING ON THIS
 CASE...03/16/07...JKJ

Determination Area

Determination Amount: \$917.86

Determination Comments: **01/24/2006 Case forward to the AG Office.DJM**ORIG. DT. 6736.13
 SETTLEMENT 917.86 PART OF \$45000.00 SETTLEMENT .DJM 11/7/07.DJM*SENT CHECK TO
 EMPLOYEES. 11/7/07.DJM***

Detail Complaint Information

Claimant status: Interested Party
Reason for filing complaint: Prevailing wages not paid, Misclassifications
Work Classification
(Apprentices show level/year): PAINTER / APPRENTICE
Hourly Rate Paid: \$\$18.92
Total hours on project?
Regular:
Over Time:
P.W. Rate: 29.24

Dates worked from **to**

- Yes No **Were you paid time and 1/2 for hours worked over 40 hours per work?**
- Yes No **Did employer provide written notice of job classification?**
- Yes No **Did employer provide written notice of Prevailing Wage Rate?**
- Yes No **Did employer provide written notice of name of Prevailing Wage Coordinator?**
- Yes No **Were you threatened, intimidated or coerced into giving up any of your pay?**

What Fringe Benefits were paid by the company?

- Yes No **Health Insurance**
- Yes No **Paid Vacation**
- Yes No **Paid Sick Leave**
- Yes No **Bonus**
- Yes No **Training**
- Yes No **Life Insurance**

- Yes No **Paid Holidays**
- Yes No **Pension**
- Yes No **Other**

Hours worked recorded by:

Other:

List names of employees you worked with on this project:

Approval Area

Complaint: Accept Reject Deny None

Project Investigator: Shawn Miles

Public Authority Investigator: Shawn Miles

Contractor Investigator: Shawn Miles

Please use the drop down box to enter names DO NOT TYPE THEM IN!!!!

Notify Investigator: This button will notify the investigator and fill in the notification date.

No longer does it over write the notification date.

Closed Comments:

ATTACHMENTS -- CERTIFIED PAYROLL, LETTER OF INQUIRY, SIGNED AFFIDAVIT...04/08/05...JKJ

/// PER AG'S REPORTS DATED 06/20/06 & 07/22/07 THEY ARE WORKING ON THIS

CASE...03/16/07...JKJ

Mailed to:

Revision History:

Prevailing Wage Complaint

Case Number: 05-153-2

DELAWARE REGIONAL PLANNING OFFICE Project Information

View Project and Prevailing Wage Database Information [click here](#)

Name:	DELAWARE REGIONAL PLANNING OFFICE
Address:	109 N SANDUSKY STREET
City, State ZIP:	DELAWARE, OH 43015
County:	DELAWARE
Phone:	

Project Investigator: Shawn Miles

DELAWARE CNTY COMMRS Public Authority Information

Name:	DELAWARE CNTY COMMRS
Address:	101 N. SANDUSKY STREET
City, State ZIP:	DELAWARE, OH 43015
County:	DELAWARE
Phone:	740-368-1450

Public Authority Investigator: Shawn Miles

PAINTING COMPANY, THE Contractor Information

Name:	PAINTING COMPANY, THE
Address:	6969 INDUSTRIAL PARKWAY
City, State ZIP:	PLAIN CITY, OH 43064
County:	UNION
Contact:	
Phone:	614-873-1334 Other Phone

Contractor Investigator: Shawn Miles

Complainant Information

Name: <i>First Last</i>	First JAMES Last RAREY
Interested Party:	YES
Address:	555 E RICH STREET
City, State ZIP:	COLUMBUS, OH 43215
County:	FRANKLIN
Phone:	614-221-7171 Other Phone
SS#:	

Status

Complaint approval status: Accept

	DR - 03/18/2005 Date Received
	CE - 04/08/2005 Date Complaint Entered
	CA - 04/03/2005 Complaint Approved
	CR - Complaint Rejected
	AI - Date Received Additional Information
	CD - Complaint Denied
	IN - 04/18/2005 This date is filled in when Notify Investigator button is pushed.
	PA - Public Authority Visit
	AR - 04/25/2005 Awaiting Contractor Records
	SI - Subpoena Issued
	SE - Subpoena Enforcement
	AP - 05/02/2005 Audit in Progress
	AS - Audit Submitted or Request to Close
	VF - Violation Found
	DT - 08/02/2005 Determination Issued

- Date Received
- Date Complaint Entered in the Database
- Complaint Approved
- Complaint Rejected
- Date Received Additional Information
- Complaint Denied
- Date Investigator Notified
- Public Authority Visit
- Awaiting Contractor Records
- Subpoena Issued
- Subpoena Enforcement
- Audit in Progress
- Audit Submitted
- Violation Found
- Determination Issued
- Re-determination Issued
- Case forward to the AG Office
- Settlement by AG's Office
- Settlement by Director
- Payment Plan
- Open / Inactive
- Closed

RD - Re-determination Issued
AG - 01/24/2006 Case forward to the AG Office
SA - Settlement by AG's Office
SD- Settlement by Director
PP - 06/26/2007 Payment Plan
IA - Open / Inactive
CL - 11/06/2007 Closed
<input type="checkbox"/> Paid in Full

Closed Comments:

ATTACHMENTS -- CERTIFIED PAYROLL, LETTER OF INQUIRY, SIGNED AFFIDAVIT...04/08/05...JKJ
 /// PER AG'S REPORTS DATED 06/20/06 & 07/22/07 AG'S OFFICE IS WORKING ON THIS
 CASE...03/16/07...JKJ

Determination Area

Determination Amount: \$2,449.16

Determination Comments: 01/24/2006 Case forward to the AG Office.DJM**ORIG. DT. 2449.16

SETTLEMENT 1266.28 SENT CHECKS TO EMPLOYEES. 11/6/07.DJM

Detail Complaint Information

Claimant status: Interested Party
Reason for filing complaint: Misclassifications
Work Classification
(Apprentices show level/year): PAINTER / APPRENTICE
Hourly Rate Paid: \$\$20.26
Total hours on project?
Regular:
Over Time:
P.W. Rate: 28.54

Dates worked from **to**

- Yes No **Were you paid time and 1/2 for hours worked over 40 hours per work?**
- Yes No **Did employer provide written notice of job classification?**
- Yes No **Did employer provide written notice of Prevailing Wage Rate?**
- Yes No **Did employer provide written notice of name of Prevailing Wage Coordinator?**
- Yes No **Were you threatened, intimidated or coerced into giving up any of your pay?**

What Fringe Benefits were paid by the company?

- Yes No **Health Insurance**
- Yes No **Paid Vacation**
- Yes No **Paid Sick Leave**
- Yes No **Bonus**
- Yes No **Training**
- Yes No **Life Insurance**
- Yes No **Paid Holidays**

Yes No **Other**

Hours worked recorded by:

Other:

List names of employees you worked with on this project:

Approval Area

Complaint: Accept Reject Deny None

Project Investigator: Shawn Miles

Public Authority Investigator: Shawn Miles

Contractor Investigator: Shawn Miles

Please use the drop down box to enter names DO NOT TYPE THEM IN!!!!

Notify investigator This button will notify the investigator and fill in the notification date.

No longer does it over write the notification date.

Closed Comments:

ATTACHMENTS -- CERTIFIED PAYROLL, LETTER OF INQUIRY, SIGNED AFFIDAVIT...04/08/05...JKJ

/// PER AG'S REPORTS DATED 06/20/06 & 07/22/07 AG'S OFFICE IS WORKING ON THIS

CASE...03/16/07...JKJ

Mailed to:

Revision History:

Prevailing Wage Complaint

Case Number: 04-265-2

OUTDOOR AQUATIC PARK Project Information

View Project and Prevailing Wage Database Information click here

Name:	OUTDOOR AQUATIC PARK
Address:	7400 GROVEPORT ROAD
City, State ZIP:	GROVEPORT, OH 43125
County:	FRANKLIN
Phone:	

Project Investigator: Camilia Grosswiler

GROVEPORT VILL OF Public Authority Information

Name:	GROVEPORT VILL OF
Address:	655 BLACKLICK ST.
City, State ZIP:	GROVEPORT, OH 43125
County:	FRANKLIN
Phone:	614-836-5301 X226

Public Authority Investigator: Camilia Grosswiler

PAINTING COMPANY, THE Contractor Information

Name:	PAINTING COMPANY, THE
Address:	6969 INDUSTRIAL PARKWAY
City, State ZIP:	PLAIN CITY, OH 43064
County:	UNION
Contact:	
Phone:	614-873-1334 Other Phone

Contractor Investigator: Camilia Grosswiler

Complainant Information

Name: <i>First Last</i>	First JAMES Last RAREY
Interested Party:	YES
Address:	555 E RICH STREET SUITE 217
City, State ZIP:	COLUMBUS, OH 43215
County:	FRANKLIN
Phone:	614-221-7171 Other Phone
SS#:	

Status

Complaint approval status: Accept

	DR - 06/23/2004 Date Received
	CE - 07/12/2004 Date Complaint Entered
	CA - 07/08/2004 Complaint Approved
	CR - Complaint Rejected
	AI - Date Received Additional Information
	CD - Complaint Denied
	IN - 07/12/2004 This date is filled in when Notify Investigator button is pushed.
	PA - Public Authority Visit
	AR - Awaiting Contractor Records
	SI - Subpoena Issued
	SE - Subpoena Enforcement
	AP - 10/27/2004 Audit in Progress
	AS - 12/14/2004 Audit Submitted or Request to Close
	VF - Violation Found
	DT - 12/16/2004 Determination Issued

