

In the
Supreme Court of Ohio

STATE EX REL. KENT LANHAM,

Relator,

v.

DANNY R. BUBP, STATE
REPRESENTATIVE

Respondent.

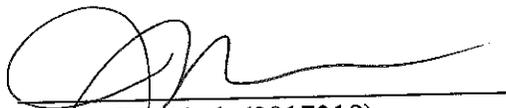
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: Case Number 2012-0131
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: Original Action in Mandamus
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MOTION FOR PROTECTIVE ORDER

On April 9, 2012, undersigned counsel was served with Relator's notice to take the deposition upon oral examination of Respondent Danny R. Bulp. Respondent objects to the notice and hereby moves for a protective order on the ground that he is a public official, that his deposition is unnecessary given the narrow scope of the issues presented in this matter, that his deposition will not and is not calculated to lead to the discovery of any admissible evidence, and that the intended scope of the deposition is directed at privileged and confidential communications. A memorandum of law in support of this motion is attached.

Respectfully submitted,

MIKE DEWINE (****)
Ohio Attorney General


Jeffery W. Clark (0017319)
*Counsel of Record
Jeannine R. Lesperance (0085765)
Assistant Attorneys General
Constitutional Offices Section

FILED
APR 10 2012
CLERK OF COURT
SUPREME COURT OF OHIO

30 East Broad Street, 16th Floor
Columbus, Ohio 43215
(614) 466-2872
(614) 728-7592 (fax)
Jeffery.clark@ohioattorneygeneral.gov
Jeannine.lesperance@ohioattorneygeneral.gov

Attorneys for Respondent
Danny R. Bulp, State Representative

Relator's counsel, Curt Hartman. Exh. G, pp. 138-139. In the initial response to the Request, sixty-seven pages of records were produced, and none were withheld as privileged. *Id.*, pp. 2-68.

On February 11, 2012, Relator's counsel contacted counsel for Respondent with some questions regarding the completeness of the response. Exh. B. Respondent's counsel answered those questions on February 16, 2012. *Id.* On February 21, 2012, Respondent's counsel informed Relator's counsel that Respondent's staff located an additional 33 pages of potentially responsive documents. Exh. C. Two pages of those documents were released to Relator. The remaining thirty-one pages were withheld as covered by the attorney-client privilege. *Id.*

On February 27, 2012, Relator served Respondent with discovery requests, including interrogatory number one, seeking a privilege log with respect to the thirty-one pages withheld from the supplemental response to the Request. Exh. D. Respondent provided Relator with such a log on April 5, 2012, and, at Relator's request, with an amended log (including identification of the "client") on April 9, 2012. Exhs. E, F.

Counsel for Respondent contacted Relator's counsel to avoid the necessity of filing this motion. Respondent offered to cooperate in arranging the deposition of the staff who actually worked on the Request. Relator's counsel was informed that Respondent Bubp did not personally work on the response to the Request. Indeed, in the ordinary course public records requests directed to sitting legislators are handed by legislative staff and the House public records officer. The decisions regarding attorney-client privilege with respect to the Request were made by undersigned counsel at the Attorney General's office. It is the understanding of undersigned counsel that Relator's counsel nevertheless believes that the deposition is necessary to probe the assertion of privilege as to the thirty-one pages of documents withheld from release on February 21, 2012.

On April 9, 2012, Relator served a notice to take the deposition of Representative Bupb on April 17, 2012. Exh. A.

LAW AND ARGUMENT

I. Representative Bupb has no non-privileged information relevant to Relator's Complaint.

Parties “may obtain discovery regarding any matter, *not privileged*, which is relevant to the subject matter involved in the pending action” *Ward v. Summa Health Sys.*, 128 Ohio St. 3d 212, 2010-Ohio-6275, ¶ 12 (emphasis sic.); Civ. R. 26(B)(1). Discovery also must be “reasonably calculated to lead to admissible evidence.” *Id.* Even if the information sought is relevant, however, “Civ. R. 26 clearly excludes privileged information from the general rule of discovery.” *Roe v. Planned Parenthood Southwest Ohio Region*, 122 Ohio St. 3d 399, 2009-Ohio-2973, ¶ 28.

Although the vast majority of Relator's allegations in his 83-paragraph complaint are directed at Relator's apparently personal and strongly held views about whether Representative Bupb properly holds dual public positions as a Mayor's Court Magistrate and State Representative, *see, generally, Cmplt.*, the only cause of action Relator pleads in his complaint is a prayer for a writ of mandamus requiring Respondent to produce records in response to Relator's public records Request. *Cmplt.* at 13. Relator must show that he is entitled to Respondent's performance of a “clear legal duty.” *State ex rel. Cincinnati Enquirer v. Daniels*, 108 Ohio St. 3d 518, 2006-Ohio-1215, ¶ 29. Respondent's counsel and staff have produced all of the non-privileged records responsive to the request, thus rendering the mandamus claim moot. Exh. G; *Strothers v. Norton*, Ohio Supreme Court No. 2011-1483, slip. op., 2012-Ohio-1007, ¶ 13. Relator bears the burden to submit clear and convincing evidence to the contrary. *Id.*

Relator ostensibly seeks testimony from Representative Bulp regarding the thirty-one pages of documents withheld on the basis of attorney-client privilege. Substantial information has already been provided to Relator in the form of a log in response to Relator's interrogatory number one. Exhs. E, F. Respondent also offered to produce such pages to the Court for in-camera review. Exh. H, p. 3. Beyond the information provided in the logs, Representative Bulp cannot answer any further questions about the content of the privileged documents without revealing privileged information. The civil rules do not permit Relator to take discovery of privileged information. Civ. R. 26.

To the extent that Relator seeks testimony regarding how the Request was processed, Representative Bulp is not an appropriate witness. Relator has been informed that the Request was processed by Representative Bulp's legislative staff and the public records officers of the Ohio House of Representatives. This is evident from Representative Bulp's responses to Relator's requests for discovery. Exhs. E, F, H.

Read in context with the complaint, it appears most likely that Relator wants to depose Representative Bulp with respect to Relator's underlying personal grievance regarding Representative Bulp's position as a Mayor's Court Magistrate. But the merits of that grievance bear no relevance whatsoever to this mandamus action, which concerns only the timeliness and completeness of the response provided to Relator's Request. To the extent that Relator seeks Representative Bulp's testimony regarding this underlying grievance, Relator's notice of deposition should be barred on the ground that it is directly solely at annoyance, embarrassment, and oppression of Respondent. Civ. R. 26(C); *see also Lash v. Lash*, Nos. 56155, 56837, 57816, 1990 Ohio App. LEXIS 642, *13 (8th Dist. Feb. 22, 1990) (deposition properly barred when the testimony sought bore no relevance to issue before the court). For the same reasons, requiring

Representative Bubp to take time from his taxing schedule to sit for the deposition would pose an undue burden. *Id.* Moreover, Relator is aware that the Joint Legislative Ethics Committee, in December 2004, opined informally that no legal impediment prohibits Representative Bubp from serving as a Mayor's Court Magistrate while serving as an elected State Representative. Exh. G, pp. 4-5.

Because Representative Bubp possesses no information that would either be admissible with respect to the processing of the Request or invocation of privilege, and his testimony is likewise not reasonably calculated to lead to any admissible evidence, his objection to the notice of deposition should be sustained and a protective order issued barring the deposition.

II. Even if Representative Bubp had relevant information, as a high-ranking government official, he should not be subject to deposition unless Relator demonstrates a compelling reason for his testimony.

In addition, Representative Bubp should not be required to testify absent extreme and extraordinary circumstances. Numerous courts have held that requiring a high-ranking government official to testify, absent extreme and extraordinary circumstances, is contrary to public policy. See *United States v. Morgan*, 313 U.S. 409, 421 (1940) (prohibiting deposition of Secretary of Agriculture); *Bogan v. City of Boston*, 489 F.3d 417, 423 (1st Cir. 2007) (same, Mayor); *In re United States (Holder)*, 197 F.3d 310, 313 (8th Cir. 1999)(same, Attorney General and Deputy Attorney General); *In re FDIC*, 58 F.3d 1055, 1060 (5th Cir. 1995)(same, three FDIC Directors); *Simplex Time Recorder Co. v. Secretary of Labor*, 766 F.2d 575, 586 (D.C.Cir.1985) (same, four officials from Department of Labor); *Sweeney v. Bond*, 669 F.2d 542, 546 (8th Cir. 1982) (same, Governor); *Furey v. Wolfe*, Civil Action No. 10-1820, 2011 U.S. Dist. LEXIS 16465, *16-17 (E.D. Pa. Feb. 18, 2011) (same, police commissioner); *Jameson v. Oakland County*, Case No. 10-10366, 2011 U.S. Dist. LEXIS 6312, *4-5 (E.D. Mich. Jan. 24, 2011)

(same, sheriff); *Murray v. United States Dep't of Treasury*, Civil Action No. 08-cv-15147, 2010 U.S. Dist. LEXIS 48692, *7-9 (E.D. Mich. May 18, 2010)(same, Treasury Secretary); *United States v. Sensient Colors, Inc.*, 649 F. Supp. 2d 309, 316 (D. N.J. 2009) (same, former government officials). This principle was recognized and applied by the Ohio Supreme Court in *State ex rel. Summit County Republican Party Exec. Comm. v. Brunner*, 117 Ohio St. 3d 1210, 2008-Ohio-1035, ¶ 4, citing *Monti v. State*, 151 Vt. 609, 613, 563 A.2d 629, 632 (1989); *State ex rel. Paige v. Canady*, 197 W. Va. 154, 475 S.E.2d 154 (1996) (permitting deposition where extraordinary circumstances warranted deposition of the Ohio Secretary of State).

Representative Bubp is a high ranking government official as evidenced by the establishment of his office by Section 2, Article II of the Ohio Constitution, which provides, "Representatives shall be elected biennially by the electors of the respective House of Representatives districts." As a state official whose office finds its genesis in the Ohio Constitution, Representative Bubp is entitled to the privileges and immunities of a high-ranking government official.

The policy behind the rule protecting high-ranking governmental officials from compelled testimony is to protect such persons from undue burden and to "protect public officials from the constant distraction of testifying in lawsuits." *In re Stone*, 986 F.2d 898, 904 (5th Cir. 1993). This policy serves the "important public policy favoring the conservation of government resources and the protection of orderly governmental operations." *Alex v. Jasper Wyman & Son* (E.D. Pa. 1986), 115 F.R.D. 156, 158-159. If high-ranking officials could be required to appear personally and testify in every case concerning the government, then the orderly working of the government would be greatly hampered.

To properly balance the interests of litigants and governmental offices, courts have

required the party seeking the testimony of the high-ranking government official to make a clear showing that the government official possesses personal knowledge that is essential to his case and that the information sought cannot be acquired through other less burdensome sources. See *In re United States (Holder)*, 197 F.3d at 314; *Sweeney*, 669 F.2d at 546; *Martin v. Valley Nat'l Bank of Arizona*, 140 F.R.D. 291, 314 (S.D.N.Y. 1991). Before seeking to depose a high-ranking official, the party seeking discovery must, at a minimum, "pursue other sources to obtain relevant information." *Bogan*, 489 F.3d at 424 (request for Mayor's deposition "founders" where plaintiff failed to seek the information from lower level government employees first); see also *Holder*, 197 F.3d at 314 (proponent must "establish at a minimum that [the witnesses] possess information essential to his case which is not obtainable from another source."). Therefore, in the absence of any showing by Relator that, (1) Representative Bulp possesses unique personal knowledge regarding the issues presented on mandamus, and (2) such information cannot be obtained from lower level state employees, Representative Bulp is entitled to a protective order preventing his deposition in this action. Respondent invited Relator to depose the public information officers who actually worked to compile the response to his Request; to date, Relator has noticed only the deposition of Representative Bulp himself.

In short, Representative Bulp's testimony is not essential to this case; indeed, as explained above it is not even relevant. Nor can Relator show that he cannot obtain the information he seeks from another witness.

