

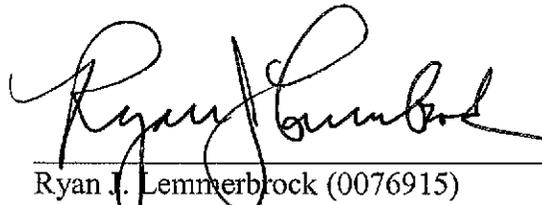
IN THE SUPREME COURT OF OHIO

STATE OF OHIO, et al. : Supreme Court Case No. **08-0418**
Appellants, : On Appeal from the Summit
County Court of Appeals,
v. : Ninth Appellate District
CITY OF AKRON, et al., :
Appellees. : **AFFIDAVIT CORRECTING**
: **STATEMENT IN ORAL ARGUMENT**
:

NOW COME Appellants, Fraternal Order of Police, Akron Lodge No. 7 and Akron Firefighters Association, IAFF Local 330, et al., through their counsel, pursuant to the Court's Order of February 19, 2009, and Rule IX, Section 9 of the Ohio Supreme Court Practice Rules, and offers the attached affidavit correcting a statement in oral argument.

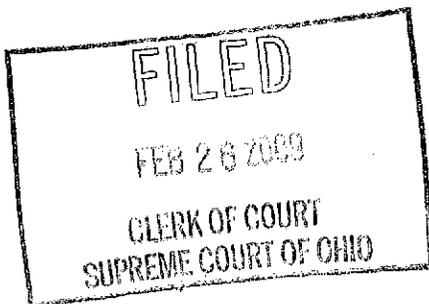
Respectfully submitted,

FAULKNER, MUSKOVITZ & PHILLIPS, LLP



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COUNSEL FOR APPELLANTS,
FOP, AKRON LODGE NO. 7 AND AKRON
FIREFIGHTERS ASSN., IAFF LOCAL 330, et al.



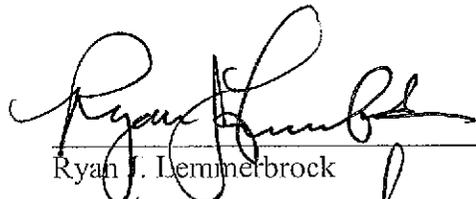
STATE OF OHIO)
)
COUNTY OF CUYAHOGA)

AFFIDAVIT OF RYAN J. LEMMERBROCK

NOW COMES Affiant, Ryan J. Lemmerbrock, first being duly sworn under oath and hereby states the following:

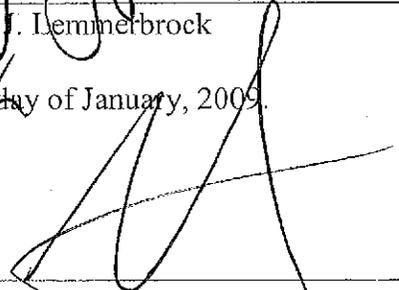
1. I am counsel of record for Appellants Fraternal Order of Police, Akron Lodge No. 7 and Akron Firefighters Association, IAFF Local 330, *et al.* in the case of *State of Ohio, et al. v. City of Akron, et al.*, Supreme Court Case No. 08-0418, and provide the following statement in relation to that case that is currently before the Court.
2. During oral argument before the Court in the referenced case, on January 20, 2009, in addressing a question of the Court, I made a statement of fact (not contained in the record) that requires correction. Specifically, after stating to the Court that the residency requirement prohibition of R.C. 9.481 does not prevent political subdivisions from awarding civil service applicants "bonus points" for residency or providing employees monetary incentives for maintaining residency, I provided the Court an example, stating that a public employer near the City of Akron provided its employees a monetary incentive for maintaining residency, and that R.C. 9.481 did not prevent this from continuing. I have since reviewed the collective bargaining agreement I was referring to, and have spoken with a union representative party to that collective bargaining agreement, and have been corrected that: the public employer in question, in response to a union proposal to remove residency requirements, offered in 2008 to maintain a special pay for employees who maintained residency; that the issue of maintaining pay for residents was negotiated by the parties during collective bargaining; and that the employer's proposal of a payment to employees maintaining residency was later withdrawn in negotiations and is currently not in place.
3. This correction does not in any way affect the parties' arguments before the Court, nor does it affect in any way the Court's determination on the issues before the Court. However, pursuant to ethical canons, I am compelled to correct this statement made to the Court.

Affiant further sayeth naught.



Ryan J. Lemmerbrock

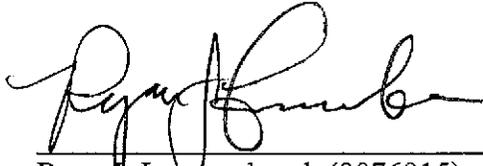
Sworn to and subscribed to me this 20th day of January, 2009.



Notary
SUSANNAH MUSKOVITZ, Attorney
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date,
Section 147.03 R.C.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing AFFIDAVIT CORRECTING STATEMENT IN ORAL ARGUMENT was served via regular U.S. mail this 24th day of February, 2009, upon Deborah M. Forfia, Assistant Director of Law, City of Akron, 161 South High Street, Suite 202, Akron, Ohio 44308, and Benjamin C. Mizer, Solicitor General, Constitutional Offices Section, 30 East Broad Street, 17th Floor, Columbus, Ohio 43215.

A handwritten signature in black ink, appearing to read "Ryan J. Lemmerbrock", written over a horizontal line.

Ryan J. Lemmerbrock (0076915)