

ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE EX REL. O'SHEA & ASSOCIATES  
CO., L.P.A.

Case No.: 2010 -1536

Relator,

-v-

CUYAHOGA METROPOLITAN HOUSING  
AUTHORITY

Respondent,

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

RELATOR'S BRIEF IN OPPOSITION TO  
MOTION TO STRIKE

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Now comes Relator, by and through counsel, and hereby respectfully submits this brief in opposition to *Appellant's (sic) Motion to Strike Relator's Motion for Reconsideration* (the "Motion to Strike"). The Motion to Strike should be summarily overruled. Here's why.

First, Respondent would try to have this Court believe that a law firm the size of Weston Hurd was unable to timely respond (10 days per S.Ct. Prac. R 14.4(B)) to *Relator's Motion for Reconsideration* (the "Motion for Reconsideration") after it was emailed to Relator's counsel on February 1, 2012. The undersigned has searched the office file on this matter and is unable to confirm (or deny) that the Motion for Reconsideration was concurrently served upon Respondent's counsel when it was filed by mail with this Court. If there was a mistake, it was just that – a mistake. And that mistake was easily rectified by the email transmission of the Motion for Reconsideration on February 1, 2012. Rather than request an extension of time per S.Ct. Prac. R 14.3 to respond to the Motion for Reconsideration from the undersigned (which would have readily given as a professional courtesy), the Respondent filed the Motion to Strike. *It might also be noted that the certificate of service page on the Motion to Strike indicates that the Motion to Strike was not served upon counsel for the amicus brief – so it appears that anyone can make a good faith mistake in that regard.*

Second, the undersigned received a phone call from Shawn Maestle (the author of the Motion to Strike) on the afternoon of February 1, 2012 -shortly after Mr. Maestle received the email transmission of the Motion for Reconsideration. When the undersigned told Mr. Maestle that the Motion for Reconsideration was limited solely to the issue of attorney fees,

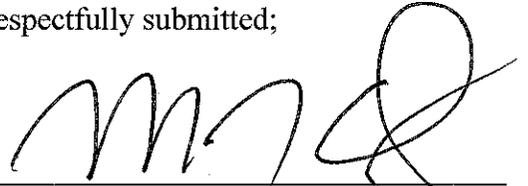
Mr. Maestle indicated that in that event he really did not care about that issue. Yet now he files this Motion to Strike.

Third, the rules of this Court specifically permit service of documents by email. See S.Ct. Prac. R 14.2(B).

The undersigned has no objection to this Court granting the Respondent leave to respond to the Motion for Reconsideration. See S.Ct. Prac. R 14.2(D)(2). There should be a meaningful briefing on the attorney fee issue.

For the foregoing reasons, the Relator respectfully requests that this Court overrule the Motion to Strike.

Respectfully submitted;



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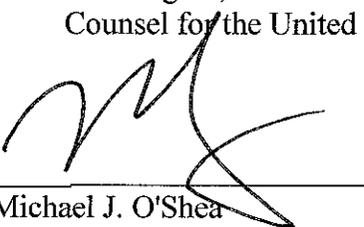
***Counsel for Relator***

**CERTIFICATE OF SERVICE**

A copy of the foregoing was sent via U.S. mail, postage prepaid to the following party, this 10 day of Feb, 2012.

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