

ORIGINAL

IN THE SUPREME COURT OF OHIO

SAINT TORRANCE,	:	Case No.: 09-1721
	:	
Relator,	:	ORIGINAL ACTION IN MANDAMUS
	:	AND PROHIBITION
v.	:	
	:	
HONORABLE JUDGE JEROME J.	:	
METZ, <i>et al.</i>	:	
	:	
Respondents.	:	

**THE HONORABLE JEROME J. METZ, JR.'S**  
**MOTION TO CONSOLIDATE,**  
**MOTION FOR AN EXTENSION OF TIME**  
**TO RESPOND TO RELATOR'S COMPLAINT,**  
**AND MOTION TO DECLARE RELATOR A VEXATIOUS LITIGATOR**

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**MOTION TO CONSOLIDATE,  
MOTION FOR AN EXTENSION OF TIME  
TO RESPOND TO RELATOR'S COMPLAINT,  
AND MOTION TO DECLARE RELATOR A VEXATIOUS LITIGATOR**

Now come Respondents, the Honorable Judge Lisa C. Allen of the Hamilton County Municipal Court; the Honorable Judge Jerome J. Metz, the Honorable Judge Ralph E. Winkler, the Honorable Judge Norbert A. Nadel, the Honorable Judge Beth A. Myers, the Honorable Judge Ethna M. Cooper, the Honorable Judge Dennis S. Helmick, the Honorable Judge William L. Mallory, the Honorable Judge Melba D. Marsh, the Honorable Judge Fanon A. Rucker, and the Honorable Judge John Andrew West of the Hamilton County Court of Common Pleas; and the Honorable Judge Lee H. Hildebrandt, Jr., the Honorable Judge Mark P. Painter, the Honorable Judge J. Howard Sundermann, Jr., the Honorable Judge Sylvia Sieve Hendon, the Honorable Judge Penelope R. Cunningham, and the Honorable Judge Patrick T. Dinkelacker of the First District Court of Appeals (collectively referred to as "the Judges"), and respectfully move this Court to consolidate their cases.<sup>1</sup>

In addition, the Judges respectfully request, pursuant to S.Ct.Prac.R. XIV(3)(B)(2)(b), an extension of ten days to respond to pro se Relator Saint Torrance's complaints.

Further, the Judges respectfully requests this Court declare Torrance a vexatious litigator under S.Ct.Prac.R. XIV(5)(B) and preclude Torrance from continuing to prosecute his pending actions against them.

The Judges' motion is supported by the following memorandum.

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<sup>1</sup> This motion will be contemporaneously filed in the listed judges' respective cases, Supreme Court Case Nos: 2009-1710, 2009-1711, 2009-1712, 2009-1713, 2009-1720, 2009-1721, 2009-1722, 2009-1723, 2009-1749, 2009-1749.

## Memorandum of Law

On September 22, 23, and 29, 2009, pro se Relator Saint Torrance filed twelve original actions in mandamus and prohibition in this Court. Ten of those actions seek relief against judges in the Hamilton County Municipal Court, Hamilton County Court of Common Pleas, and Ohio's First District Court of Appeals, including Respondents: the Honorable Judge Lisa C. Allen of the Hamilton County Municipal Court; the Honorable Judge Jerome J. Metz, the Honorable Judge Ralph E. Winkler, the Honorable Judge Norbert A. Nadel, the Honorable Judge Beth A. Myers<sup>2</sup>, the Honorable Judge Ethna M. Cooper, the Honorable Judge Dennis S. Helmick, the Honorable Judge William L. Mallory, the Honorable Judge Melba D. Marsh, the Honorable Judge Fanon A. Rucker, and the Honorable Judge John Andrew West of the Hamilton County Court of Common Pleas; and the Honorable Judge Lee H. Hildebrandt, Jr., the Honorable Judge Mark P. Painter<sup>3</sup>, the Honorable Judge J. Howard Sundermann, Jr., the Honorable Judge Sylvia Sieve Hendon, the Honorable Judge Penelope R. Cunningham, and the Honorable Judge Patrick T. Dinkelacker of the First District Court of Appeals. *See* Supreme Court Case Nos. 2009-1710, 2009-1711, 2009-1712, 2009-1713, 2009-1720, 2009-1721, 2009-1722, 2009-1723, 2009-1749, and 2009-1750.