III. CONCLUSION

For the foregoing reasons, Respondent respectfully moves this Court to enter a protective order barring the deposition of Representative Danny R. Bulp in connection with this case.

Respectfully submitted,

MICHAEL DEWINE
Ohio Attorney General



Jeffery W. Clark (0017319)

**Counsel of Record*

Jeannine R. Lesperance (0085765)

Assistant Attorneys General

Constitutional Offices Section

30 East Broad Street, 16th Floor

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(614) 728-7592 (fax)

Jeffery.clark@ohioattorneygeneral.gov

Jeannine.lesperance@ohioattorneygeneral.gov

Attorneys for Respondent

Danny R. Bupp, State Representative

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Protective Order and Memorandum in Support was sent by electronic mail and U.S. mail on April 16, 2012 to:

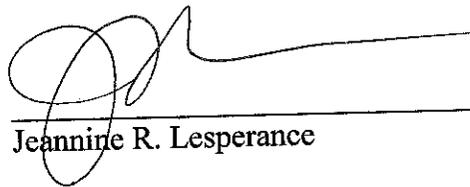


Jeannine R. Lesperance (0085765)

Assistant Attorney General

7. Exhibit G is a true and correct copy of excerpts from documents produced to Relator by Respondent in this matter in response to Relator's discovery requests.
8. Exhibit H is a true and correct copy of Respondent's written response to Relator's requests for discovery, as corrected to update the response to interrogatory number one.

FURTHER AFFIANT SAYETH NAUGHT.

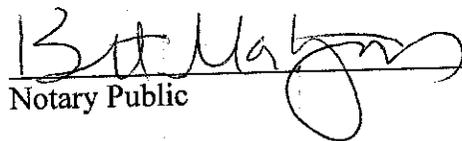


Jeannine R. Lesperance

Sworn to and subscribed in my presence on April 16, 2012.



KRISTEN M. MONTGOMERY
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES 8/28/2013



Notary Public

**SUPREME COURT
OF THE STATE OF OHIO**

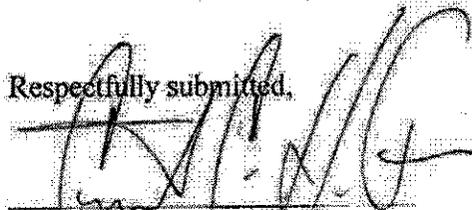
STATE OF OHIO <i>ex rel.</i> KENT LANHAM,	:	Case No. 2012-0131
	:	
Relator,	:	
	:	
<i>v.</i>	:	
	:	
DANNY R. BUBP,	:	NOTICE OF DEPOSITION UPON
Putative State Representative,	:	ORAL EXAMINATION OF
	:	RESPONDENT DANNY R. BUBP
	:	
Respondent.	:	

Pursuant to Rules 26 and 30 of the Ohio Rules of Civil Procedure (made applicable to this original action pursuant to Rule 10.2 of the Supreme Court Rules of Practice), the State of Ohio, by and through Relator Kent Lanham, hereby gives notice of the **DEPOSITION UPON ORAL EXAMINATION OF RESPONDENT DANNY R. BUBP**, 307 North Market Street, West Union, Ohio 45693 and 10 Apache Cove, Loake Waynoka, Ohio 45171, which shall be recorded by stenographic means before a person authorized to administer oaths at the following date, time and location:

Tuesday, April 17, 2012, commencing at 12:00 p.m.

Conference room of the Clermont County Law Library in the Clermont County Common Pleas Courthouse, 270 East Main Street, Batavia, OH 45103

Respectfully submitted,

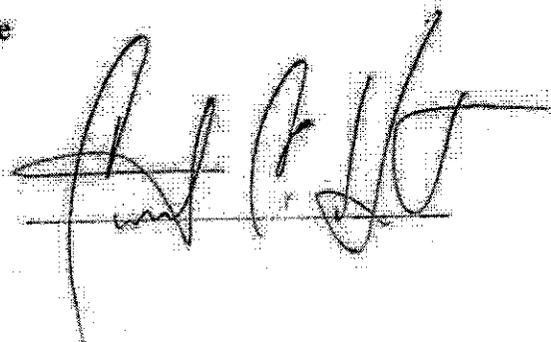


Curt C. Hartman (0064242)
The Law Firm of Curt C. Hartman
3749 Fox Point Court
Amelia, Ohio 45102
(513) 752-8800
hartmanlawfirm@fuse.net
Attorney for Relator Kent Lanham

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served via e-mail and via regular mail, on the 9th day of March 2012, upon the following:

Jeff Clark
Jeannine Lesperance
Office of the Ohio Attorney General Mike DeWine
Constitutional Offices Section
30 East Broad Street, Floor 16
Columbus, Ohio 43215

A handwritten signature in black ink, appearing to be "Jeff Clark", written over a horizontal line.

Jeannine Lesperance

From: Jeannine Lesperance
Sent: Thursday, February 16, 2012 11:30 AM
To: 'Curt Hartman'; Jeff Clark
Cc: Lenzo, Mike
Subject: RE: State ex rel Lanham v. Bupp, Ohio Supreme Court, Case No. 2012-0131
Attachments: House Public Records Policy.pdf; House Records Retention Schedule.pdf

Mr. Hartman,

In further response to your inquiry below, I am informed as follows:

1, 2, and 3: None of the referenced records still exists. They were properly destroyed per the House's public records policy and schedule, which allows destruction of that record series (LEG 21) when they are no longer of administrative value. The computer backups for that time period have long been overwritten as well.

4: The reference in the email on page 67 is to Advisory Opinion 2009-7 from the Supreme Court of Ohio Board of Commissioners on Grievance and Discipline dealing with domestic relations court magistrates serving on city council at the same time. The advisory opinion was included in the records release on pages 63-66 of the .pdf.

Thank you.

Jeannine Lesperance

Jeannine R. Lesperance
Principal Assistant Attorney General - Constitutional Offices
Office of Ohio Attorney General Mike DeWine
Office number: 614-466-2872
Fax number: 614-728-7592
Direct number: 614-466-1853
Jeannine.Lesperance@OhioAttorneyGeneral.gov

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From: Curt Hartman [mailto:chartman@fuse.net]
Sent: Saturday, February 11, 2012 9:49 PM
To: Damian Sikora; Jeannine Lesperance
Subject: State ex rel Lanham v. Bupp, Ohio Supreme Court, Case No. 2012-0131

Counsel –

I wanted to touch base with you in an effort to expedite the potential for mediation to resolve this public records case. Prior to your entry of appearance, I talked to Mike Lenzo concerning the sufficiency of the production, indicating that the production appeared to be incomplete. In the event that Mike failed to relay to you the issues I raised with him, I wanted to pass them along to you, as well.

In reviewing the records that were produced – but only after commencement of the public records mandamus action – it appears that additional records should have been produced. As the records were produced to me in a pdf-format, I will presume that they were provided to you in the same format and, thus, for ease of reference, will include a reference to a page number that corresponds to the page in the pdf-file. As for the issue of potentially additional outstanding records, I would note the following:

1. Page 1, an e-mail from Erica Wilson (legislative aide to Mr. Bulp) dated October 30, 2009, and directed to Nathan Slonaker (legislative aid to Rep. Batchelder). The subject line indicates that this e-mail was forwarded from a previously received e-mail. Yet, this earlier e-mail has not yet been produced.
2. Page 4, an e-mail from Erica Wilson (legislative aide to Mr. Bulp) dated November 10, 2009, and directed to Mary Jane Campbell (who works in Mr. Bulp's private law practice). As with #1 above, the subject line indicates that this e-mail was forwarded from a previously received e-mail. Yet, this earlier e-mail has not yet been produced.
3. Page 7, in a letter from Rep. Batchler to Chris Redfern, Rep. Batchler makes the claim that Mr. Bulp "sought counsel on this matter over give years ago, receiving the go-ahead to serve as magistrate . . . from Tony Bledsoe." Absent from any production of records in this case are any records documenting a request being tendered to Mr. Bledsoe or a corresponding response to Mr. Bulp. In fact, the only document from the time frame of 2004 is what appears to be a generic letter dated "December XX, 2004" and which simply addresses whether the ethics laws and the Legislative Code of Ethic prohibit a member of the General Assembly from also serving as a mayor's court magistrate. (It is noteworthy, that this generic letter does not even begin to address the constitution provision which Mr. Bulp continues to violate or the effect of R.C. 102.26 (both of which are outside the jurisdiction of JLEC).) But missing from the request are any records documenting correspondence, communications, etc., that document Mr. Bulp seeking the counsel to which Rep. Batchelder references.
4. Page 67, an e-mail from Erica Wilson (legislative aide to Mr. Bulp) dated January 12, 2010, and directed to Mike Lenzo, wherein Ms. Wilson references the "magistrate ruling". Yet, there are no other records concerning the refenced "magistrate ruling".

As indicated above, I am undertaking this effort at this time to expedite the mediation process, if that is possible. I'd appreciate you looking into the issues raised above. Hopefully we can have them resolved prior to the mediation.

Sincerely,
Curt Hartman

In the
Supreme Court of Ohio

STATE EX REL. KENT LANHAM,

Relator,

v.

DANNY R. BUBP, STATE
REPRESENTATIVE

Respondent.

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: Case Number 2012-0131
:
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:

EXHIBIT C

Jeannine Lesperance

From: Jeff Clark
Sent: Tuesday, February 21, 2012 3:41 PM
To: 'Curt Hartman'; Jeannine Lesperance
Cc: Lenzo, Mike (Mike.Lenzo@ohr.state.oh.us)
Subject: FW: State ex rel Lanham v. Bubp, Ohio Supreme Court, Case No. 2012-0131
Attachments: Hartman Release Additional Records 2-21-12.pdf

Dear Mr. Hartman,

Our client has found 33 pages of additional documents responsive to your request. All but two of those pages consist of attorney-client privileged material, and the other 31 pages will be withheld on that basis in their entirety. See *State ex rel. Leslie v. Ohio Hous. Fin. Agency*, 105 Ohio St.3d 261, 2005-Ohio-1508; *State ex rel. Thomas v. Ohio State Univ.*, 71 Ohio St.3d 245, 1994-Ohio-261; and *Reed v. Baxter* (6th Cir. 1998), 134 F.3d 351.

The two pages not subject to the privilege are attached as a .pdf file to this e-mail. We believe that this completes the provision of records responsive to your public records request. Please let us know if you have any additional questions.

Jeff Clark
Principal Attorney, Constitutional Offices Section
Ohio Attorney General Mike DeWine
PHONE 614.466.2872
FAX 614.728.7592
EMAIL jeff.clark@ohioattorneygeneral.gov

30 East Broad Street, Floor 16
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Sincerely,
Curt Hartman

**SUPREME COURT
OF THE STATE OF OHIO**

STATE OF OHIO <i>ex rel.</i> KENT LANHAM,	:	Case No. 2012-0131
	:	
Relator,	:	
	:	
v.	:	
	:	
DANNY R. BUBP, Putative State Representative,	:	RELATOR'S FIRST SET OF
	:	DISCOVERY DIRECTED TO
Respondent.	:	RESPONDENT DANNY BUBP
	:	

Pursuant to Rules 26 to 37 of the Ohio Rules of Civil Procedure (made applicable to this original action pursuant to Rule 10.2 of the Supreme Court Rules of Practice), the State of Ohio, by and through Relator Kent Lanham, hereby tenders the following discovery request directed to Respondent Danny R. Bupp, Putative State Representative. Responses shall be served in the manner and within the time limits as provided for in Ohio R. Civ. P. 26 to 37.

As used herein, the phrase "Public Records Request Letter" shall mean the letter that is attached as Exhibit A to the Verified Complaint filed in this action.