- Date Complaint Entered in the Database
- Complaint Approved
- Complaint Rejected
- Date Received Additional Information
- Complaint Denied
- Date Investigator Notified
- Public Authority Visit
- Awaiting Contractor Records
- Subpoena Issued
- Subpoena Enforcement
- Audit in Progress
- Audit Submitted
- Violation Found
- Determination Issued
- Re-determination Issued
- Case forward to the AG Office
- Settlement by AG's Office
- Settlement by Director
- Payment Plan
- Open / Inactive
- Closed

RD - Re-determination Issued
AG - 01/24/2006 Case forward to the AG Office
SA - Settlement by AG's Office
SD- Settlement by Director
PP - 06/26/2007 Payment Plan
IA - Open / Inactive
CL - Closed

Paid in Full

Determination Area

Determination Amount: \$5,294.60

Determination Comments: **01/24/2006 Case forward to the AG Office.DJM****

Detail Complaint Information

Claimant status: Interested Party
Reason for filing complaint: Misclassifications, APPRENTICE RATIO
Work Classification
(Apprentices show level/year): PAINTER APPRENTICE 3
Hourly Rate Paid: \$\$17.00
Total hours on project?
Regular:
Over Time:
P.W. Rate: 27.54

Dates worked from **to**

- Yes No **Were you paid time and 1/2 for hours worked over 40 hours per work?**
- Yes No **Did employer provide written notice of job classification?**
- Yes No **Did employer provide written notice of Prevailing Wage Rate?**
- Yes No **Did employer provide written notice of name of Prevailing Wage Coordinator?**
- Yes No **Were you threatened, intimidated or coerced into giving up any of your pay?**

What Fringe Benefits were paid by the company?

- Yes No **Health Insurance**
- Yes No **Paid Vacation**
- Yes No **Paid Sick Leave**
- Yes No **Bonus**
- Yes No **Training**
- Yes No **Life Insurance**
- Yes No **Paid Holidays**
- Yes No **Pension**
- Yes No **Other**

Hours worked recorded by:

Other:

List names of employees you worked with on this project.

Approval Area

Complaint: ● Accept ○ Reject ○ Deny ○ None

Project Investigator: Camilia Grosswiler

Public Authority Investigator: Camilia Grosswiler

Contractor Investigator: Camilia Grosswiler

Please use the drop down box to enter names DO NOT TYPE THEM IN!!!!

Notify Investigator: This button will notify the investigator and fill in the notification date.

No longer does it over write the notification date.

Closed Comments:

ATTACHMENTS -- CERTIFIED PAYROLL...07/12/04...JKJ /// PER AGS REPORT DATED 06/20/06
THEY ARE STILL WORKING ON THIS CASE...BOB HAS FILE...02/22/07...JKJ /// PER AG'S REPORT
DATED 02/22/07 THEIR OFFICE IS WORKING ON THIS CASE...03/22/07...JKJ

Mailed to:

Revision History:

Prevailing Wage Complaint

Case Number: 04-169-2

JOHN GILBERT REESE CENTER Project Information

View Project and Prevailing Wage Database Information click here

Name:	JOHN GILBERT REESE CENTER
Address:	1179 UNIVERSITY DRIVE
City, State ZIP:	NEWARK, OH 43055
County:	FRANKLIN
Phone:	

Project Investigator: Camilia Grosswiler

OHIO STATE UNIV FAC PLANNING & DEV Public Authority Information

Name:	OHIO STATE UNIV FAC PLANNING & DEV
Address:	2009 MILLIKIN ROAD
City, State ZIP:	COLUMBUS, OH 43210
County:	FRANKLIN
Phone:	614-292-4458

Public Authority Investigator: Camilia Grosswiler

PAINTING COMPANY, THE Contractor Information

Name:	PAINTING COMPANY, THE
Address:	
City, State ZIP:	
County:	
Contact:	
Phone:	Other Phone 740 873-1334

Contractor Investigator: Camilia Grosswiler

Complainant Information

Name: <i>First Last</i>	First JIM Last RAREY
Interested Party:	YES
Address:	555 E RICH STREET SUITE 217
City, State ZIP:	COLUMBUS, OH 43215
County:	FRANKLIN
Phone:	614-221-7171 Other Phone
SS#:	

Status

Complaint approval status: Accept

	DR - 03/25/2004 Date Received
	CE - 05/05/2004 Date Complaint Entered
	CA - 04/26/2004 Complaint Approved
	CR - Complaint Rejected
	AI - Date Received Additional Information
	CD - Complaint Denied
	IN - 05/05/2004 This date is filled in when Notify Investigator button is pushed.
	PA - 05/21/2004 Public Authority Visit
	AR - 06/08/2004 Awaiting Contractor Records
	SI - 07/08/2004 Subpoena Issued
	SE - Subpoena Enforcement
	AP - 10/27/2004 Audit in Progress
	AS - 12/14/2004 Audit Submitted or Request to Close
	VF - Violation Found
	DT - 12/17/2004 Determination Issued

- Date Received
- Date Complaint Entered in the Database
- Complaint Approved
- Complaint Rejected
- Date Received Additional Information
- Complaint Denied
- Date Investigator Notified
- Public Authority Visit
- Awaiting Contractor Records
- Subpoena Issued
- Subpoena Enforcement
- Audit in Progress
- Audit Submitted
- Violation Found
- Determination Issued
- Re-determination Issued
- Case forward to the AG Office
- Settlement by AG's Office
- Settlement by Director
- Payment Plan
- Open / Inactive
- Closed

RD - Re-determination Issued
AG - Case forward to the AG Office
SA - Settlement by AG's Office
SD- Settlement by Director
PP - 06/26/2007 Payment Plan
IA - Open / Inactive
CL - 11/02/2007 Closed

Paid in Full

Closed Comments:

ATTACHMENTS -- CERTIFIED PAYROLL, NOTES FROM HALLIE...THIS COMPLAINT RECEIVED BY ME ON THIS DATE...05/05/04...JKJ //// 02/22/07 PER AG'S REPORT DATED 03/21/06, THEIR OFFICE IS STILL WORKING ON THIS CASE...02/22/07...JKJ //// 02/22/07 BOB HAS THIS FILE AND I WAS UNABLE TO MAKE NOTATION ON FOLDER...JKJ /// PER AG'S REPORT DATED 02/22/07 THEIR OFFICE IS WORKING ON THIS CASE...03/22/07...JKJ

Determination Area

Determination Amount: \$483.44

Determination Comments: BOB HAS CASE FILE IN HIS OFFICE. HE DOES NOT WANT IT TO GO TO AG'S YET. KD 5/5/05 ORIG. DT. 7434.92 SETTLEMENT 483.44 PART OF 45000.00 SETTLEMENT SENT CHECKS TO CUSTOMERS. 11/2/07.DJM***

Detail Complaint Information

Claimant status: Interested Party
Reason for filing complaint: Prevailing wages not paid, Misclassifications
Work Classification
(Apprentices show level/year): PAINTER / PAINTER APPRENTICE
Hourly Rate Paid: \$\$12.07
Total hours on project?
Regular:
Over Time:
P.W. Rate: 28.54

Dates worked from **to**

- Yes No **Were you paid time and 1/2 for hours worked over 40 hours per work?**
- Yes No **Did employer provide written notice of job classification?**
- Yes No **Did employer provide written notice of Prevailing Wage Rate?**
- Yes No **Did employer provide written notice of name of Prevailing Wage Coordinator?**
- Yes No **Were you threatened, intimidated or coerced into giving up any of your pay?**

What Fringe Benefits were paid by the company?

- Yes No **Health Insurance**
- Yes No **Paid Vacation**
- Yes No **Paid Sick Leave**
- Yes No **Bonus**

- Yes No **Life Insurance**
- Yes No **Paid Holidays**
- Yes No **Pension**
- Yes No **Other**

Hours worked recorded by:

Other:

List names of employees you worked with on this project:

Approval Area

Complaint: Accept Reject Deny None

Project Investigator: Camilia Grosswiler

Public Authority Investigator: Camilia Grosswiler

Contractor Investigator: Camilia Grosswiler

Please use the drop down box to enter names DO NOT TYPE THEM IN!!!!

Notify Investigator This button will notify the investigator and fill in the notification date.

No longer does it over write the notification date.