The majority of Torrance's complaints are unintelligible, but it appears that in each case, Torrance is complaining about a decision or decisions rendered in the lower court. In each case, he asks this Court to issue a writ of mandamus or prohibition to reverse, alter, or impugn the lower court's decision. He also seeks compensatory and punitive damages against the Judges, in excess of twelve million dollars against each.

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<sup>2</sup> Torrance incorrectly spells Judge Myers' name as "Meyers."

<sup>3</sup> The Honorable Judge Mark P. Painter is now retired from the First District Court of Appeals. He is currently a judge at the United Nations Appeals Tribunal.

## **Motion to Consolidate**

Due to the similarities in their cases, the Judges request that this Court consolidate these actions. Consolidation is appropriate because the cases allege a similar fact pattern and involve the same legal issues. In each case, Torrance is suing one or more of the Judges and improperly demanding this Court issue a writ of mandamus or prohibition to reverse, alter or impugn a lower court decision. The Judges will ultimately present the same primary defense to each action—i.e., that Torrance has an alternative remedy at law and “neither mandamus nor prohibition will issue if the party seeking extraordinary relief has an adequate remedy in the ordinary course of law.” *State ex rel. Plant v. Cosgrove*, 119 Ohio St.3d 264, 2008 Ohio 3838, 893 N.E.2d 485, at ¶5, citing *Dzina v. Celebrezze*, 108 Ohio St.3d 385, 2006 Ohio 1195, 843 N.E.2d 1202, at ¶12. For this reason, the Judges respectfully request the following Supreme Court cases be consolidated into one action:

- 2009-1710: *Saint Torrance v. Honorable Judge Lisa C. Allen, et al.*
- 2009-1711: *Saint Torrance v. Honorable Judge Beth A. Meyers, et al.*
- 2009-1712: *Saint Torrance v. Honorable Judge William Mallory et al.*
- 2009-1713: *Saint Torrance v. Honorable Judge Norbert Nadel, et al.*
- 2009-1720: *Saint Torrance v. Honorable Judge Ethna M. Cooper, et al.*
- 2009-1721: *Saint Torrance v. Honorable Judge Jerome J. Metz, et al.*
- 2009-1722: *Saint Torrance v. Honorable Judge Ralph E. Winkler, et al.*
- 2009-1723: *Saint Torrance v. Honorable Judge Ralph E. Winkler*
- 2009-1749: *Saint Torrance v. Honorable Judge John Andrew West, et al.*
- 2009-1750: *Saint Torrance v. Honorable Judge Fanon A. Rucker, et al.*

This Court, the parties, and counsel will be spared a great amount of time and expense if the complaints can be addressed collectively in one action. Therefore, consolidation is appropriate.

### **Motion for an Extension of Time**

The Judges further respectfully request, pursuant to S.Ct.Prac.R. XIV(3)(B)(2)(b), that this Court grant them a ten day extension of time to respond to Torrance's complaints. The Judges' current responsive deadlines range, depending upon the date each judge was served, from October 15, 2009 to October 22, 2009.

Moving counsel represents the Judges in all of the above listed cases. An extension of time will provide counsel sufficient time to prepare a response to Torrance's multiple complaints and will also afford this Court time to consider and rule upon the Judges' motion to consolidate. Therefore, the Judges request an extension of ten days from their earliest response deadline, Thursday, October 15, 2009. If this Court consolidates these actions, the Judges respectfully request a new responsive deadline for the consolidated action of **Monday, October 26, 2009.**<sup>4</sup> If, however, this Court denies the Judges' motion to consolidate, the Judges respectfully request they each be granted an extension of time until October 26, 2009, to respond to Torrance's complaint in their respective cases.