INTERROGATORIES

I. For each record that you have refused to produce in response to the Public Records Request Letter, provide the following information:

- (i) the format of each record (e.g., e-mail, letter, memoranda, etc.);
- (ii) the total number of pages for each record;
- (iii) the date of each record;
- (iv) the sender/transmitter of each record;
- (v) all recipients of the record;

- (vi) indicate whether each recipient was the addressee of the record or copied on the record (and, if copied, whether the recipient was blind copied);
- (vii) the specific legal basis for not producing the record in response to the Public Records Request Letter;
- (viii) if the record is not being produced or is being withheld based upon a claim of attorney-client privilege, then provide:
 - (a) the name, position and firm (if applicable) of the attorney which forms the basis for the invocation of the privilege; and
 - (b) a description of the record sufficient so as to demonstrate the application of the attorney-client privilege.

Response:

2. Identify the date and the means by which you (or someone on your behalf or at your direction) transmitted the Public Records Request Letter to any person associated with (either as a member or employee) the Ohio House of Representatives or the Republican Caucus of the Ohio House of Representatives. In your response, include the person who actually transmitted the Public Records Request Letter, the specific individual(s) to whom the request was transmitted, the manner in which the Public Records Request Letter was transmitted (e.g., hand delivery, via e-mail, etc.)

Response:

3. Identify all communications that you (or someone on your behalf or at your direction) had with any person associated with (either as a member or employee) the Ohio House of Representatives or the Republican Caucus of the Ohio House of Representatives concerning the Public Records Request Letter. In your response, include the date of each communication, the specific individual(s) to whom such communications was made, if someone other than you made the communication on your behalf then the identity of such person, and the manner of such communication (e.g., orally, e-mail, etc.)

Response:

4. Identify all communications that you (or someone on your behalf or at your direction) had with any person associated with (either as a member or employee) the Ohio House of Representatives or the Republican Caucus of the Ohio House of Representatives concerning the ability or authority for you to simultaneously hold the position of state representative and a magistrate in mayor's court. In your response, include the date of each communication, the specific individual(s) to whom such communications was made, if someone other than you made the communication on your behalf then the identity of such person, and the manner of such communication (e.g., orally, e-mail, etc.)

Response:

DOCUMENT REQUESTS

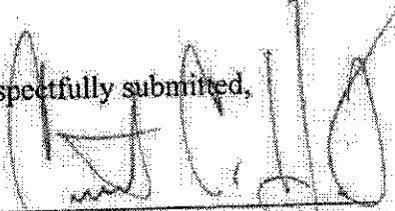
1. Produce all documents that constitute or reference the transmittal of the Public Records Request Letter to any person associated with (either as a member or employee) the Ohio House of Representatives or the Republican Caucus of the Ohio House of Representatives.

Response:

2. Produce all documents of any communications that you (or someone on your behalf or at your direction) had with any person associated with (either as a member or employee) the Ohio House of Representatives or the Republican Caucus of the Ohio House of Representatives concerning the Public Records Request Letter.

Response:

Respectfully submitted,

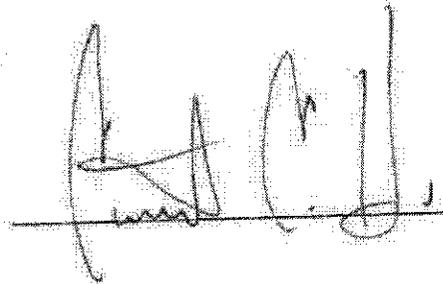


Curt C. Hartman (0064242)
The Law Firm of Curt C. Hartman
3749 Fox Point Court
Amelia, Ohio 45102
(513) 752-8800
hartmanlawfirm@fuse.net
Attorney for Relator Kent Lanham

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served via regular mail, on the 27th day of February 2012, upon the following:

Damian Sikora
Jeff Clark
Jeannine Lesperance
Office of the Ohio Attorney General Mike DeWine
Constitutional Offices Section
30 East Broad Street, Floor 16
Columbus, Ohio 43215



In the
Supreme Court of Ohio

STATE EX REL. KENT LANHAM,

Relator,

v.

DANNY R. BUBP, STATE
REPRESENTATIVE

Respondent.

:
:
:
: Case Number 2012-0131
:
:
: Original Action in Mandamus
:
:
:

EXHIBIT E

Response of Representative Danny Bubb to Relator's Interrogatory Number One
Lanham v. Bubb

Bates From	Bates To	Privilege	Date(s)	Type	From	To	Comments
3		Attorney-Client	10/29/2009	email	Michael Lenzo	Erica Wilson, Bethany Rhodes	Describes attorney-client communications between Michael Lenzo and the Attorney General's Office
3		Attorney-Client	10/29/2009	email	Erica Wilson	Danny Bubb	Forwards email above
4	12	Attorney-Client	10/29/2009	letter with enclosures	Michael Lenzo	Kevin McIver	Attachments to emails on bates 3
13		Attorney-Client	10/30/2009	email	Michael Lenzo	Erica Wilson, Bethany Rhodes	Describes attorney-client communications between Michael Lenzo and the Attorney General's Office
14	17	Attorney-Client	10/30/2009	letter with enclosure	Michael Lenzo	Kevin McIver	Attachments to email on bates 13
18	22	Attorney-Client	10/30/2009	see comments	see comments	see comments	Identical to bates 13-17
23	33	Attorney-Client	10/29/2009	see comments	see comments	see comments	Identical to bates 3-12

Attorneys:

Kevin McIver, Chief, Opinions Section, Ohio Attorney General
 Michael Lenzo, Majority Legal Counsel, Ohio House of Representatives (in 2009 he was Minority Legal Counsel)
 Bethany Rhodes, Deputy Minority Legal Counsel, Ohio House of Representatives (in 2009)

Response of Representative Danny Bubb to Relator's Interrogatory Number One
Lanham v. Bubb

Bates From	Bates To	Privilege	Client	Date(s)	Type	From	To	Comments
3		Attorney-Client	Representative Bubb	10/29/2009	email	Michael Lenzo	Erica Wilson, Bethany Rhodes	Describes attorney-client communications between Michael Lenzo and the Attorney General's Office
3		Attorney-Client	Representative Bubb	10/29/2009	email	Erica Wilson	Danny Bubb	Forwards email above
4	12	Attorney-Client	Representative Bubb, Ohio General Assembly	10/29/2009	letter with enclosures	Michael Lenzo	Kevin McIver	Attachments to emails on bates 3
13		Attorney-Client	Representative Bubb, Ohio General Assembly	10/30/2009	email	Michael Lenzo	Erica Wilson, Bethany Rhodes	Describes attorney-client communications between Michael Lenzo and the Attorney General's Office
14	17	Attorney-Client	Representative Bubb, Ohio General Assembly	10/30/2009	letter with enclosure	Michael Lenzo	Kevin McIver	Attachments to email on bates 13
18	22	Attorney-Client	Representative Bubb, Ohio General Assembly	10/30/2009	see comments	see comments	see comments	Identical to bates 13-17
23	33	Attorney-Client	Representative Bubb, Ohio General Assembly	10/29/2009	see comments	see comments	see comments	Identical to bates 3-12

Attorneys:

Kevin McIver, Chief, Opinions Section, Ohio Attorney General
 Michael Lenzo, Majority Legal Counsel, Ohio House of Representatives (in 2009 he was Minority Legal Counsel)
 Bethany Rhodes, Deputy Minority Legal Counsel, Ohio House of Representatives (in 2009)

In the
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STATE EX REL. KENT LANHAM,

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DANNY R. BUBP, STATE
REPRESENTATIVE

Respondent.

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: Case Number 2012-0131
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: Original Action in Mandamus
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EXHIBIT G

Wilson, Erica

From: Yano, Marjorie
Sent: Wednesday, January 18, 2012 1:59 PM
To: Wilson, Erica
Subject: Records Request
Attachments: Hartman Request - Records.pdf, Hartman Response Letter Jan 18.doc

Erica –

I am getting ready to send out a response to the request from Curt Hartman, but before I did so, I wanted you to see what I was going to send. Both the responsive records and my response letter are attached. Could you please ask your boss to review them and make sure they are OK to go out?

Thank you!
-Marjorie

Marjorie Yano

marjorie.yano@ohr.state.oh.us
(614) 466-9091

Ohio House of Representatives



January 18, 2012

Dear Mr. Hartman,

On November 17, 2011 you requested the following public records from the office of State Representative Bubp:

- all records that discuss or evaluate the authority or ability for you to simultaneously hold the public offices of state representative and magistrate in a mayor's court;
- all records document any request tendered by or on your behalf as to the authority or ability for you to simultaneously hold the public offices of state representative and magistrate in a mayor's court;
- all records documenting any response to any request tendered by or on your behalf as to the authority or ability for you to simultaneously hold the public office of state representative and magistrate in a mayor's court;
- all records upon which you rely to establish the ability or authority for you to simultaneously hold the public offices of state representative and magistrate in a mayor's court.

Attached to this email are records responsive to this request.

If you have any questions, please contact me.

Sincerely,

Marjorie Yano

Public Inquiries Officer

marjorie.yano@ohr.state.oh.us

Wilson, Erica

From: Wilson, Erica
Sent: Friday, October 30, 2009 10:13 AM
To: Slonaker, Nathan
Subject: FW: Rep. Bulp JLEC opinion
Attachments: Bulp- JLEC opinion- Magistrate.doc

Erica K. Wilson

Legislative Aide
Office of State Representative Danny Bulp
88th House District
Ohio House of Representatives
614.644.6034

December xx, 2004

The Honorable Member
State Representative
77 South High Street,
Columbus, OH 43215-6111

Dear Representative Member:

This letter is in response to your request for an informal opinion regarding whether you may serve as a magistrate for a municipality or municipalities. This opinion is based upon the following facts. Various municipalities in Franklin County retain private attorneys to serve as magistrates in municipal court. You are considering entering into such an employment agreement with one or more municipalities.

Nothing in the Ethics Law or the Legislative Code of Ethics prohibits a member from serving as a magistrate for a municipality. The issue of a member providing legal representation to clients has been addressed in JLEC Advisory Opinions No. 95-006 and 95-012. The specific issue of a member accepting legal assignments including criminal assignments from a county court was addressed in Advisory Opinion 99-001. As stated in Advisory Op. 99-001 pursuant to R.C. 102.04(A), members are prohibited from *appearing before* certain governmental agencies. These prohibitions do not apply to your serving as a magistrate.

The restriction which limits the entities before whom you may practice is found in R.C. 102.04(A) which provides:

Except as provided in division (D) of this section, no person elected or appointed to an office of or employed by the general assembly or any department, division, institution, instrumentality, board, commission, or bureau of the state, excluding the courts, shall receive or agree to receive directly or indirectly compensation other than from the agency with which he serves for any service rendered or to be rendered by him personally in any case, proceeding, application, or other matter that is before the general assembly or any department, division, institution, instrumentality, board, commission, or bureau of the state, **excluding the courts.** (emphasis added).

R.C. 2921.42(A)

Another section applicable to this situation is R.C. 2921.42(A). Divisions (A)(1), (4) and (5) of section 2921.42 of the Revised Code read as follows:

(A) No public official shall knowingly do any of the following:

(1) Authorize, or employ the authority or influence of his office to secure authorization of any public contract in which he, a member of his family, or any of his business associates has an interest;

(4) Have an interest in the profits or benefits of a public contract entered into by or for the use of the political subdivision or governmental agency or instrumentality with which he is connected;

(5) Have an interest in the profits or benefits of a public contract which is not let by competitive bidding when required by law, and which involves more than one hundred fifty dollars.

Although section 2921.42 of the Revised Code is not directly on point in your situation the Committee has cautioned members that all contracts between a member and a governmental entity must be conducted in the normal course of business dealings. Membership in the General Assembly cannot be allowed to influence the terms of any contract between the member and a governmental entity. Members may not receive any compensation other than that received by other attorneys providing comparable legal services and may not use the members' office to increase the amount of that compensation.

In conclusion, a member of the General Assembly is not prohibited from serving as a magistrate for a municipality, so long as the member acts in accordance with the standards required of any member when pursuing outside employment.