Closed Comments:

ATTACHMENTS -- CERTIFIED PAYROLL, NOTES FROM HALLIE...THIS COMPLAINT RECEIVED BY ME ON THIS DATE...05/05/04...JKJ //// 02/22/07 PER AG'S REPORT DATED 03/21/06, THEIR OFFICE IS STILL WORKING ON THIS CASE...02/22/07...JKJ //// 02/22/07 BOB HAS THIS FILE AND I WAS UNABLE TO MAKE NOTATION ON FOLDER...JKJ /// PER AG'S REPORT DATED 02/22/07 THEIR OFFICE IS WORKING ON THIS CASE...03/22/07...JKJ

Mailed to:

Revision History:

Prevailing Wage Complaint

Case Number: 03-042-2

MT CARMEL PARKING GARAGE EAST Project Information

View Project and Prevailing Wage Database Information [click here](#)

Name:	MT CARMEL PARKING GARAGE EAST
Address:	6001 E BROAD STREET
City, State ZIP:	COLUMBUS, OH 43213
County:	FRANKLIN
Phone:	

Project Investigator: Kathy Gronbach

MT CARMEL HOSPITAL Public Authority Information

Name:	MT CARMEL HOSPITAL
Address:	6001 E BROAD STREET
City, State ZIP:	COLUMBUS, OH 43213
County:	FRANKLIN
Phone:	614-898-4441

Public Authority Investigator: Kathy Gronbach

PAINTING COMPANY THE Contractor Information

Name:	PAINTING COMPANY THE
Address:	6969 INDUSTRIAL PARKWAY
City, State ZIP:	PLAIN CITY, OH 43064
County:	MADISON
Contact:	SANDRA R CONTORNO
Phone:	740-873-1334 Other Phone

Contractor Investigator: Kathy Gronbach

Complainant Information

Name: <i>First Last</i>	First JAMES Last RAREY
Interested Party:	YES
Address:	555 E RICH STREET SUITE 217
City, State ZIP:	COLUMBUS, OH 43215
County:	FRANKLIN
Phone:	614-221-7171 Other Phone
SS#:	

Status

Complaint approval status: Accept

	DR - 01/08/2003 Date Received
	CE - 02/04/2003 Date Complaint Entered
	CA - 02/04/2003 Complaint Approved
	CR - Complaint Rejected
	AI - Date Received Additional Information
	CD - Complaint Denied
	IN - 02/04/2003 This date is filled in when Notify Investigator button is pushed.
	PA - Public Authority Visit
	AR - 02/07/2003 Awaiting Contractor Records
	SI - Subpoena Issued
	SE - Subpoena Enforcement
	AP - 02/12/2003 Audit in Progress
	AS - 02/12/2003 Audit Submitted or Request to Close
	VF - Violation Found
	DT - 02/12/2003 Determination Issued

- Date Complaint Entered in the Database
- Complaint Approved
- Complaint Rejected
- Date Received Additional Information
- Complaint Denied
- Date Investigator Notified
- Public Authority Visit
- Awaiting Contractor Records
- Subpoena Issued
- Subpoena Enforcement
- Audit in Progress
- Audit Submitted
- Violation Found
- Determination Issued
- Re-determination Issued
- Case forward to the AG Office
- Settlement by AG's Office
- Settlement by Director
- Payment Plan
- Open / Inactive
- Closed

RD - Re-determination Issued
AG - Case forward to the AG Office
SA - Settlement by AG's Office
SD- Settlement by Director
PP - Payment Plan
IA - Open / Inactive
CL - 02/14/2003 Closed

Paid in Full

Closed Comments:

ATTACHMENTS -- CERTIFIED PAYROLL, LETTER OF INQUIRY, AFFIDAVIT...02/04/03...JKJ
 CLOSED **COMPLAINANT REQUESTED TO CLOSE CASE**

Determination Area

Determination Amount: \$0.00

Determination Comments:

Detail Complaint Information

Claimant status: Interested Party
Reason for filing complaint: Prevailing wages not paid
Work Classification
(Apprentices show level/year): PAINTER
Hourly Rate Paid: \$\$27.45
Total hours on project?
Regular:
Over Time:
P.W. Rate: 28.29

Dates worked from **to**

- Yes No **Were you paid time and 1/2 for hours worked over 40 hours per work?**
- Yes No **Did employer provide written notice of job classification?**
- Yes No **Did employer provide written notice of Prevailing Wage Rate?**
- Yes No **Did employer provide written notice of name of Prevailing Wage Coordinator?**
- Yes No **Were you threatened, intimidated or coerced into giving up any of your pay?**

What Fringe Benefits were paid by the company?

- Yes No **Health Insurance**
- Yes No **Paid Vacation**
- Yes No **Paid Sick Leave**
- Yes No **Bonus**
- Yes No **Training**
- Yes No **Life Insurance**
- Yes No **Paid Holidays**
- Yes No **Pension**
- Yes No **Other**

Hours worked recorded by:

Other:

List names of employees you worked with on this project:

Approval Area

Complaint: Accept Reject Deny None

Project Investigator: Kathy Gronbach

Public Authority Investigator: Kathy Gronbach

Contractor Investigator: Kathy Gronbach

Please use the drop down box to enter names DO NOT TYPE THEM IN!!!!

Notify Investigator This button will notify the investigator and fill in the notification date.

No longer does it over write the notification date.

Closed Comments:

ATTACHMENTS -- CERTIFIED PAYROLL, LETTER OF INQUIRY, AFFIDAVIT...02/04/03...JKJ

CLOSED **COMPLAINANT REQUESTED TO CLOSE CASE**

Mailed to:

Revision History:

Prevailing Wage Complaint

Case Number: 03-014-2

MT CARMEL PARKING GARAGE WEST Project Information

View Project and Prevailing Wage Database Information [click here](#)

Name:	MT CARMEL PARKING GARAGE WEST
Address:	793 W STATE STREET
City, State ZIP:	COLUMBUS, OH 43215
County:	FRANKLIN
Phone:	

Project Investigator: Kathy Gronbach

MT CARMEL HOSPITAL Public Authority Information

Name:	MT CARMEL HOSPITAL
Address:	6001 E BROAD STREET
City, State ZIP:	COLUMBUS, OH 43213
County:	FRANKLIN
Phone:	614-898-4441

Public Authority Investigator: Kathy Gronbach

PAINTING COMPANY THE Contractor Information

Name:	PAINTING COMPANY THE
Address:	6969 INDUSTRIAL PARKWAY
City, State ZIP:	PLAIN CITY, OH 43064
County:	MADISON
Contact:	SANDRA R CONTORNO
Phone:	740-873-1334 Other Phone

Contractor Investigator: Kathy Gronbach

Complainant Information

Name: <i>First Last</i>	First JAMES Last RAREY
Interested Party:	YES
Address:	555 E RICH STREET SUITE 217
City, State ZIP:	COLUMBUS, OH 43215
County:	FRANKLIN
Phone:	614-221-7171 Other Phone
SS#:	

Status

Complaint approval status: Accept

	DR - 01/08/2003 Date Received
	CE - 01/17/2003 Date Complaint Entered
	CA - 01/16/2003 Complaint Approved
	CR - Complaint Rejected
	AI - Date Received Additional Information
	CD - Complaint Denied
	IN - 01/17/2003 This date is filled in when Notify Investigator button is pushed.
	PA - 01/21/2003 Public Authority Visit
	AR - 02/07/2003 Awaiting Contractor Records
	SI - Subpoena Issued
	SE - Subpoena Enforcement
	AP - 02/12/2003 Audit in Progress
	AS - 02/12/2003 Audit Submitted or Request to Close
	VF - Violation Found
	DT - 02/12/2003 Determination Issued

- Date Received
- Date Complaint Entered in the Database
- Complaint Approved
- Complaint Rejected
- Date Received Additional Information
- Complaint Denied
- Date Investigator Notified
- Public Authority Visit
- Awaiting Contractor Records
- Subpoena Issued
- Subpoena Enforcement
- Audit in Progress
- Audit Submitted
- Violation Found
- Determination Issued
- Re-determination Issued
- Case forward to the AG Office
- Settlement by AG's Office
- Settlement by Director
- Payment Plan
- Open / Inactive
- Closed

RD - Re-determination Issued
AG - Case forward to the AG Office
SA - Settlement by AG's Office
SD- Settlement by Director
PP - Payment Plan
IA - Open / Inactive
CL - 02/14/2003 Closed

Paid in Full

Closed Comments:

ATTACHMENTS -- LETTER OF INQUIRY, AFFIDAVIT, CERTIFIED PAYROLL...01/17/03...JKJ
 CLOSED **COMPLAINANT REQUESTED TO CLOSE CASE**

Determination Area

Determination Amount: \$0.00

Determination Comments:

Detail Complaint Information

Claimant status: Interested Party
Reason for filing complaint: Prevailing wages not paid
Work Classification
(Apprentices show level/year):
Hourly Rate Paid: \$27.45
Total hours on project?
Regular:
Over Time:
P.W. Rate: 28.26

Dates worked from **to**

- Yes No **Were you paid time and 1/2 for hours worked over 40 hours per work?**
- Yes No **Did employer provide written notice of job classification?**
- Yes No **Did employer provide written notice of Prevailing Wage Rate?**
- Yes No **Did employer provide written notice of name of Prevailing Wage Coordinator?**
- Yes No **Were you threatened, intimidated or coerced into giving up any of your pay?**

What Fringe Benefits were paid by the company?

- Yes No **Health Insurance**
- Yes No **Paid Vacation**
- Yes No **Paid Sick Leave**
- Yes No **Bonus**
- Yes No **Training**
- Yes No **Life Insurance**
- Yes No **Paid Holidays**
- Yes No **Pension**
- Yes No **Other**

Hours worked recorded by:

Other:

List names of employees you worked with on this project:

Approval Area

Complaint: Accept Reject Deny None

Project Investigator: Kathy Gronbach

Public Authority Investigator: Kathy Gronbach

Contractor Investigator: Kathy Gronbach

Please use the drop down box to enter names DO NOT TYPE THEM IN!!!!

Notify Investigator This button will notify the investigator and fill in the notification date.
No longer does it over write the notification date.