### **Motion to Declare Relator Saint Torrance a Vexatious Litigator**

The Judges further move this Court to declare Relator Saint Torrance a vexatious litigator. Rule XIV(5)(B) provides:

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<sup>4</sup> Ten days from October 15, 2009, is Sunday, October 25, 2009. Pursuant to S.Ct.Prac.R. XIV(3)(A), a response due on Sunday must be filed on or before the following Monday. Therefore, the Judges' new responsive deadline will be on Monday, October 26, 2009.

If a party habitually, persistently and without reasonable cause engages in frivolous conduct under section 5(A) of this rule, the Supreme Court may, *sua sponte* or on motion by a party, find the party to be a vexatious litigator. If the Supreme Court determines that a party is a vexatious litigator under this rule, the Court may impose filing restrictions on the party. The restrictions may include prohibiting the party from continuing or instituting legal proceedings in the Supreme Court without first obtaining leave, prohibiting the filing of actions in the Supreme Court without the filing fee or security for costs required by S.Ct.Prac.R. XV, or any other restriction the Supreme Court considers just.

In recent months, Torrance has plastered this Court's docket with his unintelligible complaints. His frivolous pleadings serve no other purpose than to harass members of the judiciary and waste the time of this Court and all those involved in his cases. Torrance's cases fall squarely within the parameters of the vexatious litigator rule; therefore, this Court should prohibit him from continuing his pending actions or instituting any new ones without first obtaining leave of court.

**A. Between August and September of 2009, Torrance Filed Sixteen Frivolous Actions in this Court.**

Since August 18, 2009, Saint Torrance has filed seventeen original actions in this Court, each based in mandamus and/or prohibition. (See the Supreme Court of Ohio's Docket, attached as Exhibit A<sup>5</sup>.) Twelve of those actions include claims against a judge or judges presiding in the Hamilton County courts or the First District Court of Appeals, and each seeks to reverse a decision rendered by the judge or judges in an underlying case. Torrance's complaints also share other common elements: they are largely incomprehensible, demand large sums of money from members of the judiciary (approximately \$12,700,000 in most cases), and will be ultimately futile. Torrance appears to be frustrated with the lower courts' decisions, but rather than appeal those

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<sup>5</sup> Due to the volume of exhibits attached to this motion, the exhibits will only be attached and filed with the motion in Case No. 2009-1710.

decisions through the proper channels, he has filed sixteen complaints in mandamus and prohibition in this Court. This is not the proper mechanism to attack a lower court judgment—“neither mandamus nor prohibition will issue if the party seeking extraordinary relief has an adequate remedy in the ordinary course of law,” such as an appeal. *State ex rel. Plant*, 2008 Ohio 3838, at ¶5, citing *Dzina*, 2006 Ohio 1195, at ¶12.

**B. Torrance knew these Complaints were Improper before he filed Them.**

Torrance knew, at the time he filed his most recent actions against the Judges, that his proper remedy was to appeal the lower court decisions. On August 28, 2009, almost one month before Torrance filed his ten most recent actions against the Judges, the Honorable Judge Ralph E. Winkler of the Hamilton County Court of Common Pleas moved to dismiss Torrance’s Complaint against him in Supreme Court Case No. 2009-1529. In his Motion to Dismiss, Judge Winkler clearly explained that Torrance’s mandamus action must fail, because Torrance had an adequate remedy at law:

Judge Winkler’s order of dismissal determined the action before him. Relator [Torrance] has a right of appeal under the Ohio Rules of Appellate Procedure and R.C. 2505.03.

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A writ of mandamus is not a substitute for appeal and a direct appeal is an adequate remedy at law precluding the issuance of a writ of mandamus.

(See Motion to Dismiss and Memorandum in Support of Motion to Dismiss Respondent Honorable Ralph E. Winkler, Judge, Court of Common Pleas, Hamilton County, Ohio, p. 6, Supreme Court of Ohio Case No. 2009-1529, attached as Exhibit B.) Despite this, Torrance proceeded to file ten similar complaints against lower court judges, demanding this Court order the judges to change their decisions in his underlying cases.

**C. Torrance Habitually Files Complaints in this Court Without Reasonable Cause.**

Moreover, Torrance is filling this Court's docket with duplicative actions. Some of the complaints Torrance filed with this Court are duplicative of previous, unsuccessful mandamus actions filed in the Court of Appeals, while others are duplicative of cases filed in this Court.

