

ORIGINAL

IN THE SUPREME COURT OF OHIO

CASE NO.: 2010-1536

O'SHEA & ASSOCIATES CO., LPA

RELATOR

v.

**CUYAHOGA METROPOLITAN
HOUSING AUTHORITY**

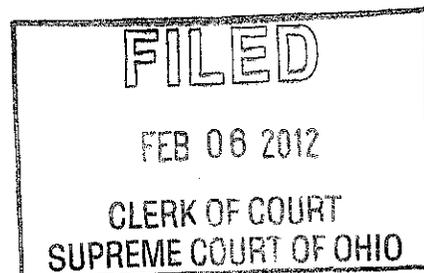
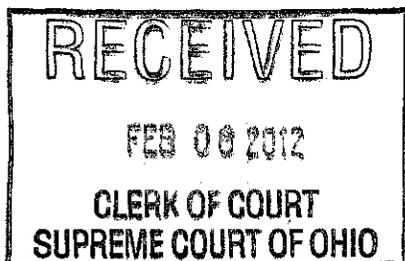
RESPONDENT

On Appeal from the Court of Appeals,
Eighth Appellate District
Cuyahoga County, Ohio
Case No.: 93275

**APPELLANT'S MOTION TO STRIKE RELATOR'S
MOTION FOR RECONSIDERATION**

Michael J. O'Shea (0039330)
michael@moshea.com
O'Shea & Associates Co., L.P.A.
19300 Detroit Road, Suite 202
Rocky River, OH 44115
440-356-2700
Fax: 440-331-5401
Attorney for Relator

SHAWN W. MAESTLE (0063779)
SMaestle@westonhurd.com
HILARY S. TAYLOR (0017496)
HTaylor@westonhurd.com
Weston Hurd LLP
The Tower at Erieview
1301 East 9th Street, Suite 1900
Cleveland, OH 44114-1862
(216) 241-6602, (216) 621-8369 (fax)
Attorney for Respondent



Now comes Respondent, Cuyahoga Metropolitan Housing Authority, by and through undersigned counsel, with its motion to strike Relator's Motion for Reconsideration since same was not properly served in accordance with S.Ct. Prac. R. 14.2. As required by the referenced Supreme Court rule, all pleadings are to be served upon all counsel of record and the certificate of service shall state the form of service. S.Ct. Prac. R. 14.2(A), (B) & (C). Relator states in their certificate of service that a copy of the motion was sent via U.S. mail on January 26, 2012 to Respondent's counsel as well as amicus counsel. As set forth in the undersigned's attached affidavit, neither Respondent's counsel nor amicus counsel was served as stated in the certificate of service. See, Shawn W. Maestle Affidavit.

Respondent's counsel only became aware of the reconsideration motion, and that it was even filed, when on February 1, 2012, while undersigned counsel was out of the office, Relator's counsel forwarded an e-mail with a copy of the motion attached to his secretary. *Id.* at Exhibit 1. On February 2, 2012, undersigned counsel contacted counsel for the amicus, who likewise indicated that they were not served in any fashion with the Relator's Motion for Reconsideration. *Id.* at _____.

Accordingly, as two business days is insufficient time to properly respond to Relator's motion and since Relator has violated S.Ct. Prac. R. 14.2, Respondent respectfully requests this Court strike Relator's motion pursuant to S.Ct. Prac. R. 14.2(D).

Respectfully submitted,



SHAWN W. MAESTLE (0063779)

SMaestle@westonhurd.com

HILARY S. TAYLOR (0017496)

HTaylor@westonhurd.com

Weston Hurd LLP

The Tower at Erieview

1301 East 9th Street, Suite 1900

Cleveland, OH 44114-1862

(216) 241-6602, (216) 621-8369 (fax)

Attorney for Respondent

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing instrument was made by mailing true and correct copies thereof, in sealed envelopes, postage fully prepaid and by depositing same in the U.S. mail on this 3rd day of February, 2012, to the following:

Michael J. O'Shea
O'Shea & Associates Co., L.P.A.
19300 Detroit Road, Suite 202
Rocky River, OH 44115



SHAWN W. MAESTLE (0063779)

STATE OF OHIO)
) SS
COUNTY OF CUYAHOGA)

AFFIDAVIT OF SHAWN W. MAESTLE

I, Shawn W. Maestle, being first duly sworn, depose and state as follows:

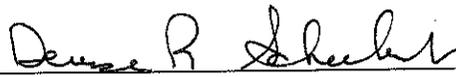
1. I am one of the attorney's for Respondent, Cuyahoga Metropolitan Housing Authority;
2. Neither Respondent's counsel nor amicus counsel was served on or about January 26, 2012 with Relator's Motion for reconsideration as stated in that pleading's certificate of service;
3. Respondent's counsel only became aware of the reconsideration motion, and that it was even filed, on February 1, 2012;
4. While undersigned counsel was out of the office, Relator's counsel forwarded an e-mail with a copy of the motion attached to his secretary, a copy of the email is attached hereto as Exhibit 1;
5. On February 2, 2012, undersigned counsel contacted counsel for the amicus, who likewise indicated that they were not served in any fashion with the Relator's Motion for Reconsideration.

Further Affiant sayeth naught.

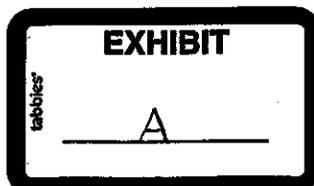


SHAWN W. MAESTLE

Subscribed and sworn to, before me, this 3rd day of February, 2012.



NOTARY PUBLIC



Taylor, Hilary S.

From: Ronald A. Annotico [ron@moshea.com]
Sent: Wednesday, February 01, 2012 2:18 PM
To: Taylor, Hilary S.
Cc: Michael J. O'Shea, ESQ.
Subject: O'Shea & Associates v. CMHA - public records request
Attachments: MOTION FOR RECONSIDERATION.pdf

Hilary,

Attached is an electronic service copy of our motion for reconsideration.

Ronald A. Annotico, Esq.
O'Shea & Associates, Co. LPA
19300 Detroit Road, Suite 202
Rocky River, Ohio 44116
(440)356-2700 - Phone
(440)331-5401 - Fax
ron@moshea.com