Should you have any further questions, please contact me at 728-5100.

Sincerely,

Tony W. Bledsoe
Chief Legal Counsel

Wilson, Erica

From: Wilson, Erica
Sent: Tuesday, November 10, 2009 3:21 PM
To: Mary Jane Campbell
Subject: FW: Magistrate
Attachments: Magistrate.doc

Erica K. Wilson

Legislative Aide
Office of State Representative Danny Bulp
88th House District
Ohio House of Representatives
614.644.6034

December xx, 2004

The Honorable Member
State Representative
77 South High Street,
Columbus, OH 43215-6111

Dear Representative Member:

This letter is in response to your request for an informal opinion regarding whether you may serve as a magistrate for a municipality or municipalities. This opinion is based upon the following facts. Various municipalities in Franklin County retain private attorneys to serve as magistrates in municipal court. You are considering entering into such an employment agreement with one or more municipalities.

Nothing in the Ethics Law or the Legislative Code of Ethics prohibits a member from serving as a magistrate for a municipality. The issue of a member providing legal representation to clients has been addressed in JLEC Advisory Opinions No. 95-006 and 95-012. The specific issue of a member accepting legal assignments including criminal assignments from a county court was addressed in Advisory Opinion 99-001. As stated in Advisory Op. 99-001 pursuant to R.C. 102.04(A), members are prohibited from *appearing before* certain governmental agencies. These prohibitions do not apply to your serving as a magistrate.

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(5) Have an interest in the profits or benefits of a public contract which is not let by competitive bidding when required by law, and which involves more than one hundred fifty dollars.

Although section 2921.42 of the Revised Code is not directly on point in your situation the Committee has cautioned members that all contracts between a member and a governmental entity must be conducted in the normal course of business dealings. Membership in the General Assembly cannot be allowed to influence the terms of any contract between the member and a governmental entity. Members may not receive any compensation other than that received by other attorneys providing comparable legal services and may not use the members' office to increase the amount of that compensation.

In conclusion, a member of the General Assembly is not prohibited from serving as a magistrate for a municipality, so long as the member acts in accordance with the standards required of any member when pursuing outside employment.

Should you have any further questions, please contact me at 728-5100.

Sincerely,

Tony W. Bledsoe
Chief Legal Counsel

Columbus Office
Phone: (614) 466-8140
Fax: (614) 719-3969
District69@ohr.state.oh.us



Committees
Joint Legislative Ethics Committee
Legislative Service Commission
Rules and Reference

William G. Batchelder
Republican Leader

October 30, 2009

Chris Redfern, Chairman
Ohio Democratic Party
340 East Fulton Avenue
Columbus, Ohio 43215

Dear Chairman Redfern,

As you know, State Representative Danny Bulp was presented with the Legion of Merit medal today for his service as a Colonel in the United States Marine Corps. This armed forces award honors officers and enlisted personnel who distinguish themselves through exceptionally meritorious conduct in the performance of outstanding services.

Colonel Bulp fully embodies the honor, courage and commitment that make up the core principles of Marine Corps service. Danny received several standing ovations during today's ceremony. It was an honor just to witness such a moving event.

With that said, I was deeply disappointed to learn of the cold, baseless attacks being lodged against him by three of your local chairmen, from the Clermont, Brown, and Adams County Democratic Parties.

In addition to his Marine Corps duties and his position as state representative, Colonel Bulp works as a magistrate in two local villages, Winchester and Ripley. Your chairmen falsely accused Colonel Bulp of "illegally serving in two public office capacities". As you know, Colonel Bulp thoughtfully sought counsel on this matter over five years ago, receiving the go-ahead to serve as magistrate in his local communities from Tony Bledsoe, Executive Director of the Ohio Legislative Inspector General's office. I've attached a copy of the letter as a reminder for you.

Mr. Chairman, serving as Magistrate in Winchester and Ripley is no more a public office than is serving as a Marine in Ramadi and Fallujah. It is discouraging to see that these Democratic Party officials would be party to a blatantly false campaign against a decorated Marine Colonel and State Representative.

As I recall from serving with you in the Ohio House of Representatives, you had a great deal of respect for this institution. So as a former member and as Chairman of the Ohio Democratic Party, I ask you to join me in a bipartisan denunciation of these false and unwarranted attacks against a man who has served his district and his country with great honor and distinction.

Trying to score cheap political points is one thing. Blatantly impugning the reputation of someone who has served this country with honor goes too far.

I look forward to hearing from you immediately.

Best regards,

A handwritten signature in black ink that reads "Will G. Batchelder".

William G. Batchelder
Republican Leader
Ohio House of Representatives

MEMORANDUM

This memorandum addresses the unlawful holding and automatic forfeiture of the office of state representative by Danny R. Bulp (R -- 88th District) through his actions, undertaken throughout his entire tenure in the General Assembly, of holding and accepting an appointment, office, or employment of another public office.

I. Executive Summary

Article II, Section 4 of the Ohio Constitution prohibits a member of the Ohio General Assembly from holding another public office during the term for which he or she was elected. Additionally, R.C. § 101.26 expressly declares a seat in the General Assembly to be deemed vacant whenever a member of the General Assembly fails or refuses to resign *immediately* from any other public office he or she holds while elected to the General Assembly or if he or she accepts such a position while in the General Assembly.

Prior to being elected to the Ohio House of Representatives, State Representative Danny Bulp (R -- 88th District) served as a magistrate in the mayor's court of Ripley, Ohio. A review of the Financial Disclosure Statements given under penalty of knowingly making a false statement and filed with the Joint Legislative Ethics Committee reveals that Mr. Bulp has continued to serve as a magistrate in the mayor's court of Ripley throughout his tenure in the General Assembly. (Additionally, in 2007, Mr. Bulp also accepted the public office of serving as a magistrate for the Village of Winchester, Ohio.)

Because a magistrate of a mayor's court constitutes a "public office", Mr. Bulp is unlawfully holding and exercising the office of state representative and/or has forfeited that office, pursuant to the constitutional and statutory prohibitions.

The proper procedure to declare the state representative position forfeited and vacated is through *quo warranto*. But the parties who have standing to bring such an action are severely

limited, such that, in this instance, only the attorney general or a prosecuting attorney is statutorily authorized to bring such an action to challenge Mr. Bulp's usurpation of the office of state representative.

II. Legal Background

A. Constitutional Forfeiture of Office

Article II, Section 4 of the Ohio Constitution provides, in part:

No member of the general assembly shall, during the term for which he was elected, unless during such term he resigns therefrom, hold any public office under the United States, or this state, or a political subdivision thereof, but this provision does not extend to officers of a political party, notaries public, or officers of the militia or of the United States armed forces.

A similar prohibition was part of the original 1851 Constitution, which was amended to the current provision in 1973.¹

In order to constitute a "public office" under Article II, Section 4 of the Ohio Constitution, the key (though not necessarily exclusive question) is whether the office or position at issue exercises powers part of the sovereign powers of government. As explained by the Ohio Supreme Court in *State ex rel. Landis v. Board of Commissioners of Butler County* (1917), 95 Ohio St. 157:

The usual criteria in determining whether a position is a public office are durability of tenure, oath, bond, emoluments, the independency of the functions exercised by the appointee, and the character of the duties imposed upon him. But it has been held by this court that while an oath, bond and compensation are usually elements in determining whether a position is a public office they are not always necessary. . . . The chief and most decisive characteristic of a public office is determined by the quality of the duties with which the appointee is invested, and by the fact that such duties are conferred upon the appointee by law. If official duties are

¹ The original prohibition in effect from 1851 to 1973 provided that:

No person holding office under the authority of the United States, or any lucrative office under the authority of this State, shall be eligible to, or have a seat in, the General Assembly, but this provision shall not extend to township officers, justices of the peace, notaries public, or officers of the militia.

prescribed by statute, and their performance involves the exercise of continuing, independent, political or governmental functions, then the position is a public office and not an employment. 4

... It is no longer an open question in this state that "to constitute a public office, * * * it is essential that certain independent public duties, a part of the sovereignty of the state, should be apportioned to it by law."

In all of these cases it is manifest that the functional powers imposed must be those which constitute a part of the sovereignty of the state.

Id. at 159-60 (internal citations omitted); accord *Monarch Constr. Co. v. Ohio School Facilities Comm'n*, 118 Ohio Misc.2d 248, 269, 2002-Ohio-2955 ¶77 ("[a] 'public officer,' in contrast to a public employee, is invested by law with a portion of the sovereignty of the state and is authorized to exercise functions of an executive, legislative, or judicial character for the benefit of the public").

But with respect to the question of whether a magistrate of a mayor's court constitutes a "public office", the Ohio Attorney General has already recognized that such a magistrate does, *inter alia*, exercise a sovereign function of government, and, accordingly, "the position of mayor's court magistrate is a public office of the municipal corporation." 1992 Ohio Op. Atty. Gen. 2-158; see also 1990 Ohio Op. Atty. Gen. No. 90-089 (the position of municipal court referee is a public office); but see 1969 Ohio Op. Atty. Gen. No. 69-039 (relying upon 1915 Ohio Op. Atty. Gen. No. 217, concluded that one who is a state senator may also hold the position of village solicitor as the latter is a contractual position, serving for an indefinite term and is not obligated to give bond or an oath, without addressing the question of exercising sovereign function of government).

Finally, the effect of an individual simultaneously holding a seat in the General Assembly and another public office would be the forfeiture of the seat in the General Assembly. The constitutional prohibition at issue indicates that, in order to hold another public office, the member of the General Assembly must "resign[] therefrom", the "therefrom" referencing the seat in the

General Assembly.² And in 1913 Ohio Att'y Gen'l Opin. No. 236, the Attorney General, in addressing the predecessor provision of the Ohio Constitution, expressly declared that "[t]he holding of any and all other offices renders one both ineligible to, as well as causing the forfeiture of their seat in the general assembly." Thus, when a member of the General Assembly accepts another public office, if he or she does not formally resign from the General Assembly, he or she has, at a minimum, implicitly resigned and forfeited his or her seat in the General Assembly, thus creating a vacancy as a matter of law.

B. Statutory Forfeiture of Office

Ohio Revised Code § 101.26 provides that

No member of either house of the general assembly, except in compliance with this section, shall knowingly do any of the following:

(C) . . . accept any appointment, office, or employment from any executive or administrative branch or department of the state that provides other compensation than actual and necessary expenses.

Any appointee, officer, or employee described in division . . . (C) of this section who accepts a certificate of election to either house immediately shall resign from the appointment, office, or employment, and, if he fails or refuses to do so, his seat in the general assembly shall be deemed vacant. Any member of the general assembly who accepts any appointment, office, or employment described in division . . . (C) of this section immediately shall resign from the general assembly, and, if he fails or refuses to do so, his seat in the general assembly shall be deemed vacant. This section does not apply to members of either house of the general assembly serving . . . [as] school teachers, employees of boards of education, notaries public, or officers of the militia.

Thus, there are two separate and distinct mechanisms by which a seat in the general assembly shall be deemed to be vacant as a matter of law: (i) while holding another public office, a person is elected or accepts the certificate of election to the General Assembly, but fails or refuses to resign from that public office; or (ii) while a member of the general assembly, he or she accepts an appointment,

² As a matter of grammatical construction, it is clear that the "resigns therefrom" refers to the General Assembly for at that point in the sentence within the Constitution, only a single office or position has even mentioned, i.e., the General Assembly.

office or employment in another public office, but fails or refuses to resign from the General Assembly.

In 1935 Ohio Op. Atty Gen. No. 6102, the Attorney General recognized that the concept of the "state", as used R.C. § 101.26, was not limited to only the central agencies of the state government, but, instead, was intended to be given a broad application to mean "the whole governmental organization of the state, including the numerous local subdivisions therein." Thus, its prohibition would extend to offices in municipalities. *See State ex rel. Ramey v. Davis* (1929), 119 Ohio St. 596 (syllabus ¶1) ("[t]he sovereignty of the state in respect to its courts extends over all the state, including municipalities, whether governed by charter or general laws").

