

ORIGINAL

In the
Supreme Court of Ohio

STATE OF OHIO, ex rel.	:	CASE NO. 2010-0211
JAMEY D. BAKER,	:	
	:	
Relator-Appellant,	:	On Appeal from
	:	the Franklin County Court of Appeals,
vs.	:	Tenth Appellate District
	:	
COAST TO COAST MANPOWER LLC,	:	Court of Appeals
	:	Case No. 09AP-0287
Respondent-Appellee,	:	
	:	
and	:	
	:	
INDUSTRIAL COMMISSION OF OHIO,	:	
	:	
Respondent-Appellant.	:	

**APPELLANT, INDUSTRIAL COMMISSION OF OHIO'S MOTION TO STRIKE
MEMORANDUM CONTRA SUBMITTED BY APPELLEES,
COAST TO COAST MANPOWER, LLC AND DOLGENCORP, INC.,
IN RESPONSE TO APPELLANTS' MOTION TO CONSOLIDATE**

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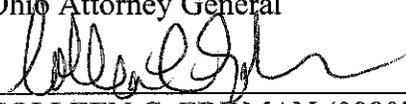
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OCT 12 2010
CLERK OF COURT
SUPREME COURT OF OHIO

Appellant, Industrial Commission of Ohio (“commission”) moves to strike the Memorandum Contra to Appellants’ Motion to Consolidate submitted by Appellees, Coast to Coast Manpower LLC (“Manpower”) and Dolgencorp, Inc. (“Dollar General”), filed on October 4, 2010. The grounds for this motion are fully set forth in the accompanying Memorandum in Support.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

Appelles' Memorandum Contra to Appellants' Motion to Consolidate is factually incorrect, and contains inflammatory and irrelevant statements meant to draw this Court's attention away from the issue: are the facts and legal issues of *State ex rel. Jamey Baker v. Indus. Comm. and Coast to Coast Manpower, LLC*, 2010-0211, similar enough to *State ex rel. Dolgencorp, Inc. v. Indus. Comm. and Joanne Simpson*, 2010-0124, to warrant consolidation in order to conserve judicial resources. For that reason, the commission respectfully asks this Court to strike Manpower and Dollar General's response in its entirety, or in the alternative, strike a portion of their response.

Beginning on page 5, Manpower and Dollar General incorrectly claim that counsel in the *Baker* case has ignored the legal wishes of her client, the commission, in favor of her own position on the merits of the *Baker* case. Not only is this statement inflammatory, but it is simply untrue. Originally, the commission took the position that Baker was not entitled to a writ of mandamus. Accordingly, counsel filed the commission's brief defending the order denying Baker a total loss of vision award. However, because the commission is committed to issuing orders that comply with the law, the commission internally reconsidered the matter and conceded error in denying Baker's award. On August 14, 2009, counsel in *Baker* filed an amended brief setting forth that position, *at her client's direction*, before the magistrate's oral argument took place. The commission's position has remained the same since that date. In turn, counsel's assertion of the commission's position has remained the same.

Additionally, in order to stir up controversy, Appellees argue that counsel has taken a position contrary to that of the other attorneys in her office, as evidenced by the supplemental authority she filed in *Baker*. Again, this is false. The commission's counsel in *Baker* never

submitted supplemental citations. Rather, Manpower did. The commission's counsel did, however, move to strike Manpower's pleading for its inclusion of an argument section, which is contrary to this Court's rules.

This attack on counsel is unnecessary, and serves only as a misguided attempt to turn this Court's attention away from the actual issues in *Baker* and *Simpson*. Accordingly, the commission asks that Appellees' entire response be stricken or, in the alternative, the bottom of page 5 and the entire page 6. Under 4123.512(C), the General Assembly deemed it mandatory for the Attorney General's Office to represent the commission. Counsel takes this mandate seriously, and seeks only to follow the commission's legal direction within the bounds of law.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing *Appellant, Industrial Commission of Ohio's Motion to Strike Memorandum Contra Submitted by Appellees, Coast to Coast Manpower, LLC, and Dolgencorp, Inc., in Response to Appellants' Motion to Consolidate*, was sent to the following by regular U.S. Mail, postage prepaid, this 12th day of October, 2010:

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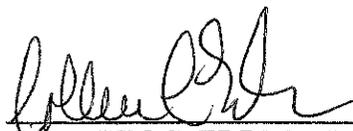
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