

ORIGINAL

RECORD NO. 2011-1457

IN THE OHIO SUPREME COURT

RENE MAYS, Individually and as	:	Case No. CI0201102848
Fiduciary of the Estate of Galon Howard,	:	Court of Appeals No. 11-1145
Deceased, et al.,	:	
	:	
Plaintiffs,	:	
	:	
-vs-	:	
	:	
TOLEDO HOSPITAL, et al.,	:	
	:	
and	:	
	:	
Mercy St. Anne's Hospital, et al.	:	
	:	
Defendants.	:	

MOTION TO CONSOLIDATE CASE NO. 2011-1457 WITH CASE NO. 2011-1485 FOR THE PURPOSE OF THE BRIEFS OF APPELLANT RENE MAYS

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RECEIVED
AUG 31 2011
CLERK OF COURT
SUPREME COURT OF OHIO

FILED
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CLERK OF COURT
SUPREME COURT OF OHIO

Now comes Appellant, Rene Mays pursuant to S. Ct. Prac. R. 14.4(A) and Ohio Civil Rule 42(A), respectfully request that this Court consolidate Appellant's Appeal No. 2011-1457 with Appeal No. 2011-1485 for the purposes of the filing of the briefs in this case on the grounds that the actions before the court involve a common question of law or fact and will avoid unnecessary cost or delay. The basis for this request is set forth more fully in the following memorandum.

Respectfully submitted,



Rene Mays
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Telephone: (419) 727-3538

Plaintiff-Appellant-pro-se

MEMORANDUM IN SUPPORT

1. **INTRODUCTION**

In this case the Appellant has moved the Court to consolidate Appellant's Appeal No. 2011-1457 with Appeal No. 2011-1485 for the purposes of the filing of the briefs in this case on the grounds that the actions before the court involve a common question of law or fact and such will avoid unnecessary cost or delay. As such, Appellant respectfully requests that the Court consolidate Appellant's Appeal No. 2011-1457 with Appeal No. 2011-1485 for the purposes of the filing of the briefs in this case.

2. **LAW AND ANALYSIS**

S. Ct. Prac. R. 14.4(A) provides as follows:

(A) Motions; Responses

Unless otherwise prohibited by these rules, an application for an order or other relief shall be made by filing a motion for the order or relief. The motion shall state with particularity the grounds on which it is based. A motion to stay a lower

court's decision pending appeal shall include relevant information regarding bond and be accompanied by a copy of the lower court's decision and any applicable opinion.

In this case, the Appellant has moved the Court for an order by filing a motion for that order and has identified the grounds or otherwise stated with particularity the grounds on which it is based as required by S. Ct. Prac. R. 14.4(A). Therefore, the motion to consolidate Appellant's Appeal No. 2011-1457 with Appeal No. 2011-1485 for the purposes of the filing of the briefs in this case should be granted.

Further Ohio Rule of Civil Procedure 42(A) governs consolidation of cases. Under Rule 42 "If actions before the court involve a common question of law or fact the court, it may: (1) join for hearing or trial any or all matters at issue in the action; (2) consolidate the actions; or (3) issue any other orders to avoid unnecessary cost or delay." Ohio Civil Rule 42(A); *Cantrell v. GAF Corp.*, 999 F. 2d 1007, 1011 (6th Cir. 1993). In ruling on a motion to consolidate a court must consider:

[W]hether the specific risks of prejudice and possible confusion [are] overborne by the risk of inconsistent adjudications of common factual and legal issues, the burden on parties, witnesses and available judicial resources posed by multiple lawsuits, the length of time required to conclude multiple suits as against a single one, and the relative expense to all concerned of the single-trial, multiple-trial alternatives.

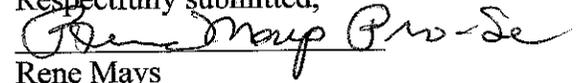
Id. (quoting *Hendrix v. Raybesto-Manhattan, Inc.*, 776 F. 2d 1492, 1495 (11th Cir. 1985).

Appellant Rene Mays the moving party in this case asks this Court to consolidate Appeal No. 2011-1457 with Appeal No. 2011-1485 for the purposes of the filing of the briefs in this case. Appellant further asserts that the two cases involve a common question of law or fact and that consolidation would be prudent because the cases have been heavily litigated since its filing a little over two months ago. Therefore, the motion

to consolidate Appellant's Appeal No. 2011-1457 with Appeal No. 2011-~~1495~~ for the purposes of the filing of the briefs in this case should be granted.

WHEREFORE, Appellant Rene Mays respectfully requests that this Court consolidate Appellant's Appeal No. 2011-1457 with Appeal No. 2011-~~1495~~ for the purposes of the filing of the briefs in this case on the grounds that the actions before the court involve a common question of law or fact and will avoid unnecessary cost or delay.

Respectfully submitted,



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PROOF OF SERVICE

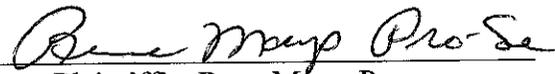
This is to certify that a copy of the foregoing of Rene Mays was sent via ordinary U.S. Mail or via facsimile this 30th day of August, 2011 to:

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Dated: 08/29/2011


Plaintiff's Rene Mays, Pro-se