Closed Comments:

ATTACHMENTS -- LETTER OF INQUIRY, AFFIDAVIT, CERTIFIED PAYROLL...01/17/03...JKJ
CLOSED **COMPLAINANT REQUESTED TO CLOSE CASE**

Mailed to:

Revision History:

Prevailing Wage Complaint

Case Number: 02-334-2

PORT COLUMBUS CONCOURSE "C" Project Information

View Project and Prevailing Wage Database Information click here

Name:	PORT COLUMBUS CONCOURSE "C"
Address:	4600 INTERNATIONAL GATEWAY
City, State ZIP:	COLUMBUS, OH 43219
County:	FRANKLIN
Phone:	

Project Investigator: Kathy Gronbach

PORT COLUMBUS Public Authority Information

Name:	PORT COLUMBUS
Address:	4600 INTERNATIONAL GATEWAY
City, State ZIP:	COLUMBUS, OH 43219
County:	FRANKLIN
Phone:	614-239-4092

Public Authority Investigator: Kathy Gronbach

PAINTING COMPANY, THE Contractor Information

Name:	PAINTING COMPANY, THE
Address:	6969 INDUSTRIAL PARKWAY
City, State ZIP:	PLAIN CITY, OH 43064
County:	MADISON
Contact:	SANDRA R CONTORNO
Phone:	740-873-1334 Other Phone

Contractor Investigator: Kathy Gronbach

Complainant Information

Name: <i>First Last</i>	First JAMES Last RAREY
Interested Party:	YES
Address:	555 E RICH STREET SUITE 217
City, State ZIP:	COLUMBUS, OH 43215
County:	FRANKLIN
Phone:	614-221-7171 Other Phone
SS#:	

Status

Complaint approval status: Accept

	DR - 07/26/2002 Date Received
	CE - 08/07/2002 Date Complaint Entered
	CA - 08/06/2002 Complaint Approved
	CR - Complaint Rejected
	AI - Date Received Additional Information
	CD - Complaint Denied
	IN - 08/07/2002 This date is filled in when Notify Investigator button is pushed.
	PA - Public Authority Visit
	AR - 11/14/2002 Awaiting Contractor Records
	SI - Subpoena Issued
	SE - Subpoena Enforcement
	AP - 02/10/2003 Audit in Progress
	AS - 02/12/2003 Audit Submitted or Request to Close
	VF - Violation Found
	DT - 02/12/2003 Determination Issued

- Date Received
- Date Complaint Entered in the Database
- Complaint Approved
- Complaint Rejected
- Date Received Additional Information
- Complaint Denied
- Date Investigator Notified
- Public Authority Visit
- Awaiting Contractor Records
- Subpoena Issued
- Subpoena Enforcement
- Audit in Progress
- Audit Submitted
- Violation Found
- Determination Issued
- Re-determination Issued
- Case forward to the AG Office
- Settlement by AG's Office
- Settlement by Director
- Payment Plan
- Open / Inactive
- Closed

RD - Re-determination Issued
AG - Case forward to the AG Office
SA - Settlement by AG's Office
SD- Settlement by Director
PP - Payment Plan
IA - Open / Inactive
CL - 02/14/2003 Closed

Paid in Full

Closed Comments:

ATTACHMENTS -- LETTER OF INQUIRY, AFFIDAVIT, CERTIFIED WAGE STATEMENT...08/07/02...JKJ CLOSED **COMPLAINANT REQUESTED TO CLOSE CASE**

Determination Area

Determination Amount: \$0.00

Determination Comments:

Detail Complaint Information

Claimant status: Interested Party
Reason for filing complaint: Prevailing wages not paid, Fringe benefits not paid, Misclassifications, NEW HIRE/APPRENTICE RATIO ABUSE
Work Classification
(Apprentices show level/year): PAINTER
Hourly Rate Paid: \$\$20.10
Total hours on project?
Regular:
Over Time:
P.W. Rate:

Dates worked from **to**

- Yes No **Were you paid time and 1/2 for hours worked over 40 hours per work?**
- Yes No **Did employer provide written notice of job classification?**
- Yes No **Did employer provide written notice of Prevailing Wage Rate?**
- Yes No **Did employer provide written notice of name of Prevailing Wage Coordinator?**
- Yes No **Were you threatened, intimidated or coerced into giving up any of your pay?**

What Fringe Benefits were paid by the company?

- Yes No **Health Insurance**
- Yes No **Paid Vacation**
- Yes No **Paid Sick Leave**
- Yes No **Bonus**
- Yes No **Training**
- Yes No **Life Insurance**
- Yes No **Paid Holidays**
- Yes No **Pension**

Hours worked recorded by:

Other:

List names of employees you worked with on this project:

Approval Area

Complaint: ● Accept ○ Reject ○ Deny ○ None

Project Investigator: Kathy Gronbach

Public Authority Investigator: Kathy Gronbach

Contractor Investigator: Kathy Gronbach

Please use the drop down box to enter names DO NOT TYPE THEM IN!!!

Notify Investigator This button will notify the investigator and fill in the notification date.

No longer does it over write the notification date.

Closed Comments:

ATTACHMENTS -- LETTER OF INQUIRY, AFFIDAVIT, CERTIFIED WAGE

STATEMENT...08/07/02...JKJ CLOSED **COMPLAINANT REQUESTED TO CLOSE CASE**

Mailed to:

Revision History:

Prevailing Wage Complaint

Case Number: 02-298-2

PUBLIC EMPLOYEES RETIREMENT SYSTEM Project Information

View Project and Prevailing Wage Database Information click here

Name:	PUBLIC EMPLOYEES RETIREMENT SYSTEM
Address:	277 E TOWN STREET
City, State ZIP:	COLUMBUS, OH 43215
County:	FRANKLIN
Phone:	

Project Investigator: Kathy Gronbach

PUBLIC EMPLOYEES RETIREMENT SYSTEM Public Authority Information

Name:	PUBLIC EMPLOYEES RETIREMENT SYSTEM
Address:	277 E TOWN STREET
City, State ZIP:	COLUMBUS, OH 43215
County:	FRANKLIN
Phone:	614-225-1938

Public Authority Investigator: Kathy Gronbach

PAINTING COMPANY, THE Contractor Information

Name:	PAINTING COMPANY, THE
Address:	6969 INDUSTRIAL PARKWAY
City, State ZIP:	PLAIN CITY, OH 43064
County:	MADISON
Contact:	SANDRA R CONTORNO
Phone:	740-873-1334 Other Phone

Contractor Investigator: Kathy Gronbach

Complainant Information

Name: <i>First Last</i>	First DAVE Last COAKLEY
Interested Party:	YES
Address:	1104 CLEVELAND AVENUE
City, State ZIP:	COLUMBUS, OH 43201
County:	FRANKLIN
Phone:	614-294-5301 Other Phone
SS#:	

Status

Complaint approval status: Accept

	DR - 06/18/2002 Date Received
	CE - 06/20/2002 Date Complaint Entered
	CA - 06/19/2002 Complaint Approved
	CR - Complaint Rejected
	AI - Date Received Additional Information
	CD - Complaint Denied
	IN - 07/23/2002 This date is filled in when Notify Investigator button is pushed.
	PA - Public Authority Visit
	AR - 07/15/2002 Awaiting Contractor Records
	SI - Subpoena Issued
	SE - Subpoena Enforcement
	AP - 01/29/2003 Audit in Progress
	AS - 04/17/2003 Audit Submitted or Request to Close.
	VF - Violation Found
	DT - 04/17/2003 Determination Issued

- Date Complaint Entered in the Database
- Complaint Approved
- Complaint Rejected
- Date Received Additional Information
- Complaint Denied
- Date Investigator Notified
- Public Authority Visit
- Awaiting Contractor Records
- Subpoena Issued
- Subpoena Enforcement
- Audit in Progress
- Audit Submitted
- Violation Found
- Determination Issued
- Re-determination Issued
- Case forward to the AG Office
- Settlement by AG's Office
- Settlement by Director
- Payment Plan
- Open / Inactive
- Closed

RD - Re-determination Issued
AG - Case forward to the AG Office
SA - Settlement by AG's Office
SD- Settlement by Director
PP - Payment Plan
IA - Open / Inactive
CL - 05/19/2003 Closed

Paid in Full

Closed Comments:

ATTACHMENTS -- PAY STUBS...07/23/02...THIS CASE WAS ORIGINALLY ENTERED WITH 02-248-2 NUMBER ON 06/20/02. HOWEVER, THERE IS ANOTHER CASE IN THE SYSTEM WITH THIS NUMBER AND IT IS JOHN'S. THIS WAS BROUGHT TO MY ATTENTION BY MICHELE AND I HAVE RE-ENTERED THIS CASE WITH A NEW NUMBER FOR KAG.....07/23/02 PAID IN FULL **PENALTY WAIVED** **ORIGINAL PD DATE 4-29-03**

Determination Area

Determination Amount: \$1,057.06

Determination Comments:

Detail Complaint Information

Claimant status: Interested Party
Reason for filing complaint: Prevailing wages not paid, Misclassifications, APPRENTICE RATIO INCORRECT
Work Classification
(Apprentices show level/year): PAINTER/BRUSH ROLLER
Hourly Rate Paid: \$26.91
Total hours on project?
Regular:
Over Time:
P.W. Rate: 27.29

Dates worked from 12/01/2001 **to**

- Yes No **Were you paid time and 1/2 for hours worked over 40 hours per work?**
- Yes No **Did employer provide written notice of job classification?**
- Yes No **Did employer provide written notice of Prevailing Wage Rate?**
- Yes No **Did employer provide written notice of name of Prevailing Wage Coordinator?**
- Yes No **Were you threatened, intimidated or coerced into giving up any of your pay?**

What Fringe Benefits were paid by the company?