Thus, pursuant to the express terms of R.C. § 101.26, if a member of the General Assembly should accept any appointment, office, or employment of a municipality (or continue to serve in such capacity), his or her seat in the General Assembly "shall be deemed vacant" and any further claim to serve in the General Assembly (including committee hearing, voting, etc.) is the unlawful assumption and exercise of a public office and/or he or she has forfeited the office of being a member of the General Assembly. *See* 1935 Ohio Op. Atty Gen. No. 4366 (in construing both the constitutional and statutory prohibition, declared that "while a member of the General Assembly may accept any of the employments you mention when the General Assembly is not in session, he must resign his seat in the General Assembly immediately or his seat will be considered vacant").

C. Quo Warranto Action

Chapter 2733 of the Revised Code provides for the commencement of an action in *quo warranto* to challenge a person's right or claim to a public office. Ohio Revised Code § 101.26 provides, in part:

A civil action in *quo warranto* may be brought in the name of the state:

- (A) Against a person who usurps, intrudes into, or unlawfully holds or exercises a public office . . .
- (B) Against a public officer, civil or military, who does or suffers an act which, by law, works a forfeiture of his office. . . .

Thus, one who claims the right to a seat in the General Assembly but who, through his or her actions, has forfeited the seat (either pursuant to Article II, Section 4 of the Ohio Constitution or R.C. § 101.26) or unlawfully holds or exercises such a position would be subject to an action in quo warranto. Such an action may be commenced in the Ohio Supreme Court pursuant to its original jurisdiction. OHIO CONST., art. IV, sec. 2(B)(1)(a).

The statutory procedures for quo warranto grants standing to bring such an action only to the attorney general, a prosecuting attorney, or to a person claiming to be entitled to a public office unlawfully held and exercised by another. *Esarco v. Tarpley*, 2008-Ohio-4516 ¶7. Because "an action in quo warranto may be brought by an individual as a private citizen only when he personally is claiming title to a public office," *Stats ex rel. Coyne v. Todia* (1989), 45 Ohio St.3d 232, 238, if there is no individual claiming title to a public office (such as when an office holder, through his actions, unlawfully holds or forfeits the office), then "an action in quo warranto must be brought only by the attorney general or a prosecuting attorney." *Lutz/Kelly v. Faver*, 2003-Ohio-659 ¶3; see R.C. § 2733.05.

III. State Representative Bulp's Activities

First elected to the General Assembly in 2004, State Representative Danny Bulp took his seat in January 2005 and has continued to hold or claim the seat for the 88th District (which consists of parts of of Clermont and Adams County, as well as all of Brown County) since that time.

According to the Financial Disclosure Statements filed with the Joint Legislative Ethics Committee from 2004, Mr. Bulp has served continuously as magistrate of a mayor's counsel for the Village of Ripley (which is located in Brown County) since at least 2003. Additionally, in 2007,

Representative Bubb reported that he was also serving as a magistrate for the Village of Winchester (which is located in Adams County within his state representative district). Copies of the pertinent pages from the Financial Disclosure Statements are attached hereto, which indicate that Mr. Bubb, in addition to drawing his salary from the Ohio General Assembly has continued to serve simultaneously as a magistrate for at least two villages within his state house district. And finally, a telephone call to the Village of Ripley in September 2009 confirmed that Representative Bubb is still currently serving as magistrate for that mayor's court.

IV. Conclusion

Based upon the foregoing constitutional and statutory provisions, the house seat for the 88th district has and continues to be vacated due to Mr. Bubb's holding of other public offices within this state.³ Because those who have standing to challenge the unlawful holding and forfeiture of a public office is severely restricted, the only viable plaintiff/relator in such an action is the attorney general who should ensure that the laws of the State are fully respected and enforced.

³ This memorandum does not address whether the actions of Representative Bubb have violated Ohio's Ethics Laws (Chapter 102 of the Revised Code) or whether the retention of Mr. Bubb as magistrate for the Village of Ripley or his being hired in 2007 for the magistrate position in the Village of Winchester was the result of the unlawful use of his authority or influence to secure such a public contract in which he had an interest (see R.C. § 2941.42(A)(1)).

1. INCOME

Complete EITHER Section A or Section B, whichever is the appropriate section.

A. IF YOU ARE A MEMBER OF THE GENERAL ASSEMBLY IN 2004 OR WERE A MEMBER OF THE GENERAL ASSEMBLY IN 2003: You are required to list EVERY source of income and must identify the amount of each source of income received in accordance with the following ranges using the appropriate letter:

A. \$0 - \$999; B. \$1,000 - \$9,999; C. \$10,000 - \$24,999; D. \$25,000 - \$49,999; E. \$50,000 - \$99,999; F. \$100,000 or more. Also, list each source of income received by any other person for your use or benefit. "Income" includes gross income for federal tax purposes and interest and dividends on all governmental securities. You are not required to list the sources of income of your spouse, unless the income was received specifically for your use or benefit.

You are not required to list the individual items of income from your business or profession, only the name of any business, governmental agency, or employer from which you received income EXCEPT (1) you must list the source and dollar amount of income received, or shared with a partner in your business or profession, that is attributable to services or goods provided to a client or customer who is a "legislative agent" AND/OR (2) you must list the source and dollar amount of income received from a person or entity that is doing or seeking to do business with the General Assembly. Attorneys, physicians, and psychologists should list each practice separately but need not disclose the names of their clients or patients, unless those clients or patients are legislative agents. If the client or patient is a legislative agent, you must disclose each client or patient, unless exempted under Revised Code 102.02(A)(2)(e).

For each source of income listed, briefly describe the services for which the income was received.

IF NONE, CHECK HERE

A.	2004 REMUNERATION	2004 REMUNERATION	F
B.	Village of Ripley, Ohio	Investment	C ★
C.	United States Marine Corps	RESERVE GENERAL	C
D.	WEST STATE BANK IN HOWARD COUNTY	SAVINGS & INVESTMENT	B
E.	FIFTH THIRD BANK	SAVINGS	B
F.	WELLS FARGO BANK AND THE FIRST BANK	SAVINGS	B

B. IF YOU ARE AN EMPLOYEE OF THE GENERAL ASSEMBLY OR ANY LEGISLATIVE AGENCY: You are required to list each source of gross income. You are not required to disclose any dollar amounts except as indicated below. Also, list each source of income received by any other person for your use or benefit. Remember to list your employment as a source of income. "Income" includes gross income for federal tax purposes and interest and dividends on all governmental securities. You are not required to list the income of your spouse, unless the income was received specifically for your use or benefit.

You are not required to list the individual items of income from your business or profession, only the name of any business, governmental agency, or employer from which you received income EXCEPT (1) you must list the source and dollar amount of income received, or shared with a partner in your business or profession, that is attributable to services or goods provided to a client or customer who is a "legislative agent" AND/OR (2) you must list the source and dollar amount of income received from a person or entity that is doing or seeking to do business with the General Assembly. Attorneys, physicians, and psychologists should list each practice separately but need not disclose the names of their clients or patients, unless those clients or patients are legislative agents. If the client or patient is a legislative agent, you must disclose each client or patient, unless exempted under Revised Code 102.02(A)(2)(e).

You are not required to list the individual items of income from your business or profession, only the name of any business, governmental agency, or employer from which you received income EXCEPT (1) you must list the source and dollar amount of income received, or shared with a partner in your business or profession, that is attributable to services or goods provided to a client or customer who is a "legislative agent" AND/OR (2) you must list the source and dollar amount of income received from a person or entity that is doing or seeking to do business with the General Assembly. Attorneys, physicians, and psychologists should list each practice separately but need not disclose the names of their clients or patients, unless those clients or patients are legislative agents. If the client or patient is a legislative agent, you must disclose each client or patient, unless exempted under Revised Code 102.02(A)(2)(e).

Extract of Bubb's 2004 Financial Disclosure

1. INCOME

Complete **EITHER** Section A or Section B, whichever is the appropriate section.

A. IF YOU ARE A MEMBER OF THE GENERAL ASSEMBLY IN 2007 OR WERE A MEMBER OF THE GENERAL ASSEMBLY IN 2006: You are required to list **EVERY** source of income and must identify the amount of each source of income received in accordance with the following ranges using the appropriate letter: A. \$0 - \$999; B. \$1,000 - \$9,999; C. \$10,000 - \$24,999; D. \$25,000 - \$49,999; E. \$50,000 - \$99,999; F. \$100,000 or more. Also, list each source of income received by any other person for your use or benefit. "Income" includes gross income for federal tax purposes and interest and dividends on all governmental securities. You are not required to list the sources of income of your spouse, unless the income was received specifically for your use or benefit. **MILEAGE REIMBURSEMENT IS REPORTED IN "SECTION 8. TRAVEL". DO NOT INCLUDE MILEAGE REIMBURSEMENT IN "SECTION 1. INCOME".**

You are not required to list the individual items of income from your business or profession, only the name of any business, governmental agency, or employer from which you received income **EXCEPT** (1) you must list the source and dollar amount of income received, or shared with a partner in your business or profession, that is attributable to services or goods provided to a client or customer who is a "legislative agent" **AND/OR** (2) you must list the source and dollar amount of income received from a person or entity that is doing or seeking to do business with the General Assembly. Attorneys, physicians, and psychologists should list each practice separately but need not disclose the names of their clients or patients, unless those clients or patients are legislative agents. If the client or patient is a legislative agent, you must disclose each client or patient, unless excepted under Revised Code 102.02(A)(2)(c).

For each source of income listed, briefly describe the services for which the income was received.

IF NONE, CHECK HERE

SOURCE OF INCOME	SERVICE PERFORMED	AMOUNT (A, B, C, D, E, OR F)
A. SELF EMPLOYMENT LAW OFFICE OF DANNY R. BUBB	LEGAL SERVICES	F
B. STATE OF OHIO	state REP.	E
C. UNITED STATES MARINE CORPS RESERVE	Colonel	C
D. VILLAGE OF RIPLEY, OHIO	Assistant	C
WELLS FARGO BANK	INTEREST	B
FIRST STATE BANK & FIRST STATE TRUST	INTEREST & DIVIDENDS	B
THE CITIZENS BANK OF HIGBENSPTON	INTEREST	B
WELLS FARGO BANK	INTEREST	B
RIPLEY FEDERAL SAVINGS BANK	INTEREST	B

B. IF YOU ARE AN EMPLOYEE OF THE list each source of gross income. You are Also, list each source of income received as a source of income. "Income" includes governmental securities. You are not req received for your use or benefit.

Extract of Bubb's 2006 Financial Disclosure

1. INCOME

Complete EITHER Section A or Section B, whichever is the appropriate section.

A. IF YOU ARE A MEMBER OF THE GENERAL ASSEMBLY IN 2007 OR WERE A MEMBER OF THE GENERAL ASSEMBLY IN 2007. You are required to list EVERY source of income and must identify the amount of each source of income received in accordance with the following ranges using the appropriate letter: A. \$0 - \$999; B. \$1,000 - \$9,999; C. \$10,000 - \$24,999; D. \$25,000 - \$49,999; E. \$50,000 - \$99,999; F. \$100,000 or more. Also, list each source of income received by any other person for your use or benefit. "Income" includes gross income for federal tax purposes and interest and dividends on all government securities. You are not required to list the sources of income of your spouse, unless the income was received specifically for your use or benefit. MILEAGE REIMBURSEMENT IS REPORTED IN "SECTION B. TRAVEL". DO NOT INCLUDE MILEAGE REIMBURSEMENT IN "SECTION 1. INCOME".

You are not required to list the individual items of income from your business or profession, only the name of any business, governmental agency, or employer from which you received income EXCEPT (1) you must list the source and dollar amount of income received, or shared with a partner in your business or profession, that is attributable to services or goods provided to a client or customer who is a "legislative agent" AND/OR (2) you must list the source and dollar amount of income received from a person or entity that is doing or seeking to do business with the General Assembly. Attorneys, physicians, and psychologists should list each practice separately but need not disclose the names of their clients or patients, unless those clients or patients are legislative agents. If the client or patient is a legislative agent, you must disclose each client or patient, unless excepted under Revised Code 102.02(A)(2)(c).

