

ORIGINAL

IN THE SUPREME COURT OF OHIO

Original action in mandamus; case no. 2010-2029

STATE ex rel. DATA TRACE INFORMATION SERVICES, LLC, et al.,

Relators,

-v-

RECORDER OF CUYAHOGA COUNTY, OHIO,

Respondent.

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Relators' response to the respondent's motion for oral argument

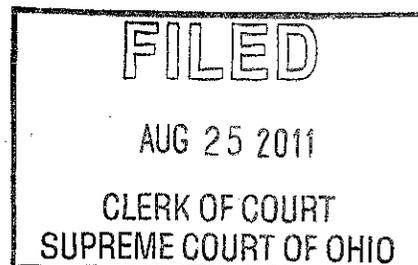
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This Court should deny the respondent's motion for oral argument.

As the Court need not hear oral argument in this or any other original action, the Court typically has denied requests for oral argument in original actions or appeals from actions originating in the courts of appeals. In relators' review of the last 10 years of rulings on such requests, the Court has denied about 73% of those requests. In the cases where the Court granted requests for oral argument, about 55% were appeals from the decisions of the state tax board of appeals.

When the Court has granted requests for oral argument in original actions or appeals as of right from cases originating in the courts of appeals, the Court has found that "the case involves a matter of great public importance, complex issues of law or fact, a substantial constitutional issue, or a conflict among courts of appeals." State ex rel. Lorain v. Stewart, 119 Ohio St. 3d 222, 224, 2008 -Ohio- 4062, 893 N.E.2d 184, 189, ¶ 17.

In its merits brief, the respondent effectively disclaims each of those criteria. The respondent's brief cites no issue of constitutional law, and even argues that this case presents no constitutional question.<sup>1</sup> No party claims a conflict among the courts of appeals.

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<sup>1</sup> (Respondent's merits brief, p. 45.)

As to whether this case presents a matter of great public importance, the opening page of respondent's merits brief says: "[t]his is a case about one thing only: money."

On whether this case presents complex issues of law or fact, page 2 of respondent's merits brief says that there is a "single" dispositive question and that the "statutory analysis necessary for the Court to answer this question is straight forward."

Moreover, of the state's 88 county recorders, only this respondent appears to declare that a statute for charging \$2 per page for "photocopying a document" means that a requesting citizen would have to pay \$35,000 for the county to take a CD of recorded deeds and dub that CD onto a blank CD -- costing only pennies and taking only a few minutes. Even then, the respondent's insistence on reading the statutes that way is a recent about-face from its prior 11 years of practice, when it construed the statutes the same way that every other county recorder does, and the same way that relators do.

Do we really need oral argument to conclude what "photocopying a document" means?

In moving for oral argument, the respondent provides nothing more than the usual boilerplate that "The Recorder submits that oral argument will assist this

Court in resolving the important legal issues in this case." This Court typically has rejected those sorts of conclusory requests.

Thus, the Court has denied motions for oral argument where the requesting party provided no specific reason "why oral argument would be beneficial." State ex rel. Lorain v. Stewart, 119 Ohio St. 3d 222, 225, 2008 -Ohio- 4062, 893 N.E.2d 184, 189, ¶ 18; accord State ex rel. McGinty v. Cleveland City School Dist. Bd. of Edn., 81 Ohio St.3d 283, 286, 1998 -Ohio- 471, 690 N.E.2d 1273, 1276; State ex rel. Mun. Constr. Equip. Operators' Labor Council v. Cleveland, 114 Ohio St.3d 183, 191, 2007 -Ohio- 3831, 870 N.E.2d 1174, 1183, ¶ 44.

Where, as here, the parties have filed extensive briefs and the Court has found no gaping inadequacy in the thoroughness of the briefs, the Court typically has concluded that "the parties' briefs are sufficient to resolve the dispositive legal issues." State ex rel. Scioto Downs, Inc. v. Brunner, 123 Ohio St.3d 24, 28, 913 N.E.2d 967, 972, 2009 -Ohio- 3761, ¶25; accord State ex rel. Allen v. Warren Cty. Bd. of Elections, 115 Ohio St.3d 186, 189-90, 874 N.E.2d 507, 510, 2007 -Ohio- 4752, ¶ 21; State ex rel. Physicians Commt. for Responsible Medicine v. Ohio State Univ. Bd. of Trustees, 108 Ohio St.3d 288, 289, 843 N.E.2d 174, 176, ¶ 5.

Despite already filing a near-50 page merits brief, the respondent seems to want to present additional argument through the vehicle of oral argument. This Court has already rejected that reason as ground for convening oral argument.

State ex rel. WBNS TV, Inc. v. Dues, 101 Ohio St.3d 406, 409-10, 2004-Ohio-1497,

805 N.E.2d 1116, 1121-22, ¶ 21.

Ultimately, there needs to be an end to presenting arguments and spending public and private resources to do that. That end should be now.

*John Blanton* / *by Jacqueline Matthews*  
*per authorization*

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**Certificate of Service**

The foregoing *Relators' response to the respondent's motion for oral argument* has been sent via U.S. Mail on this 25<sup>th</sup> day of August, 2011 to:

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