- Yes No **Health Insurance**
- Yes No **Paid Vacation**
- Yes No **Paid Sick Leave**
- Yes No **Bonus**
- Yes No **Training**

- Yes No **Paid Holidays**
 Yes No **Pension**
 Yes No **Other**

Hours worked recorded by:

Other:

List names of employees you worked with on this project:

Approval Area

Complaint: Accept Reject Deny None

Project Investigator: Kathy Gronbach

Public Authority Investigator: Kathy Gronbach

Contractor Investigator: Kathy Gronbach

Please use the drop down box to enter names DO NOT TYPE THEM IN!!!!

Notify Investigator: This button will notify the investigator and fill in the notification date.

No longer does it over write the notification date.

Closed Comments:

ATTACHMENTS -- PAY STUBS...07/23/02...THIS CASE WAS ORIGINALLY ENTERED WITH 02-248-2 NUMBER ON 06/20/02. HOWEVER, THERE IS ANOTHER CASE IN THE SYSTEM WITH THIS NUMBER AND IT IS JOHN'S. THIS WAS BROUGHT TO MY ATTENTION BY MICHELE AND I HAVE RE-ENTERED THIS CASE WITH A NEW NUMBER FOR KAG.....07/23/02 PAID IN FULL
PENALTY WAIVED **ORIGINAL PD DATE 4-29-03**

Mailed to:

Revision History:

Prevailing Wage Complaint

Case Number: 00-572-2

OSU STADIUM RENOVATIONS Project Information

[View Project and Prevailing Wage Database Information click here](#)

Name:	OSU STADIUM RENOVATIONS
Address:	1940 CANON DRIVE
City, State ZIP:	COLUMBUS, OH 43210
County:	FRANKLIN
Phone:	

Project Investigator: Camilia Grosswiler

OHIO STATE UNIV ARCHITECTS OFFC Public Authority Information

Name:	OHIO STATE UNIV ARCHITECTS OFFC
Address:	2009 MILLIKIN RD 400 CENTRAL CLASSROOM BLDG
City, State ZIP:	COLUMBUS, OH 43210
County:	FRANKLIN
Phone:	614-292-1776

Public Authority Investigator: Kathy Gronbach

PAINTING COMPANY, THE Contractor Information

Name:	PAINTING COMPANY, THE
Address:	6969 INDUSTRIAL PARKWAY
City, State ZIP:	PLAIN CITY, OH 43064
County:	MADISON
Contact:	SANDRA R CONTORNO
Phone:	740-873-1334 Other Phone

Contractor Investigator: Camilia Grosswiler

Complainant Information

Name: <i>First Last</i>	First PAINTERS LOCAL Last 1275
Interested Party:	YES
Address:	1104 CLEVELAND AVE
City, State ZIP:	COLUMBUS, OH 43201
County:	FRANKLIN
Phone:	614-294-5301 Other Phone
SS#:	N/A

Status

Complaint approval status: Accept

	DR - 11/13/2000 Date Received
	CE - 11/13/2000 Date Complaint Entered
	CA - 11/14/2000 Complaint Approved
	CR - Complaint Rejected
	AI - Date Received Additional Information
	CD - Complaint Denied
	IN - 11/14/2000 This date is filled in when Notify Investigator button is pushed.
	PA - 11/30/2000 Public Authority Visit
	AR - Awaiting Contractor Records
	SI - Subpoena Issued
	SE - Subpoena Enforcement
	AP - Audit in Progress
	AS - 06/06/2001 Audit Submitted or Request to Close
	VF - Violation Found
	DT - 07/16/2001 Determination Issued

- Date Received
- Date Complaint Entered in the Database
- Complaint Approved
- Complaint Rejected
- Date Received Additional Information
- Complaint Denied
- Date Investigator Notified
- Public Authority Visit
- Awaiting Contractor Records
- Subpoena Issued
- Subpoena Enforcement
- Audit in Progress
- Audit Submitted
- Violation Found
- Determination Issued
- Re-determination Issued
- Case forward to the AG Office
- Settlement by AG's Office
- Settlement by Director
- Payment Plan
- Open / Inactive
- Closed

RD - 03/11/2003 Re-determination Issued
AG - Case forward to the AG Office
SA - Settlement by AG's Office
SD- Settlement by Director
PP - 03/24/2003 Payment Plan
IA - Open / Inactive
CL - 04/10/2003 Closed

Paid in Full

Closed Comments:

PAID IN FULL **ORIGINAL PD DATE 3-25-3** ** PENALTY PAID IN FULL **

Determination Area

Determination Amount: \$1,834.60

Determination Comments: ORIGINAL DT \$9,250.29

Detail Complaint Information

Claimant status: Interested Party
Reason for filing complaint: Fringe benefits not paid, Misclassifications, Overtime, RATIO
Work Classification
(Apprentices show level/year): PAINTERS
Hourly Rate Paid: \$\$16.01
Total hours on project?
Regular:
Over Time:
P.W. Rate: 25.79

Dates worked from **to**

- Yes No **Were you paid time and 1/2 for hours worked over 40 hours per work?**
- Yes No **Did employer provide written notice of job classification?**
- Yes No **Did employer provide written notice of Prevailing Wage Rate?**
- Yes No **Did employer provide written notice of name of Prevailing Wage Coordinator?**
- Yes No **Were you threatened, intimidated or coerced into giving up any of your pay?**

What Fringe Benefits were paid by the company?

- Yes No **Health Insurance**
- Yes No **Paid Vacation**
- Yes No **Paid Sick Leave**
- Yes No **Bonus**
- Yes No **Training**
- Yes No **Life Insurance**
- Yes No **Paid Holidays**
- Yes No **Pension**
- Yes No **Other**

Hours worked recorded by:

Other:

List names of employees you worked with on this project:

Approval Area

Complaint: Accept Reject Deny None

Project Investigator: Camilia Grosswiler

Public Authority Investigator: Kathy Gronbach

Contractor Investigator: Camilia Grosswiler

Please use the drop down box to enter names DO NOT TYPE THEM IN!!!!

Notify Investigator: This button will notify the investigator and fill in the notification date.
No longer does it over write the notification date.

Closed Comments:

PAID IN FULL **ORIGINAL PD DATE 3-25-3** ** PENALTY PAID IN FULL **

Mailed to:

Revision History:

FAXED

AUG 06 2007

2 pages

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement ("Agreement") is entered into by and between the State of Ohio, Ohio Department of Commerce ("Department of Commerce"), and The Painting Company.

WHEREAS, an audit of the John Gilbert Reese Center, Police Academy, Orange Township Fire, Larkins Hall, Pickaway Correction, Delaware Regional, Ross Heart Hospital, Adventure Recreation Center, and Groveport Aquatic Park projects (the "Projects") performed by the Department of Commerce and/or its predecessor determined that employees of The Painting Company were underpaid on the Projects according to Ohio's prevailing wage law; and

WHEREAS, The Painting Company disputes any liability for the underpayment of prevailing wages as claimed by Commerce; and

WHEREAS, a dispute arose between the Department of Commerce and The Painting Company as to The Painting Company's responsibility for the underpayments; and

WHEREAS, Commerce and The Painting Company have successfully negotiated a settlement of the dispute, without any acknowledgment of legal liability by The Painting Company;

NOW THEREFORE, in consideration of the payment of Forty Five Thousand Dollars (\$45,000.00) to the Ohio Department of Commerce, the Department of Commerce, on behalf of the State of Ohio, hereby releases and forever discharges The Painting Company and its successors and/or assigns, affiliates, employees, former employees, agents, attorneys, officers, directors, and principals from any and all claims, charges, penalties, attorney fees, interest, or causes of action arising out of or in any way concerning, directly or indirectly, claims against The Painting Company for the alleged underpayment of prevailing wages by The Painting Company for work performed on the Projects.

It is understood further that the aforementioned Forty Five Thousand Dollars (\$45,000.00) payment is with respect to the following projects in the following amounts, plus a thirty seven percent (37%) penalty:

32790.14 }	John Gilbert Reese Center	\$ 483.44	Police Academy	\$ 3,093.62
	Orange Township Fire	917.86	Larkins Hall	1,375.30
	Pickaway Correction	16,472.00	Delaware Regional	1,266.28
	Ross Heart Hospital	7,806.11	Groveport Aquatic Park	1,375.53

The Painting Company shall pay the above amount in full on or before October 8, 2007. Payment shall be made by issuing checks, made payable to the "Ohio Department of Commerce" to Katharine E. Adams, Assistant Attorney General, Labor Relations Section, 30 East Broad Street, 26th Floor, Columbus, Ohio 43215-3400, made payable in installments as follows: fifteen thousand dollars (\$15,000) on June 8, 2007; seven thousand five hundred dollars (\$7,500) on July 8, 2007; seven thousand five hundred dollars (\$7,500) on August 8, 2007; seven thousand five hundred dollars (\$7,500) on September 8, 2007; and seven thousand five hundred dollars (\$7,500) on



October 8, 2007. Should The Painting Company fail to make timely payment by one of the afore-referenced dates, a ten percent (10%) fee shall be charged for each late payment.

The parties have agreed to divide court costs equally in case number 2006-CV-0539 filed in Union County Common Pleas Court totaling one hundred and twenty four dollars (\$124).

It is understood and agreed by Commerce that this release constitutes a compromise settlement of the disputed claim or claims, and that payment by The Painting Company of the above-stated settlement is not to be construed and does not constitute an admission of liability or wrongdoing on the part of The Painting Company.