For each source of income listed, briefly describe the services for which the income was received.

EXAMPLE:

SOURCE OF INCOME	SERVICE PERFORMED	AMOUNT (A, B, C, D, E, OR F)
State of Ohio	Senator/Representative	E
Smith and Jones Law Firm	Lawyer	C
Friendly National Bank	Money in Savings Account	A
Christopher Columbus - Legislative Agent	Boat Insurance Policy	\$143,000

IF NONE, CHECK HERE

SOURCE OF INCOME	SERVICE PERFORMED	AMOUNT (A, B, C, D, E, OR F)
A. SELF EMPLOYMENT KNO OFFICE OF DANNY R. BUBB	LEGAL SERVICES	F
B. State of Ohio	state rep.	E
C. United States Marine Corps	COLONEL MAGISTRATE	C
D. Village of Ripley, Ohio	MAGISTRATE	C
E. Village of Winchester, Ohio	MAGISTRATE	C
F. BANK NILL BANK	INTEREST	B
G. First Third of NATIONAL of the Citizens		
H. Wachovia		
I. Ripley Fed		
J. Rental I		



Extract of Bubb's 2007 Financial Disclosure

1. INCOME

Complete EITHER Section A or Section B, whichever is the appropriate section.

A. IF YOU ARE A MEMBER OF THE GENERAL ASSEMBLY IN 2008 OR WERE A MEMBER OF THE GENERAL ASSEMBLY IN 2008: You are required to list EVERY source of income and must identify the amount of each source of income received in accordance with the following ranges using the appropriate letter: A. \$0 - \$999; B. \$1,000 - \$9,999; C. \$10,000 - \$24,999; D. \$25,000 - \$49,999; E. \$50,000 - \$99,999; F. \$100,000 or more. Also, list each source of income received by any other person for your use or benefit. "Income" includes gross income for federal tax purposes and interest and dividends on all governmental securities. You are not required to list the sources of income of your spouse, unless the income was received specifically for your use or benefit. **MILEAGE REIMBURSEMENT IS REPORTED IN "SECTION 6. TRAVEL". DO NOT INCLUDE MILEAGE REIMBURSEMENT IN "SECTION 1. INCOME".**

You are not required to list the individual items of income from your business or profession, only the name of any business, governmental agency, or employer from which you received income EXCEPT (1) you must list the source and dollar amount of income received, or shared with a partner in your business or profession, that is attributable to services and goods provided to a client or customer who is a "legislative agent" AND/OR (2) you must list the source and dollar amount of income received from a person or entity that is doing or seeking to do business with the General Assembly. Attorneys, physicians, and psychologists should list each practice separately but need not disclose the names of their clients or patients, unless those clients or patients are legislative agents. If the client or patient is a legislative agent, you must disclose each client or patient, unless accepted under Revised Code 102.02(A)(2)(c).

For each source of income listed, briefly describe the services for which the income was received.

EXAMPLE:

SOURCE OF INCOME	SERVICE PERFORMED	AMOUNT (A, B, C, D, E, OR F)
State of Ohio	Senator/Representative	D
Smith and Jones Law Firm	Lawyer	C
123 Main Street	Rental Income	B
First National Bank	Interest on Savings Account	A
Christopher Columbus - Legislative Agent	Boat Insurance Policy	\$143.00

IF NONE, CHECK HERE

SOURCE OF INCOME	SERVICE PERFORMED	AMOUNT (A, B, C, D, E, OR F)
A. SELF EMPLOYMENT Law Office of Danny A. Bupp	LEGAL	F
B. United States Marine Corps	Colonel	F
C. State of Ohio	State Rep Magistrate	E B
D. Village of Ripley, Ohio		
E. Wesanco Bank		
F. Fifth Third		
G. National Bank		
H. The Citizens		
I. Wachovia SEI		
J. First State		
K. Huntington NA		
L. Rental Income		

Extract of Bupp's 2008 Financial Disclosure



MIKE DEWINE

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OFFICE OF
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May 12, 2011

Tony W. Bledsoe
Legislative Inspector General / Executive Director
Joint Legislative Ethics Committee
Office of the Legislative Inspector General
50 West Broad Street, Suite 1308
Columbus, OH 43215

Dear Mr. Bledsoe,

Recently, the Ohio Attorney General's office received the enclosed anonymous memorandum. We have the sender's "John Q. Public" email address only. The correspondence alleges that Representative Bulp is ineligible to continue his service with the General Assembly in view of what is said to be his contemporaneous work as a mayor's court magistrate.

In light of the directive in Section 6, Article II of the Ohio Constitution that "[e]ach House shall be judge of the ... qualifications of its own members," and noting that this correspondent references what he terms a "draft letter" from your Committee, we send along the communication for your appropriate review and consideration.

I appreciate any appropriate attention to this matter.

Very respectfully yours,

Scott Corbit
Policy and Legislative Director
Office of Ohio Attorney General

MEMORANDUM

Issue: State Representative Danny R. Bulp (88th District) is presently holding that public office in violation of the Ohio Constitution and state law. Through actions he has taken since being sworn into office on January 4, 2011, Mr. Bulp has legally forfeited the office of state representative, yet this clear violation of the Constitution and state law has been allowed to continue without Mr. Bulp being removed from office; there has been no accountability. If it is true that no person is above law, then Mr. Bulp's violation of the law needs to be fully addressed and his seat declared forfeited and vacated.

I. Executive Summary

Article II, Section 4 of the Ohio Constitution prohibits a member of the Ohio General Assembly from holding another public office during the term for which he or she was elected. Additionally, R.C. § 101.26 expressly declares a seat in the General Assembly to be deemed vacant whenever a member of the General Assembly fails or refuses to resign *immediately* from any other public office that the member holds while elected to the General Assembly or if the member accepts such a position while in the General Assembly.

Prior to being elected to the Ohio House of Representatives, State Representative Danny Bulp (88th District) served as a magistrate in the mayor's court of Ripley, Ohio, which is located in Brown County. Mr. Bulp has continued to serve as the mayor's court magistrate, including doing so after assuming office as a state representative during the present general assembly.

Because a magistrate of a mayor's court constitutes a "public office," Mr. Bulp is unlawfully holding and exercising the office of state representative and/or has forfeited that office, pursuant to the constitutional and statutory prohibitions identified above.

The proper procedure to declare the state representative position forfeited and the seat thereto vacated is through an action of *quo warranto*. The parties who have standing to bring such an action are severely limited – only the attorney general or a prosecuting attorney is statutorily authorized to bring such an action to challenge Mr. Bulp's usurpation of the office of state representative. The prosecuting attorneys in the counties which Mr. Bulp represents are all Republicans, as is the

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Attorney General. If it is true that no person is above the law, then why has Mr. Bulp been allowed to ignore the constitution and state law with impunity.

II. Analysis

A. Constitutional Forfeiture of Office

Article II, Section 4 of the Ohio Constitution provides, in part:

No member of the general assembly shall, during the term for which he was elected, unless during such term he resigns therefrom, hold any public office under the United States, or this state, or a political subdivision thereof; but this provision does not extend to officers of a political party, notaries public, or officers of the militia or of the United States armed forces.

A similar prohibition was part of the original 1851 Constitution, which was amended to the current provision in 1973.¹

In order to constitute a "public office" under Article II, Section 4 of the Ohio Constitution, the key question or analysis is whether the office or position at issue exercises powers which are part of the sovereign powers of government. As explained by the Ohio Supreme Court in *State ex rel. Landis v. Board of Commissioners of Butler County*, 95 Ohio St. 157 (1917):

The usual criteria in determining whether a position is a public office are durability of tenure, oath, bond, emoluments, the independency of the functions exercised by the appointee, and the character of the duties imposed upon him. But it has been held by this court that while an oath, bond and compensation are usually elements in determining whether a position is a public office they are not always necessary. . . . The chief and most decisive characteristic of a public office is determined by the quality of the duties with which the appointee is invested, and by the fact that such duties are conferred upon the appointee by law. If official duties are prescribed by statute, and their performance involves the exercise of continuing, independent, political or governmental functions, then the position is a public office

¹ The original prohibition in effect from 1851 to 1973 provided that:

No person holding office under the authority of the United States, or any lucrative office under the authority of this State, shall be eligible to, or have a seat in, the General Assembly, but this provision shall not extend to township officers, justices of the peace, notaries public, or officers of the militia.

and not an employment.

... It is no longer an open question in this state that "to constitute a public office, ... it is essential that certain independent public duties, a part of the sovereignty of the state, should be appointed to it by law."

In all of these cases it is manifest that the functional powers imposed must be those which constitute a part of the sovereignty of the state.

Id. at 159-60 (internal citations omitted); accord *Monarch Constr. Co. v. Ohio School Facilities Comm'n*, 118 Ohio Misc.2d 248, 269, 2002-Ohio-2955 ¶77 ("[a] 'public officer,' in contrast to a public employee, is invested by law with a portion of the sovereignty of the state and is authorized to exercise functions of an executive, legislative, or judicial character for the benefit of the public").

But with respect to the question of whether a magistrate of a mayor's court constitutes a "public office", the Ohio Attorney General has already recognized that such a magistrate does exercise a sovereign function of government, and, accordingly, "the position of mayor's court magistrate is a public office of the municipal corporation." 1992 Ohio Op. Atty. Gen. 2-158; see also 1990 Ohio Op. Atty. Gen. No. 90-089 (the position of municipal court referee is a public office).

Finally, the effect of an individual simultaneously holding a seat in the General Assembly and another public office would be the forfeiture of the seat in the General Assembly. The constitutional prohibition at issue indicates that, in order to hold another public office, the member of the General Assembly must "resign[] therefrom", the "therefrom" referencing the seat in the General Assembly.² And in 1913 Ohio Att'y Gen'l Opin. No. 236, the Attorney General, in addressing the predecessor provision of the Ohio Constitution, expressly declared that "[t]he holding of any and all other offices renders one both ineligible to, *as well as causing the forfeiture of their seat in the general assembly.*" Thus, when a member of the General Assembly accepts or exercises

² As a matter of grammatical construction, it is clear that the "resigns therefrom" refers to the General Assembly for at that point in the sentence within the Constitution, only a single office or position has even mentioned, *i.e.*, the General Assembly.

the powers of another public office, the member of the General Assembly has implicitly resigned and forfeited the seat in the General Assembly, thus creating a vacancy as a matter of law.

B. Statutory Forfeiture of Office

Ohio Revised Code § 101.26 provides that

No member of either house of the general assembly, except in compliance with this section, shall knowingly do any of the following:

... (C) . . . accept any appointment, office, or employment from any executive or administrative branch or department of the state that provides other compensation than actual and necessary expenses.

Any appointee, officer, or employee described in division . . . (C) of this section who accepts a certificate of election to either house immediately shall resign from the appointment, office, or employment, and, *if he fails or refuses to do so, his seat in the general assembly shall be deemed vacant.* Any member of the general assembly who accepts any appointment, office, or employment described in division . . . (C) of this section immediately shall resign from the general assembly, and, *if he fails or refuses to do so, his seat in the general assembly shall be deemed vacant.* This section does not apply to members of either house of the general assembly serving . . . [as] school teachers, employees of boards of education, notaries public, or officers of the militia.

Thus, there are two separate and distinct mechanisms by which a seat in the general assembly shall be deemed to be vacant as a matter of law: (i) while holding another public office, a person is elected or accepts the certificate of election to the General Assembly, but fails or refuses to resign from that public office; or (ii) while a member of the general assembly, he or she accepts an appointment, office or employment in another public office, but fails or refuses to resign from the General Assembly.