For example, Torrance filed a mandamus action against the Honorable Judge Ralph E. Winkler in the Court of Appeals based on the judge's actions in a common pleas court case, *Torrance v. Vehicle Information Service, Inc.*, Hamilton County Court of Common Pleas, Case No. A0902495. (See Mandatory Emergency Injunctive and/or Declaratory Relief of Notice Writ of Mandamus (sic), First Appellate District Case No. C0900525, attached as Exhibit C.) The Court of Appeals dismissed that action. (See Entry Granting Motion to Dismiss Mandatory Emergency Injunctive and/or Declaratory Relief of Notice Writ of Mandamus (sic), attached as Exhibit D.) Torrance then filed a complaint in this Court, demanding the same relief. (See *Torrance v. Honorable Judge Ralph E. Winkler*, Supreme Court Case No. 2009-1722, Complaint attached as Exhibit E.)

Similarly, in *Saint Torrance v. Honorable Judge Jerome J. Metz*, First Appellate District Case No. A0902496, Torrance requested the Court of Appeals order a writ of mandamus against Judge Metz. (See Plaintiff's Mandatory Judicial Notice of Writ of Mandamus, attached as Exhibit F.) In that case, Torrance complained about Judge Metz's decisions in the case of *Torrance v. Angel Hill*. *Id.* The appellate court granted Judge Metz's Motion to Dismiss. (See Entry Granting Motion to Dismiss Mandatory Judicial Notice Writ of Mandamus (sic), attached as Exhibit G.) Yet just weeks later,

Torrance filed an action in mandamus and prohibition in this Court against Judge Metz, complaining about the judge's actions in the same underlying case. (See, *Saint Torrance v. Honorable Judge Jerome J. Metz, et al.*, Supreme Court Case No. 2009-1721, Complaint attached as Exhibit H.)

Not only are some of Torrance's current complaints duplicative of his previous, underlying complaints, but some of his current complaints are duplicative of each other. For example, compare the Complaint in *Saint Torrance v. Honorable Judge Lisa C. Allen, et al.*, Supreme Court Case No. 2009-1710 (attached as Exhibit I) with the Complaint in *Saint Torrance v. Honorable Judge Ralph E. Winkler*, Supreme Court Case No. 2009-1723 (attached as Exhibit J). Aside from the captions, the complaints raise the same allegations, against the same parties, and demand the same relief.

If permitted to continue, Torrance will only further plague this Court's docket with his frivolous, duplicative filings. He will cause unnecessary costs to this Court and all parties and counsel involved. Therefore, the Judges respectfully requests this Court declare Torrance a vexatious litigator and preclude him from continuing his pending actions.

### **Conclusion**

Based on the foregoing, Respondents, the Honorable Judge Lisa C. Allen of the Hamilton County Municipal Court; the Honorable Judge Jerome J. Metz, the Honorable Judge Ralph E. Winkler, the Honorable Judge Norbert A. Nadel, the Honorable Judge Beth A. Myers, the Honorable Judge Ethna M. Cooper, the Honorable Judge Dennis S. Helmick, the Honorable Judge William L. Mallory, the Honorable Judge Melba D. Marsh, the Honorable Judge Fanon A. Rucker, and the Honorable Judge John Andrew West of the Hamilton County Court of Common Pleas; and the Honorable Judge Lee H.

Hildebrandt, Jr., the Honorable Judge Mark P. Painter, the Honorable Judge J. Howard Sundermann, Jr., the Honorable Judge Sylvia Sieve Hendon, the Honorable Judge Penelope R. Cunningham, and the Honorable Judge Patrick T. Dinkelacker of the First District Court of Appeals, respectfully request this Court consolidate their cases. In addition, the Judges request this Court grant them an extension of ten days to respond to Torrance's complaints. Further, the Judges respectfully requests this Court declare Torrance a vexatious litigator under S.Ct.Prac.R. XIV(5)(B) and preclude him from continuing with his pending actions against them.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

On October 9, 2009, I served a copy of the foregoing upon the following party via regular U.S. Mail, first-class postage prepaid:

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