In consideration of the present settlement, Plaintiffs the Ohio Department of Commerce have agreed to dismiss the complaint filed in case number 2006-CV-0539 filed in Union County Common Pleas Court with prejudice upon the signature of both parties to the settlement, no later than July 9, 2007. Plaintiffs shall prepare the entry for the Court.

**OHIO DEPARTMENT OF
COMMERCE**

THE PAINTING COMPANY

By: *Robert S. Kennedy*
Robert S. Kennedy
Superintendent
Division of Labor and Worker Safety
Ohio Department of Commerce

By: _____
David L. Asman

Date: 6/14/07

Date: _____



RECEIVED
 THE PAINTING COMPANY
 JUN 14 2007
 JOB # _____
 G/L # _____

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement ("Agreement") is entered into by and between the State of Ohio, Ohio Department of Commerce ("Department of Commerce"), and The Painting Company.

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WHEREAS, The Painting Company disputes any liability for the underpayment of prevailing wages as claimed by Commerce; and

WHEREAS, a dispute arose between the Department of Commerce and The Painting Company as to The Painting Company's responsibility for the underpayments; and

WHEREAS, Commerce and The Painting Company have successfully negotiated a settlement of the dispute, without any acknowledgment of legal liability by The Painting Company;

NOW THEREFORE, in consideration of the payment of Forty Five Thousand Dollars (\$45,000.00) to the Ohio Department of Commerce, the Department of Commerce, on behalf of the State of Ohio, hereby releases and forever discharges The Painting Company and its successors and/or assigns, affiliates, employees, former employees, agents, attorneys, officers, directors, and principals from any and all claims, charges, penalties, attorney fees, interest, or causes of action arising out of or in any way concerning, directly or indirectly, claims against The Painting Company for the alleged underpayment of prevailing wages by The Painting Company for work performed on the Projects.

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Orange Township Fire	917.86	Larkins Hall	1,375.30
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EXHIBIT
 30

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It is understood and agreed by Commerce that this release constitutes a compromise settlement of the disputed claim or claims, and that payment by The Painting Company of the above-stated settlement is not to be construed and does not constitute an admission of liability or wrongdoing on the part of The Painting Company.

In consideration of the present settlement, Plaintiffs the Ohio Department of Commerce have agreed to dismiss the complaint filed in case number 2006-CV-0539 filed in Union County Common Pleas Court with prejudice upon the signature of both parties to the settlement, no later than July 9, 2007. Plaintiffs shall prepare the entry for the Court.

OHIO DEPARTMENT OF
COMMERCE

THE PAINTING COMPANY

By: _____

Robert S. Kennedy
Superintendent
Division of Labor and Worker Safety
Ohio Department of Commerce

By: _____



David L. Asmian

Date: _____

Date: _____

JUN 14 2007

IN THE COURT OF COMMON PLEAS OF FRANKLIN COUNTY, OHIO
CIVIL DIVISION

TERMINATION NO. _____	<i>[Signature]</i>
BY: _____	

State ex rel. ASSOCIATED BUILDERS &
CONTRACTORS OF CENTRAL OHIO, et al.,

PLAINTIFFS/RELATORS,

CASE NO. 08CVH03-3328

v.

FINAL APPEALABLE ORDER

FRANKLIN COUNTY (OHIO)
BOARD OF COMMISSIONERS, et al.,

JUDGE HOLBROOK

DEFENDANTS/RESPONDENTS.

DECISION OF THE COURT FOLLOWING TRIAL ON THE MERITS
AND
FINAL JUDGMENT

FILED
CLERK OF COURTS
MAR 31 PM 12:13
FRANKLIN COUNTY
OHIO

Rendered the 31st day of March 2008.

Holbrook, M., J.

I. INTRODUCTION

Plaintiffs/Relators Associated Builders & Contractors of Central Ohio (hereinafter "ABC") and The Painting Company (hereinafter, "The Painting Company") initiated this action against Defendants/Respondents Franklin County Board of Commissioners, Mary Jo Kilroy, Commissioner, Paula Brooks, Commissioner and Marilyn Brown, Commissioner (hereinafter, collectively, "Commissioners") on March 5, 2008, seeking declaratory judgment and injunctive relief. The Verified Complaint sets forth the following counts: Count One – Declaratory Judgment – Violation of Ohio's Competitive Bidding Statutes; Count Two – Injunctive Relief – Violations of Ohio's Competitive Bidding Statutes – Unconstitutionally Vague Board Policy; Count Four – Writ of

EXHIBIT
A

meeting, establishes that the Commissioners considered the number of violations, as found by the Department of Labor & Worker Safety, which were closed. The evidence demonstrates that the Commissioners were aware that The Painting Company had entered into a settlement containing a non-admission clause with the Attorney General on the majority of the violations presented. Plaintiffs' Exhibit 25. The weight given to the settlement without admission of liability rests within the discretion of the Commissioners. See *State ex rel. Navratil v. Medina County Comm'rs.* (Oct. 11, 1995), 9th App. Dist. Case No. 2424-M; *Bickford v. Adm'r., Ohio Bureau of Employment Serv.* (July 30, 1991), 5th App. Dist. Case No. 90-41. This Court cannot speculate as to the possible or alleged motivations of the Commissioners.

When the Commissioners employ the plain meaning of an undefined term, such as the term "violated", or "after all appeals," the mere fact that the definition employed is different from the bidder's belief as to the proper definition is not dispositive of whether the Commissioners abused their discretion. *MCI Telecommunications*, supra at 136, 711 N.E.2d 1050. As explained by the Tenth District Court of Appeals in *MCI Telecommunications*, "[t]he exercise of an honest judgment, however erroneous it may seem to be, is not an *abuse of discretion*. Abuse of discretion * * * implies not merely error of judgment, but perversity of will, passion, prejudice, partiality, or moral delinquency." *Id.* (emphasis in original) (internal citations omitted).

The evidence establishes that The Painting Company submitted the lowest bid for the painting of Huntington Park. *Stip.* ¶62. The Painting Company's bid was over \$46,000.00 less than the next lowest bidder. *Stip.* ¶60. Both Turner and Nationwide recommended that the Commissioners award the painting contract to The Painting

IN THE SUPREME COURT OF OHIO

State ex rel. Associated Builders & Contractors of Central Ohio, et al., : Case No. 08-1478
Appellants, : On Appeal from the Franklin County Court of Appeals, Tenth Appellate District
v. : Court of Appeals
Franklin County Board of Commissioners, et al., : Case No. 08AP-301
Appellees. :

MEMORANDUM OPPOSING JURISDICTION OF APPELLEES
FRANKLIN COUNTY BOARD OF COMMISSIONERS

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TABLE OF CONTENTS

TABLE OF AUTHORITIES.....ii

EXPLANATION OF WHY THIS CASE IS NOT OF PUBLIC OR GREAT IMPORTANCE 1

STATEMENT OF THE FACTS 4

ARGUMENT 5

RESPONSE TO PROPOSITIONS OF LAW NOS. 1 AND 2 5

In a competitive bidding dispute, a bidder that is lawfully rejected by a public agency for not being the lowest and best bid does not acquire a constitutionally protected right requiring due process. The absence of an enforceable right precludes judicial review.

RESPONSE TO PROPOSITION OF LAW NO. 3 8

R.C. Chapter 4115 does not prohibit public authorities from considering a contractor’s history of compliance with prevailing wage laws when determining which bid is lowest and best for a public construction project.

RESPONSE TO PROPOSITION OF LAW NO. 4 9

A settlement of prevailing wage violations between a contractor and the State of Ohio does not render unlawful a public authority’s reliance on information provided by the Ohio Department of Commerce detailing the underlying prevailing wage violations by the contractor.

RESPONSE TO PROPOSITION OF LAW NO. 5 11

A public authority’s bid selection criteria are not void for vagueness merely for the lack of an express definition of a word within the criteria, and the public authority’s interpretation of the criteria cannot constitute an abuse of discretion.

CONCLUSION 12

CERTIFICATE OF SERVICE 14

TABLE OF AUTHORITIES

Cases

<i>Bickford v. Adm'r., Ohio Bureau of Employment Serv.</i> (Ct. App. 5 Dist. July 30, 1991), Muskingum Co. No. 90-41, 1991 Ohio App. LEXIS 3636	9
<i>Cedar Bay Const., Inc. v. City of Fremont</i> (1990), 50 Ohio St. 3d 19, 21, 552 N.E.2d 202	1
<i>City of Norwood v. Horney</i> (2006), 110 Ohio St. 3d 353	11
<i>Cleveland Constr., Inc. v. Cincinnati</i> (May 21, 2008), 118 Ohio St. 3d 283, 288, 2008-Ohio-2337	6
<i>Cleveland Constr. v. Ohio Dep't of Admin. Servs., GSA</i> (1997), 121 Ohio App. 3d 372	6
<i>Dayton ex rel. Scandrick v. McGee</i> (1981), 67 Ohio St. 2d 356	1, 3
<i>Goldfuss v. Davidson</i> (1997), 79 Ohio St. 3d 116, 122, 679 N.E.2d 1099	7
<i>Klein v. Leis</i> (2003), 99 Ohio St. 3d 537, 541	11
<i>Miami Valley Contrs., Inc., v. Oak Hill</i> (Ohio App. 4 Dist., 1996), 108 Ohio App. 3d 745, 671 N.E.2d 646	6
<i>State v. Williams</i> (2000), 88 Ohio St. 3d 513, 533	11
<i>State ex rel. Assoc. Builders & Contractors of Central Ohio v. Franklin County Bd. of Comm'rs.</i> (Franklin Co. Comm. Pl. March 31, 2008), 2008-CVH-03-3328	5
<i>State ex rel. Assoc. Builders & Contrs. Of Cent. Ohio v. Franklin Cty. Bd. of Commrs.</i> (Ohio App. 10 Dist., June 13, 2008), 2008-Ohio-2870	5
<i>State ex rel. Navratil v. Medina County Comm'rs.</i> (Ct. App. 9 Dist. Oct. 11, 1995), Medina Co. No. 2424-M, 1995 Ohio App. LEXIS 4541, 2 Wage & Hour Cas. 2d (BNA) 1643	9, 10
<i>State ex rel. Rear Door Bookstore v. Tenth Dist. Court of Appeals</i> (1992), 63 Ohio St. 3d 354, 358	11

Constitutions

Ohio Const. Art. XVIII, § 3..... 8

Statutes

Ohio Rev. Code § 9.312 8

Ohio Rev. Code § 307.90 1

Ohio Rev. Code Chapter 4115 8

EXPLANATION OF WHY THIS CASE IS NOT OF PUBLIC OR GREAT IMPORTANCE

Judicial oversight of a county board's lawful rejection of a bid for a public construction contract does not amount to public or great importance. This case, therefore, does not merit the invocation of this Court's jurisdiction.