In 1935 Ohio Op. Att'y Gen. No. 6102, the Attorney General recognized that the concept of the "state", as used R.C. § 101.26, was not limited to only the central agencies of the state government, but, instead, was intended to be given a broad application to mean "the whole governmental organization of the state, including the numerous local subdivisions therein." Thus, its prohibition would extend to offices in municipalities. See *State ex rel. Ramey v. Davis*, 119 Ohio St.

596 (1929)(syllabus 1)(“[t]he sovereignty of the state in respect to its courts extends over all the state, including municipalities, whether governed by charter or general laws”).

Thus, pursuant to the express terms of R.C. § 101.26, if a member of the General Assembly should accept any appointment, office, or employment of a municipality (or continue to serve in such capacity), that member’s seat in the General Assembly “shall be deemed vacant” and any further claim to serve in the General Assembly (including committee hearings, voting, *etc.*) is the unlawful assumption and exercise of a public office and/or he or she has forfeited the office of being a member of the General Assembly. *See* 1935 Ohio Op. Att’y Gen. No. 4366 (in construing both the constitutional and statutory prohibition, declared that “while a member of the General Assembly may accept any of the employments you mention when the General Assembly is not in session, he must resign his seat in the General Assembly immediately or *his seat will be considered vacant*”).

C. Quo Warranto Action

Chapter 2733 of the Revised Code provides for the commencement of an action in *quo warranto* to challenge a person’s right or claim to a public office. Ohio Revised Code § 101.26 provides, in part:

A civil action in quo warranto may be brought in the name of the state:

(A) Against a person who usurps, intrudes into, or unlawfully holds or exercises a public office . . .

(B) Against a public officer, civil or military, who does or suffers an act which, by law, works a forfeiture of his office. . . .

Thus, one who claims the right to a seat in the General Assembly but who, through his or her actions, has forfeited the seat (either pursuant to Article II, Section 4 of the Ohio Constitution or R.C. § 101.26) or unlawfully holds or exercises such a position would be subject to an action in *quo warranto*. Such an action may be commenced in the Ohio Supreme Court pursuant to its original jurisdiction. OHIO CONST., art. IV, sec. 2(B)(1)(a).

The statutory procedures for *quo warranto* grants standing to bring such an action only to the attorney general, a prosecuting attorney, or to a person claiming to be entitled to a public office unlawfully held and exercised by another. *Esarco v. Tarpley*, 2008-Ohio-4516 ¶7. Because "an action in *quo warranto* may be brought by an individual as a private citizen only when he personally is claiming title to a public office," *State ex rel. Coyne v. Todia* (1989), 45 Ohio St.3d 232, 238, if there is no individual claiming title to a public office (such as when an office holder, through his actions, unlawfully holds or has forfeited the office), then "an action in *quo warranto* must be brought only by the attorney general or a prosecuting attorney." *Lutz/Kelly v. Faver*, 2003-Ohio-659 ¶3; see R.C. § 2733.05.

III. Representative Bulp's Activities Resulting in the Forfeiture of the State Representative Seat

First elected to the General Assembly in 2004, Representative Danny Bulp took his seat in January 2005 and has continued to hold or claim the seat for the 88th District (which consists of parts of of Clermont and Adams County, as well as all of Brown County) since that time.

According to the Financial Disclosure Statements filed with the Joint Legislative Ethics Committee from 2004, Mr. Bulp has served continuously as magistrate of a mayor's counsel for the Village of Ripley (which is located in Brown County) since at least 2003. Additionally, in 2007 and 2009, Representative Bulp reported that he was also serving as a magistrate for the Village of Winchester (which is located in Adams County within his state representative district). Copies of the pertinent pages from the Financial Disclosure Statements are attached hereto, which indicate that Mr. Bulp, in addition to drawing his salary from the Ohio General Assembly has continued to serve simultaneously as a magistrate for at least two villages within his state house district.³

³ Mr. Bulp's salary from the Village of Ripley has been \$12,000 per year; it is unknown what salary he has drawn from the Village of Winchester.

Additionally, with respect to the present general assembly, *i.e.*, the 129th General Assembly, Representative Bulp took his seat on January 4, 2011. Yet, on two instances since taking his seat this year, Mr. Bulp has served and functioned as the magistrate for mayor's court in Ripley, Ohio. Attached hereto as copies of various entries from Ripley's mayor's court from January 10 and 24, 2011, wherein Mr. Bulp has clearly functioned and served as the magistrate. As these entries demonstrate, he has assessed fines against individuals and ordered the incarceration of individuals – both of which clearly constitute the exercising an aspect of the sovereignty of the state – and under the Ohio Constitution and R.C. § 101.26 results in the forfeiture of his state representative seat.⁴

IV. Representative Bulp's Claimed Defense

Representative Bulp will claim that he has received a letter from the Joint Legislative Ethics Committee purportedly indicating that he is authorized to hold the position of mayor's court magistrate and state representative. Such a claim lacks any merit for the following reasons:

1. The Letter Appears to Be Simply a Draft Letter

The letter he purports to offer is a form is nothing more than a draft letter, as (i) it is not on JLEC letterhead; (ii) it is not signed by Tony Bledsoe (the executive director); (iii) it does not contain a specific date (but instead has the date as "December xx, 2004"); and (iv) it is not even addressed to any member of the General Assembly, let alone to Mr. Bulp (but simply has a generic "Representative Member" as the addressee). Additionally, in the middle of the first paragraph, there is a clear reference that the letter is addressing matters in "Franklin County", not Brown County where the Village of Ripley is located and where Mr. Bulp has continually served as a mayor's court magistrate throughout his tenure as a state representative.

⁴ Additionally, in late November or early December 2010, Mr. Bulp would have received his certificate of election from the Clermont County Board of Elections for the 129th General Assembly. As noted above, R.C. § 101.26 mandates upon accepting a certificate of election to either house, the member of the house shall *immediately* resign from the office and, *if he fails or refuses to do so, his seat in the general assembly shall be deemed vacant.* Mr. Bulp would have also served as magistrate of the mayor's court in December 2010, after having accepted the certificate of election.

2. The Letter Appears to Only Offer a Non-Binding Informal Opinion

The first sentence of the letter to which Bulp refers starts out "This letter is in response to your request for an informal opinion . . ." (Although, as indicated above, the address is indicated as being "Representative Member".) Thus, at best, this letter was simply an "informal opinion", a fact which is significant even if JLEC could provide protection for a violation of the Ohio Constitution or R.C. § 101.26 (which as developed in point 3 below, JLEC cannot do). And, finally, this informal opinion letter specifically indicates that it is simply addressing "the Ethics Law [and] the Code of Legislative Ethics." Again, as developed below, the issue with Mr. Bulp's forfeiture of office does not rise from or concern the Ethics Laws or the Code of Legislative Ethics; the forfeiture of office results from a violation of the Ohio Constitution and R.C. § 101.26 (which is not part of the Ethics Laws).

Additionally, while using different terminology on its website, JLEC recognizes a clear legal difference between "Written Opinions" (*i.e.*, informal opinions) and "Advisory Opinions" (*i.e.*, formal opinions).³ Compare R.C. § 102.08(C) (discussing publicly sought "advisory opinions" and such opinions provide certain legal protection) with R.C. § 102.08(D) (discussing privately sought "written opinions" and that written opinions do not "have the legal effect of an advisory opinion").

Additionally, JLEC has also publishes all of the "Advisory Opinions" it has issued on its website. A review of those published "Advisory Opinions" reveals that no such opinion has been issued on the issue of a state representative also serving as a mayor's court magistrate. Thus, at best, the letter upon which Mr. Bulp relies (which, again, appears to only be a draft) is simply an informal "Written Opinion" which, even JLEC recognizes "does not have the legal effect of an Advisory opinion; it provides no immunity."

³ To quote from JLEC's website (under the Ethics/Advisory Opinion tab):

JLEC may render two types of opinions in response to questions relating to ethics, conflict of interest, and financial disclosure: Advisory Opinions and Written opinions. An Advisory opinion is publicly sought and the person to whom the opinion is directed or who is similarly situated may reasonably rely on the opinion and shall be immune from criminal prosecutions, civil suits, or actions for removal from his or her office or position of employment under the ethics laws and related statutes based on the facts and circumstances covered in the opinion. All Advisory opinions are a public record. A Written opinion from JLEC is privately sought and does not have the legal effect of an Advisory opinion; it provides no immunity. A Written opinion is not a public record. The person to whom the Written opinion is issued may request JLEC to convert the Written opinion to an Advisory opinion. Upon approval of a majority of the Committee, the Written opinion is issued as an Advisory opinion and has the same legal effect as if publicly sought originally.

3. **JLEC Can Never Provide Protection For Violations of Art. IV, Sec. 2 of the Ohio Constitution or R.C. § 101.26**

But of most significance relative to Mr. Bulp's forfeiture of office and his seat being deemed vacated is the fact that, even formal "Advisory Opinions" issued by JLEC do not, and cannot, provide legal protection or immunity for a state legislator's violation of the Ohio Constitution or R.C. § 101.26. Even JLEC itself has recognized that the legal impact of its opinions does not extend that far; thus, regardless of whatever Mr. Bulp may have received from JLEC, he is in violation of the Ohio Constitution and R.C. § 101.26 and has, thus, forfeited the office as a matter of law.

The forfeiture of office by Mr. Bulp is not founded upon the Ethics Laws (Chapter 102 of the Revised Code or R.C. §§ 2921.42 and 2921.43), but rather upon other provisions of law to which JLEC has acknowledged it cannot give legal protection or immunity. Reference is made to the following Advisory Opinions of JLEC which are published on its website:

- *JLEC Advisory Opinion # 97-005* ("although [JLEC] has jurisdiction to answer the question under Art. II, §4, *this opinion may be relied on for immunity from criminal prosecution or civil action only with respect to matters arising under Chapter 102, and sections 2921.42 and 2921.43 of the Revised Code and provides no immunity with respect to matters arising under Art. II, §4*")
- *JLEC Advisory Opinion # 98-001* (JLEC "has previously held that although *it has no authority to provide immunity for violations of section 101.26 of the Revised Code and may do so only with respect to Chapter 102 and sections 2921.42 and 2921.43 of the Revised Code . . .*")(emphasis added)

Mr. Bulp's forfeiture of office arises from Art. II, §4 and R.C. § 101.26. Thus, any claim by Mr. Bulp (or others) that the informal, generic draft letter from Mr. Bledsoe somehow provides legal protection for violations of Art. II, §4 or R.C. § 101.26 is completely without merit.

V. - Conclusion

Based upon the foregoing constitutional and statutory provisions, Mr. Bulp has forfeited his office as a state representative for the 129th General Assembly and his seat is to be deemed vacated because, after assuming the office of state representative during this general assembly, Mr. Bulp has held and exercised the functions of another public offices within this state. A magistrate of a mayor's court has previously been recognized to be such a public office, as well as meeting the legal

standard for a "public office," *i.e.*, exercising an attribute of the sovereignty of the state. Since taking office in January, Mr. Bulp has assessed fines against individuals and even ordered the incarceration of individuals (all of which derives from the sovereignty of the state). Because those who have standing to challenge the unlawful holding and forfeiture of a public office is severely restricted, the only viable plaintiff/relator in such an action is the attorney general who should ensure that the laws of the State are fully respected and enforced, and, thus, should proceed immediately to have Mr. Bulp removed from the office that he is illegally holding. Otherwise, it becomes obvious that one set of rules applies to the general public, but that those in public can be selective in which rules and laws they will follow.

