ORIGINAL

IN THE SUPREME COURT OF OHIO

IN RE ALL CASES AGAINST SAGER CORPORATION	)	Case No.: 10-1705
	)	On Appeal from the Cuyahoga County Court of Appeals, Eighth Appellate District
	)	Court of Appeals Case No. CA-09-093567

MOTION TO STRIKE APPELLANT'S MERIT BRIEF AND MOTION TO DISMISS

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CLERK OF COURT
SUPREME COURT OF OHIO

APPELLEES' MOTION TO STRIKE APPELLANT'S
MERIT BRIEF AND MOTION TO DISMISS

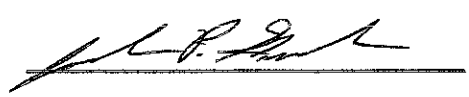
Supreme Court Rule 3.1, Memorandum in Support of Jurisdiction, states the following:

(B) **A memorandum in support of jurisdiction shall contain *all* of the following:**
(1) A table of contents, which shall include the ***propositions of law***;
(2) A thorough explanation of why a substantial constitutional question is involved, why the case isof public or great general interest, or, in a felony case, why leave to appeal should be granted;
(3) A statement of the case and facts;
(4) ***A brief and concise argument in support of each proposition of law.***

The memorandum in support of jurisdiction filed by Appellant on October 1, 2010 contained a *single* proposition of law. This single proposition of law is what was accepted for review by this Honorable Court on January 19, 2011. However, Appellant's merit brief, filed on April 4, 2011, contains *five* propositions of law, not a single one of which matches the single proposition of law found in Appellant's memorandum in support of jurisdiction. In fact, propositions of law No. III and IV are issues being brought up for the first time on appeal. As such, Appellees move this Honorable Court to strike Appellant's merit brief for failure to conform to the propositions of law accepted for review in this case, or strike those sections which relate to issues which are being brought up for the first time on appeal.

If this Honorable Court does strike Appellant's merit brief, Appellees additionally move this Honorable Court to dismiss this appeal for failure of the Appellant to file its merit brief within the allotted time.

Respectfully submitted,



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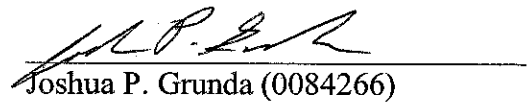
PROOF OF SERVICE

I certify that a copy of this Memorandum in Response to Jurisdiction was sent to all parties of record by U.S. Mail, postage prepaid this 23rd day of May, 2011:



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