

IN THE SUPREME COURT OF OHIO

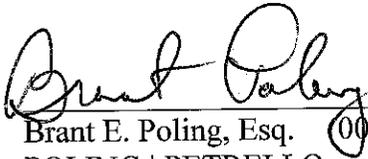
John T. Flynn, et al.,	:	Case No. 2010-1881
	:	
Plaintiff-Appellees,	:	On Appeal from the
	:	Cuyahoga County Court
v.	:	of Appeals, Eighth
	:	Appellate District
Saber Healthcare Group, LLC, et al.,	:	Case No. CA-10-095695
	:	
Defendants-Appellants.	:	Civil Action No: 2009-3975 MT
	:	

Sandra Havel	:	Case No. 2010-2148
	:	
Plaintiff-Appellee	:	On Appeal from the
	:	Cuyahoga County Court
v.	:	Of Appeals, Eighth
	:	Appellate District
Villa St. Joseph, et al.	:	Case No. CA 94677
	:	
Defendants-Appellants	:	
	:	

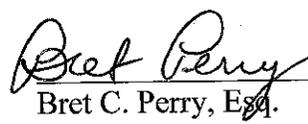
**JOINT MOTION OF APPELLANTS SABER HEALTH CARE GROUP, LLC, ET AL.  
AND VILLA ST. JOSEPH, ET AL. TO CONSOLIDATE ORAL ARGUMENT DATE**

Now come Appellants Saber Health Care Group, LLC, et al., in Case No. 2010-1881 and Appellants Villa St. Joseph, et al., in Case No. 2010-2148, by and through their respective counsel, respectfully moving this Court to consolidate the oral argument date for these respective cases. The issues presented in each of the cases share a common nexus and, accordingly, in order to efficiently adjudicate the respective cases and to address issues of commonality, these two cases should be heard on the same day for oral argument. The basis for this motion is more fully set forth in the attached Memorandum in Support.

**FILED**  
**APR 27 2011**  
**CLERK OF COURT**  
**SUPREME COURT OF OHIO**

 *by PML*  
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## MEMORANDUM IN SUPPORT

The cases of *Flynn et al. v. Saber Healthcare Group, LLC, et al.*, Ohio Supreme Court Case No. 2010-1881 and *Havel v. Villa St. Joseph et al.*, Ohio Supreme Court Case No. 2010-2148 each arise out of a trial court denials of a motions made, pursuant to R.C. 2315.21(B), to bifurcate punitive damages. In *Flynn*, the Eighth District Court of Appeals dismissed the case for lack of final appealable order and appeal to this Court the issue of whether a denial to bifurcate is a final appeal order within the meaning of R.C. 2505.02(B)(4) and R.C. 2505.02(B)(6). In *Havel*, the Eighth District Court of Appeals accepted jurisdiction over the case but affirmed the trial court's denial of Appellants motion to bifurcate and *sua sponte* holding that R.C. 2315.21(B) was unconstitutional. The *Havel* Appellants appeal to this Court the substantive decision and holding of the Eighth District Court of Appeals. The merit brief for the *Flynn* Appellants was filed on April 8, 2011. The merit brief for the *Havel* Appellants was filed on April 14, 2011.

As each of the above cases arise out of common questions of law, it is in the interest of judicial economy to permit each case to proceed, separately, to oral argument on the same day. The Court will have an opportunity to prepare and address those issues in commonality and, given that this Court's ultimate holding on the substantive issues raised in *Havel* will be controlling over both cases, it would be appropriate if each case were heard on the same day. Notably, the briefing schedule for the respective cases is less than one week apart and, accordingly, should not unduly delay the proceedings and adjudication of these respective appeals.

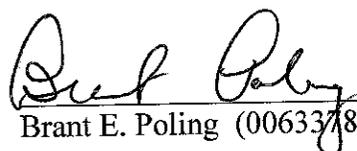
For the reasons set forth above, Appellants Saber Health Care Group, LLC, et al. and Appellants Villa St. Joseph, et al., respectfully request that this Court consolidate the date for oral argument of these cases for the same day while permitting separate oral arguments for each party.

**CERTIFICATE OF SERVICE**

A true and accurate copy of the foregoing was sent via ordinary U.S. mail, postage prepaid,  
on this 27<sup>th</sup> day of April, 2011 to the following:

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