

ANSWER

NOW COME Respondent, Judge Thomas J. Capper of the Clark County Common Pleas Court, Domestic Relations Division, Juvenile Section, by and through counsel, and answers Relators' Complaint filed in the within case as follows:

FIRST DEFENSE

1. Respondent denies the allegations in paragraph 1 of the complaint.
2. Respondent admits the allegations in paragraph 2 of the complaint.
3. In response to the allegations in paragraph 3 of the complaint, Respondent states that the statutes cited speak for themselves. Respondent is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 3 of the complaint.
4. Respondent admits the allegations in paragraph 4 of the complaint.
5. Respondent is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 5 of the complaint.
6. Respondent is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 6 of the complaint.
7. Respondent admits the allegations in paragraph 7 of the complaint, but denies that Exhibits B, C, and D are accurate copies of the documents referenced therein, because of the unnecessary redactions.
8. In response to the allegations in paragraph 8 of the complaint, Respondent is without knowledge or information sufficient to form a belief as to the truth of the allegations as to the date the adoption became

final, whether any objections were filed in the adoption proceedings, and whether any appeal was filed from the adoption proceedings. Respondent otherwise denies all remaining allegations in paragraph 8 of the complaint.

9. In response to the allegations in paragraph 9 of the complaint, Respondent is without knowledge or information sufficient to form a belief as to the truth of the allegations as to whether Relators or the child reside in Ohio, whether the child was born in Montgomery County, how the child was placed with Relators, or whether the child or Relators have even resided in or been in Clark County. Respondent otherwise denies all remaining allegations in paragraph 9 of the complaint.

10. In response to the allegations in paragraph 10 of the complaint, Respondent states that the underlying case before Respondent was filed on October 6, 2010; that Respondent only ordered genetic testing to establish whether Mr. Roccaro is the biological father of the child, solely for the purposes of submitting social and medical histories; and that Respondent cannot and will not order that the birth mother or Mr. Roccaro be named as the parents of the birth child on the birth certificate. To the extent that the allegations in paragraph 10 of the complaint are inconsistent with the above statements, they are denied.

11. In response to the allegations in paragraph 11 of the complaint, Respondent denies that Relators are entitled to the writ requested, denies that Respondent does not have jurisdiction in the underlying case before

Respondent, and states that the statutes cited speak for themselves. Respondent is otherwise without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 11 of the complaint.

12. In response to the allegations in paragraph 12 of the complaint, Respondent states that *State ex rel. Furnas v. Monnin*, 120 Ohio St.3d 279, 2008-Ohio-5569, is controlling, and that the grounds asserted by Relators (a putative father's involvement or non-involvement in the adoption proceedings) is not a sufficient basis to distinguish *Furnas*, and that there is no principled reason for the facts in this case to have a result different from that in *Furnas*. To the extent that the allegations in paragraph 12 of the complaint are inconsistent with the above statements, the allegations are denied.

13. Respondent denies the allegations in paragraph 13 of the complaint.

14. In response to the allegations of paragraph 14 of the complaint, Respondent states that Exhibits B, C, and D are similar to the documents filed in the case before Respondent, except that they have been unnecessarily redacted. Respondent is otherwise without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 14 of the complaint.

15. Respondent denies any other allegation not otherwise admitted.

SECOND DEFENSE

Relators' complaint fails to state a claim against Respondent upon which relief can be granted.

THIRD DEFENSE

State ex rel. Furnas v. Monnin, 120 Ohio St.3d 279, 2008-Ohio-5569, is controlling. Nothing in *Furnas* limits the rights of an alleged putative father to establish paternity for the purposes of social and medical history submission, to a case where the alleged putative father made an appearance in the adoption proceedings. See *id.* at ¶23. Therefore, Respondent has jurisdiction to order genetic testing of the child in the underlying matter, solely for the purposes of R.C. 3107.09 and 3107.091 regarding social and medical histories.

WHEREFORE, Respondent prays that this Court will dismiss Relators' Complaint and/or deny the writ sought, and order that all costs be borne by Relators.

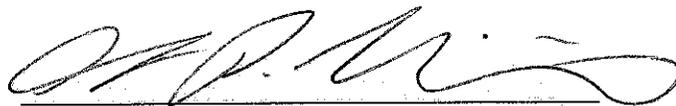
Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Answer of Respondent was served upon Michael R. Voorhees, Esq., Counsel for Relators, by e-mailing a copy to mike@ohioadoptionlawyer.com, and by U.S. first class mail to 11159 Kenwood Road, Cincinnati, OH 45242, on this 2nd day of February, 2012.



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ASST. CLARK COUNTY PROSECUTOR
Counsel for Respondent