While Ohio competitive bidding laws require a public agency to award a public construction contract to the lowest and best bidder, *see* R.C. 307.90, the determination of "best" is committed to the discretion of the public agency. *Cedar Bay Const., Inc. v. City of Fremont* (1990), 50 Ohio St. 3d 19, 21, 552 N.E.2d 202. Because this discretion is committed to the public agency, this Court has held that "courts in this state should be reluctant to substitute their judgment for that of [public] officials in determining which party is the 'lowest and best bidder.'" *Id.* Further, "courts cannot interfere in the exercise of this discretion unless it clearly appears that the [public] authorities in whom the such discretion has been vested are abusing the discretion so vested in them." *Id.*

The seminal case illustrating an abuse of discretion by a public agency in the competitive bidding process -- and the case relied upon for relief by Appellants -- is *Dayton ex rel. Scandrick v. McGee* (1981) 67 Ohio St. 2d 356, 423 N.E.2d 1095. The *Scandrick* Court held that a public agency's disqualification of the lowest bidder on the basis of unannounced bid selection criteria is an abuse of discretion. *Id.* The public officials in *Scandrick* had rejected a bidder on the basis of a residency requirement that was imposed after the bids were open, giving preference to the local bidder. *Id.* Because the residency requirement was not disclosed until after the bids were open, the Court held that the public officials had used an unannounced bid selection criterion and had, therefore, abused their discretion. *Id.* at 359.

The instant case has no indicia of the abuse of discretion found in *Scandrick*. In contrast, the Franklin County Board of Commissioners' rejection of The Painting Company was not based upon an unannounced bid selection criterion. Instead, the bid was rejected on the basis of its bid selection criteria, specifically section 8.2.4.15, that was published in its Invitation to Bidders for the Huntington Park Project. This criterion, established in 2002, excludes contractors that have been "debarred from public contracts or found by the state (after all appeals) to have violated prevailing wage laws more than three times in a two-year period in the last ten years."

The establishment of section 8.2.4.15, among other criteria, was a valid exercise of the Board of Commissioners' discretion in determining which contractors were "lowest and best." As enacted, the criterion ensures standards for selecting quality contractors – specifically, those that comply with Ohio's prevailing wage laws – for public projects. Pertinent to this case, section 8.2.4.15 has had universal application and equal enforcement on the Huntington Park project.

The Painting Company failed to satisfy this criteria. In order to evaluate The Painting Company's compliance with section 8.2.4.15, the Franklin County Board of Commissioners relied upon information provided by the Ohio Department of Commerce. That information provided a basis for determining that The Painting Company had been found by the state to have violated Ohio prevailing wage laws more than three times in a two-year period in the last ten years; more simply, The Painting Company had not satisfied section 8.2.4.15.

While Appellants cite as error the reliance by the Franklin County Board of Commissioners on the information provided to it by the Ohio Department of Commerce,

the nature and extent of the information provided is not relevant to the determination of whether the Franklin County Board of Commissioners abused its discretion in rejecting The Painting Company's bid. Moreover, the characterization of The Painting Company's prevailing wage violations by the Ohio Department of Commerce and the effect of The Painting Company's rejection are immaterial to the narrow inquiry that was presented in this case. Thus, Appellants' exceptions to the Ohio Department of Commerce's administration and enforcement of Ohio's prevailing wage laws are not relevant in this case.

Nevertheless, The Painting Company's bid was rejected on the basis of failing to satisfy the established bid selection criterion, section 8.2.4.15 – not on the basis of unannounced bid selection criteria. As such, this case does not illustrate the clear abuse of discretion found in *Scandrick*.

As *Scandrick* illustrates, there are occasions upon which judicial intervention is necessary in order to preserve the competitive bidding process. But, where, as here, a rejected bidder is disappointed by the county board of commissioners' lawful interpretation and application of its bid selection criteria, judicial intervention undermines the ability of the board to exercise the discretion committed to it by the General Assembly. This case lacks the patent abuse of discretion found in *Scandrick*, thus it lacks the public or great importance requisite for this Court's adjudication. Accordingly, this Court should not exercise its jurisdiction and expend its resources in order to engage in the oversight of a county's administration of a construction project.

STATEMENT OF FACTS

In 2002, the Franklin County Board of Commissioners (“the Board”) adopted quality contracting standards in order to provide for better contractors. These quality contracting standards were incorporated into the bid selection criteria for determining which bids would be lowest and best for contracts that must be awarded by competitive bidding. These standards included a selection criterion, section 8.2.4.15, on prevailing wage compliance. The language of this prevailing wage criteria has been identical for six years, and the selection criterion has been applied consistently.

During Franklin County’s construction of the Huntington Park Project, the new home stadium for the Columbus Clippers. Part of the project included soliciting bids for the painting portion of the project, which is found in bid package 3A. One of the bids accepted for the painting contract was submitted by The Painting Company

Wayne King, Prevailing Wage Coordinator for Franklin County, reviewed the submitted bids to evaluate whether the bidder satisfied the prevailing wage standard in the quality contracting standards. Through records received from the Ohio Department of Commerce, it was determined by the Board that The Painting Company had numerous prevailing wage violations, even though the violations were ultimately settled by the State and The Painting Company. The Board ultimately rejected the bid protest of The Painting Company for the failure to satisfy section 8.2.4.15.

The Painting Company, as well as the Associated Builders & Contractors of Central Ohio (together, “Appellants”), brought an action seeking declaratory and injunctive relief based upon violations of the competitive bidding laws, mandamus relief

for the award of the contract, and declaratory relief to find that Franklin County's quality contracting standards were preempted by Ohio's prevailing laws.¹

On March 31, 2008, the trial court denied the declaratory, injunctive, and extraordinary relief sought by ABC and The Painting Company. Specifically, the court held that ABC and The Painting Company failed to prove by clear and convincing evidence that the Board abused its discretion in rejecting The Painting Company's bid. *State ex rel. Assoc. Builders & Contractors of Central Ohio v. Franklin Cty. Bd. of Commrs.* (Franklin Co. Comm. Pl., March 31, 2008), 2008-CVH-03-3328, pp. 22-23. The court also held that section 8.2.4.15 of the bid selection criteria was not preempted by state law or void for vagueness. *Id.* at 22.

Appellants appealed the trial court's decision to the Tenth District Court of Appeals. The court of appeals overruled Appellants' assignment of error and affirmed the judgment of the trial court. *State ex rel. Assoc. Builders & Contrs. Of Cent. Ohio v. Franklin Cty. Bd. of Commrs.* (Ohio App. 10 Dist., June 13, 2008), 2008-Ohio-2870.

ARGUMENT

I. Response to Proposition of Law Nos. 1 and 2

In a competitive bidding dispute, a bidder that is lawfully rejected by a public agency for not being the lowest and best bid does not acquire a constitutionally protected right requiring due process. The absence of an enforceable right precludes judicial review.

A bidder does not acquire a property interest where a public authority properly exercises its discretion and does not award a contract to the bidder deemed to have failed

¹ Counts three and five of Plaintiffs' Complaint sought injunctive relief for alleged violations of Ohio's Open Meetings Act and mandamus relief for violations of the Public Records Act, respectively. Both counts were dismissed by the Plaintiffs at trial.

to satisfy the requirements in order to be the lowest and best bidder. *Cleveland Constr., Inc. v. Cincinnati* (May 21, 2008), 118 Ohio St. 3d 283, 288, 2008-Ohio-2337; *see also, Cleveland Constr., Inc. v. Ohio Dept. of Adm. Serv., Gen. Serv. Adm.* (Ohio App. 10 Dist., 1997), 121 Ohio App. 3d 372, 395, 700 N.E.2d 54 (“A party that is a second- or third-place finisher in a determination of lowest and best bidder does not acquire a constitutionally protected property right.”) (citing *Miami Valley Contrs., Inc., v. Oak Hill* (Ohio App. 4 Dist., 1996), 108 Ohio App. 3d 745, 671 N.E.2d 646). Moreover, in the absence of a property interest, constitutional procedural due process concerns are not implicated. *Cleveland Constr., Inc. v. Ohio Dept. of Adm. Serv., Gen. Serv. Adm.* (Ohio App. 10 Dist., 1997), 121 Ohio App. 3d 372, 395, 700 N.E.2d 54.

In this case, The Painting Company never acquired a property right subject to constitutional due process. Appellants failed to establish, both at trial and on appeal, by clear and convincing evidence that the Board abused its discretion in rejecting The Painting Company’s bid. Without establishing an abuse of discretion, The Painting Company did not acquire a property right in the painting contract at issue. Because no constitutionally protected property right was at stake, the Board’s rejection of The Painting Company’s bid did not implicate constitutional due process concerns.

Additionally, the Board’s reliance on the information, regarding The Painting Company’s prevailing wage violations, as provided by the Ohio Department of Commerce, does not implicate any due process concerns because no property interest was at stake. Similarly, The Painting Company’s concerns about its reputation with respect to the Ohio Department of Commerce’s characterizations of The Painting Company’s

prevailing wage violations are irrelevant to this case. The State of Ohio is not a party to this case, and its agency's administration and practices are not subject for review.

Because The Painting Company lacked a constitutionally protected right to due process, judicial review of any procedural due process claim was unnecessary. Appellants claim that the court of appeals' failure to address due process concerns was plain error fails to satisfy the exceptionally high standard necessary for plain error to apply.

This Court has held that the plain error doctrine "is sharply limited to the *extremely rare* case involving *exceptional* circumstances where the error, left unobjected to at the trial court, rises to the level of challenging the legitimacy of the underlying judicial process itself." *Goldfuss v. Davidson* (1997), 79 Ohio St. 3d 116, 122, 679 N.E.2d 1099 (emphasis original). Further, the *Goldfuss* Court warned that "[t]he plain error doctrine should never be applied to reverse a civil judgment simply because a reviewing court disagrees with the result obtained in the trial court, or to allow litigation of issues which could easily have been raised and determined in the initial trial." *Id.*

This case is not extremely rare, nor does it involve the exceptional circumstances outlined by the *Goldfuss* Court. The Painting Company lacked a constitutionally protected right, and the Board's lawful rejection of The Painting Company's bid did not implicate any constitutional due process concerns. Without a due process interest at stake, this situation cannot be deemed to have "risen to the level of challenging the legitimacy of the underlying judicial process itself." *Id.* Therefore, judicial review of Appellants' due process claim is unwarranted.

II. Response to Proposition of Law No. 3

R.C. Chapter 4115 does not prohibit public authorities from considering a contractor's history of compliance with prevailing wage laws when determining which bid is lowest and best for a public construction project.

Public agencies in Ohio are afforded broad discretion in determining which contractor is the lowest and best bidder. As such, public agencies may consider various factors in their evaluation of a contractor in determining which bid is lowest and best. See, e.g. R.C. 9.312(A) (providing for the consideration of such factors as the bidder's past performance and conduct on previous contracts). The Board's application of section 8.2.4.15 is not preempted by state law because R.C. Chapter 4115 does not prohibit a public authority from considering a contractor's history of compliance with prevailing wage laws when determining which bid is lowest and best.

Additionally, Article XVIII, Section 3 of the Ohio Constitution has no application to county contracting standards as that particular constitutional provision was designed to provide for *municipal* home rule in Ohio, and to set forth the parameters under which such home rule could be exercised. It simply does not operate to empower or limit the operations of county governments. But even if Art. XVIII, Sec. 3 were applicable, the standards adopted by the Board as a part of its quality contracting criteria are not laws, ordinances, or regulations. Section 8.2.4.15 is a criterion used by the Commissioners in determining whether a contractor is lowest and best, and thus qualified to an award of a contract for a public construction project.

Ultimately, section 8.2.4.15 is a valid criterion for the Board to utilize and is not preempted by state law.

III. Response to Proposition of Law No. 4

A settlement of prevailing wage violations between a contractor and the State of Ohio does not render unlawful a public authority's reliance on information provided by the Ohio Department of Commerce detailing the underlying prevailing wage violations by the contractor.

A settlement agreement's non-liability language cannot be interpreted to prohibit a public agency from considering the underlying prevailing wage violations, which were at issue in the settlement, in evaluating whether a bid is both lowest and best. A public agency has the discretion to determine whether or not a non-admissions clause contained in a settlement agreement operates to eliminate the prevailing wage violations history of a company.

Courts have upheld the reliance on the underlying violations that were later settled. *See, State ex rel. Navratil v. Medina County Comm'rs.* (Ct. App. 9 Dist. Oct. 11, 1995), Medina Co. No. 2424-M, 1995 Ohio App. LEXIS 4541, 2 Wage & Hour Cas. 2d (BNA) 1643; *Bickford v. Adm'r., Ohio Bureau of Employment Serv.* (Ct. App. 5 Dist. July 30, 1991), Muskingum Co. No. 90-41, 1991 Ohio App. LEXIS 3636 (holding that while a settlement agreement with OSHA did not constitute an admission of fault or liability, the citations issued by OSHA constituted evidence of the conditions of the work site as they existed).

The board of county commissioners in *Navratil* did not award a plumbing contract to the lowest bidder upon the board's consideration of the bidder's alleged prevailing wage violations. *Id.* In upholding the board's decision, the *Navratil* court held that "the board has broad discretion to consider all relevant factors, including prevailing wage violations, when determining which contractor is the 'lowest and best.'" *Id.* at *11. The board rejected a bidder on the basis of information obtained from the state concerning

prevailing wage violations, where the contractor “settled with the state before any convictions were obtained.” *Id.* at *3. As recognized by the court, the rationale behind the board’s consideration of a pattern of alleged prevailing wage violations is that the contractor may not “perform the work according to specifications.” *Id.*

Last, the argument advanced by ABC and The Painting Company, regarding the effect of a settlement on the underlying determinations made by the Ohio Department of Commerce, is contrary to public policy because the impact of this argument would be to encourage contractors not to pay according to Ohio’s prevailing wage laws. If a settlement agreement containing a non-admission clause with the State can erase the original determination, then contractors would be encouraged to not pay the wages owed to the employee upon the initial determination, but instead to anticipate litigation in order to settle the case and escape any penalty. The settlement could then wipe the slate clean, and it would be as if the contractor had never failed to pay the employee the wages he was rightfully owed, and that the State had never found that the contractor violated the prevailing wage laws. The encouragement of delay in the payment of prevailing wages in accordance with Ohio law, and without any repercussion to the violating contractor, cannot be a desirable result.

Therefore, the argument advanced by Appellants cannot be accepted as valid. The settlement agreement cannot rewrite history, or change the underlying situation. The settlement can only preclude any further liability to the State regarding The Painting Company’s prevailing wage violations. And, while the settlement agreement is not an admission of liability or wrongdoing, it is also not an absolution of any violation, and does not change the underlying circumstances that The Painting Company was found by

the State to have violated Ohio's prevailing wage laws. Accordingly, the Board's review regarding the settled prevailing wage claims was within the discretion afforded to the Board.

IV. Response to Proposition of Law No. 5

A public authority's bid selection criteria are not void for vagueness merely for the lack of an express definition of a word within the criteria, and the public authority's interpretation of the criteria cannot constitute an abuse of discretion.

The bid selection criteria in the quality contractor standards, as established by the Board, are not void for vagueness. While the criteria at issue are not "laws," guidance can be found in analyzing challenges to laws. Pursuant to Ohio law, "a law will survive a void-for-vagueness challenge if it is written so that a person of common intelligence is able to ascertain what conduct is prohibited, and if the law provides sufficient standards to prevent arbitrary and discriminatory enforcement." *State v. Williams* (2000), 88 Ohio St. 3d 513, 533; *see also, Klein v. Leis* (2003), 99 Ohio St. 3d 537, 541. Additionally, a law is not void "simply because it could be worded more precisely or with additional certainty." *City of Norwood v. Horney* (2006), 110 Ohio St. 3d 353, 380 (*citing State ex rel. Rear Door Bookstore v. Tenth Dist. Court of Appeals* (1992), 63 Ohio St. 3d 354, 358).

Section 8.2.4.15 of the quality contracting standards gives notice of what conduct will conform to the law in order to be eligible for the award of a contract for the Huntington Park Project: do not violate Ohio's prevailing wage laws three or more times in a two-year period within the last ten years. A contractor either complies with prevailing wage laws by paying accordingly, or one violates prevailing wage laws by not paying accordingly.

Additionally, section 8.2.4.15 cannot be declared void simply because the word “found” is not expressly defined. The Board’s acceptance of any determination by the Ohio Department of Commerce of a prevailing wage violation as evidence of a violation is not only within the purview of the Board, but also reasonable. While Appellants may not agree with the Board’s broad interpretation of the criterion and its effects, the Appellants’ disagreement with the Board’s reasonable interpretation and application of the section does not provide a sufficient basis to find that section 8.2.4.15 is void for vagueness.

Nor does the Board’s interpretation of the criterion establish an abuse of discretion. The criterion at issue, section 8.2.4.15 was published before the opening of the bids for the painting contract. The Board has applied this criterion consistently throughout the bidding process for the painting contract, and all contracts, for the Huntington Park Project. On this basis, the criterion and the Board’s interpretation of it cannot be viewed as the use of unannounced bid selection criteria.

CONCLUSION

For the foregoing reasons, Appellees respectfully submit that because this case is not of public or great importance this Court should decline to exercise jurisdiction.

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been served via hand delivery
this 27 day of August, 2008, upon:

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