JOINT LEGISLATIVE ETHICS COMMITTEE
Financial Disclosure Statement

2004

Please include complete addresses and telephone numbers for both your home and your employer.
PLEASE PRINT OR TYPE (Do not use pencil)

House OR Senate District 88

1. NAME OF PERSON FILING STATEMENT

Bubp LAST Darcy FIRST R MIDDLE INITIAL

2. HOME ADDRESS 307 N. Market St. STREET West Union CITY 45693 ZIP CODE

Adams COUNTY TELEPHONE NUMBER (937) 544-9050

3. NAME OF EMPLOYER (Other than the General Assembly) Self Employed

307 N. Market St. STREET West Union CITY Ohio STATE 45693 ZIP CODE

Adams COUNTY TELEPHONE NUMBER (937) 544-2571

4. PLEASE CHECK THE APPROPRIATE BOX, AND FILL IN THE REQUESTED INFORMATION.

a. MEMBERS OF THE GENERAL ASSEMBLY DURING 2004 OR 2005

Elected OR Appointed to the General Assembly

If appointed, what was the date of your appointment: / /

If elected or appointed, what are (were) the dates of your most current term: From 1.1.05 To 12.31.06

b. EMPLOYERS OF THE GENERAL ASSEMBLY OR LEGISLATIVE AGENCY

Designated by JLEC as a required filer Date of employment: / /

c. VOLUNTARY FILERS

Name of Agency of Voluntary Filer: _____

OFFICE OF
LEGISLATIVE
PROP. GENERAL
APR 15 PM 1:18

1. INCOME

Complete EITHER Section A or Section B, whichever is the appropriate section.

A. IF YOU ARE A MEMBER OF THE GENERAL ASSEMBLY IN 2003 OR WERE A MEMBER OF THE GENERAL ASSEMBLY IN 2004: You are required to list EVERY source of income and must identify the amount of each source of income received in accordance with the following ranges using the appropriate letter:

A. \$0 - \$999; B. \$1,000 - \$9,999; C. \$10,000 - \$24,999; D. \$25,000 - \$49,999; E. \$50,000 - \$99,999; F. \$100,000 or more. Also, list each source of income received by any other person for your use or benefit. "Income" includes gross income for federal tax purposes and interest and dividends on all governmental securities. You are not required to list the sources of income of your spouse, unless the income was received specifically for your use or benefit.

You are not required to list the individual items of income from your business or profession, only the name of any business, governmental agency, or employer from which you received income EXCEPT (1) you must list the source and dollar amount of income received, or shared with a partner in your business or profession, that is attributable to services or goods provided to a client or customer who is a "legislative agent" AND/OR (2) you must list the source and dollar amount of income received from a person or entity that is doing or seeking to do business with the General Assembly. Attorneys, physicians, and psychologists should list each practice separately but need not disclose the names of their clients or patients, unless those clients or patients are legislative agents. If the client or patient is a legislative agent, you must disclose each client or patient, unless excepted under Revised Code 102.02(A)(2)(c).

For each source of income listed, briefly describe the services for which the income was received.

IF NONE, CHECK HERE

A. SELF EMPLOYMENT LAW OFFICE OF DANNY R. GUBB	LEGAL SERVICES	F
B. VILLAGE OF RIPLEY, OHIO	MAGISTRATE	C
C. UNITED STATES MARINE CORPS	RESERVE COLONEL	C
D. FIRST STATE BANK IN ADAMS COUNTY	DIVIDENDS & INTEREST	B
E. FIFTH THIRD BANK	INTEREST	B
F. NATIONAL BANK & TRUST	INTEREST	B
G. RIPLEY NAT. BANK AND CAN HILLS BANK	INTEREST	B
F.		

B. IF YOU ARE AN EMPLOYEE OF THE GENERAL ASSEMBLY OR ANY LEGISLATIVE AGENCY: You are required to list each source of gross income. You are not required to disclose any dollar amounts except as indicated below. Also, list each source of income received by any other person for your use or benefit. Remember to list your employment as a source of income. "Income" includes gross income for federal tax purposes and interest and dividends on all governmental securities. You are not required to list the sources of income of your spouse, unless the income was received for your use or benefit.

You are not required to list the individual items of income from your business or profession, only the name of any business, governmental agency, or employer from which you received income EXCEPT (1) you must list the source and dollar amount of income received, or shared with a partner in your business or profession, that is attributable to services or goods provided to a client or customer who is a "legislative agent" AND/OR (2) you

340 FILING FEE

THIS STATEMENT IS TO BE FILED IN 2006
FOR THE CALENDAR YEAR 2005

JOINT LEGISLATIVE ETHICS COMMITTEE
Financial Disclosure Statement

2005

Please include complete addresses and telephone numbers for both your home and your employer.
PLEASE PRINT OR TYPE (Do not use pencil)

House OR Senate District 88

1. NAME OF PERSON FILING STATEMENT

Bubp Danny R.
LAST FIRST MIDDLE INITIAL

2. HOME ADDRESS 307 N. Market St. West Union 45693
STREET CITY ZIP CODE

Adams TELEPHONE NUMBER (937) 544-9056
COUNTY

3. NAME OF EMPLOYER (Other than the General Assembly)

Self Employed
307 N. Market St. West Union Ohio 45693
STREET CITY STATE ZIP CODE

Adams TELEPHONE NUMBER (937) 544-2581
COUNTY

4. PLEASE CHECK THE APPROPRIATE BOX, AND FILL IN THE REQUESTED INFORMATION.

a. MEMBERS OF THE GENERAL ASSEMBLY DURING 2005 OR 2006

Elected OR Appointed to the General Assembly

If appointed, what was the date of your appointment: / /

If elected or appointed, what are (were) the dates of your most current term: From 1/1/05 To 12/31/05

b. NON INCUMBENT CANDIDATES FOR THE GENERAL ASSEMBLY DURING 2006

Date of first election (primary, special, or general) in which your candidacy is to be voted upon / /

c. EMPLOYERS OF THE GENERAL ASSEMBLY OR LEGISLATIVE AGENCY

Designated by JLEC as a required filer Date of employment: / /

d. VOLUNTARY FILERS

Name of Agency of Voluntary Filer:

OFFICE OF
LEGISLATIVE
INSPECTION
2006 APR - 4 PM

1. INCOME

Complete EITHER Section A or Section B, whichever is the appropriate section.

A. IF YOU ARE A MEMBER OF THE GENERAL ASSEMBLY IN 2006 OR WERE A MEMBER OF THE GENERAL ASSEMBLY IN 2005: You are required to list EVERY source of income and must identify the amount of each source of income received in accordance with the following ranges using the appropriate letter: A. \$0 - \$999; B. \$1,000 - \$9,999; C. \$10,000 - \$24,999; D. \$25,000 - \$49,999; E. \$50,000 - \$99,999; F. \$100,000 or more. Also, list each source of income received by any other person for your use or benefit. "Income" includes gross income for federal tax purposes and interest and dividends on all governmental securities. You are not required to list the sources of income of your spouse, unless the income was received specifically for your use or benefit. **MILEAGE REIMBURSEMENT IS REPORTED IN "SECTION 8. TRAVEL". DO NOT INCLUDE MILEAGE REIMBURSEMENT IN "SECTION 1. INCOME".**

You are not required to list the individual items of income from your business or profession, only the name of any business, governmental agency, or employer from which you received income EXCEPT (1) you must list the source and dollar amount of income received, or shared with a partner in your business or profession, that is attributable to services or goods provided to a client or customer who is a "legislative agent" AND/OR (2) you must list the source and dollar amount of income received from a person or entity that is doing or seeking to do business with the General Assembly. Attorneys, physicians, and psychologists should list each practice separately but need not disclose the names of their clients or patients, unless those clients or patients are legislative agents. If the client or patient is a legislative agent, you must disclose each client or patient, unless excepted under Revised Code 102.02(A)(2)(c).

For each source of income listed, briefly describe the services for which the income was received.

IF NONE, CHECK HERE

SOURCE OF INCOME	SERVICE PERFORMED	AMOUNT (A, B, C, D, E, OR F)
A. SELF EMPLOYMENT LAW OFFICE OF DANNY R. GUSP	LEGAL SERVICES	F
B. VILLAGE OF RIPLEY, OHIO	MAGISTRATE	C
C. UNITED STATES MARINE CORPS	RESERVE COLONEL	C
D. STATE OF OHIO	STATE REPRESENTATIVE	E
E. FIRST STATE BANK OF ADAMS COUNTY	DIVIDENDS & INTEREST	B
F. FIFTH THIRD BANK	INTEREST	B
G. OAK HILLS BANK	INTEREST	B
H. NATIONAL BANK & TRUST	INTEREST	B
I. THE CITIZENS BANK OF HIGHLANDTOWN	INTEREST	B
J. RIPLEY FEDERAL SAVINGS BANK	INTEREST	B

B. IF YOU ARE A CANDIDATE (but not an incumbent candidate) FOR THE GENERAL ASSEMBLY OR IF YOU ARE AN EMPLOYER OF THE GENERAL ASSEMBLY OR ANY LEGISLATIVE AGENCY: You are required to list each source of gross income. You are not required to disclose any dollar amounts except as indicated below. Also, list each source of income received by any other person for your use or benefit. Remember to list your employment as a source of income. "Income" includes gross income for federal tax purposes and interest and dividends on all governmental securities. You are not required to list the sources of income of your spouse, unless the income was received for your use or benefit.

\$48 FILING FEE

THIS STATEMENT IS TO BE FILED IN 2007 FOR THE CALENDAR YEAR 2006

JOINT LEGISLATIVE ETHICS COMMITTEE

Financial Disclosure Statement

2006

Please include complete addresses and telephone numbers for both your home and your employer PLEASE PRINT OR TYPE (Do not use pencil)

[X] House District # 88 Or [] Senate District #

1. NAME OF PERSON FILING STATEMENT

Bubp LAST Danny FIRST R. MIDDLE INITIAL

2. HOME ADDRESS 307 N. MARKET ST. West Union 45693 STREET CITY ZIP CODE

Adams COUNTY TELEPHONE NUMBER 937-544-9056

3. NAME OF EMPLOYER (Other than the General Assembly)

SELF EMPLOYED

307 N. MARKET ST. West Union Ohio 45693 STREET CITY STATE ZIP CODE

Adams COUNTY TELEPHONE NUMBER 937-544-2581

4. PLEASE CHECK THE APPROPRIATE BOX, AND FILL IN THE REQUESTED INFORMATION.

a. MEMBERS OF THE GENERAL ASSEMBLY DURING 2006 OR 2007

[X] Elected OR [] Appointed to the General Assembly

If appointed, what was the date of your appointment

If elected or appointed, what are (were) the dates of your most current term: From 1-1-07 To: 12-31-08

b. EMPLOYERS OF THE GENERAL ASSEMBLY OR LEGISLATIVE AGENCY

[] Designated by J.E.C as a required filer Date of employment

c. VOLUNTARY FILERS

[] Name of Agency of Voluntary Filer

d. Please disclose the name of any elected office - other than the General Assembly - and any board or commission appointment held in 2006 or 2007:

OFFICE OF LEGISLATIVE MSP. GENERAL APR 16 PM 12:19

1. INCOME

Complete EITHER Section A or Section B, whichever is the appropriate section.

A. IF YOU ARE A MEMBER OF THE GENERAL ASSEMBLY IN 2007 OR WERE A MEMBER OF THE GENERAL ASSEMBLY IN 2006: You are required to list EVERY source of income and must identify the amount of each source of income received in accordance with the following ranges using the appropriate letter: A. \$0 - \$999; B. \$1,000 - \$9,999; C. \$10,000 - \$24,999; D. \$25,000 - \$49,999; E. \$50,000 - \$99,999; F. \$100,000 or more. Also, list each source of income received by any other person for your use or benefit. "Income" includes gross income for federal tax purposes and interest and dividends on all governmental securities. You are not required to list the sources of income of your spouse, unless the income was received specifically for your use or benefit. MILEAGE REIMBURSEMENT IS REPORTED IN "SECTION 8. TRAVEL". DO NOT INCLUDE MILEAGE REIMBURSEMENT IN "SECTION 1. INCOME".

You are not required to list the individual items of income from your business or profession, only the name of any business, governmental agency, or employer from which you received income EXCEPT (1) you must list the source and dollar amount of income received, or shared with a partner in your business or profession, that is attributable to services or goods provided to a client or customer who is a "legislative agent" AND/OR (2) you must list the source and dollar amount of income received from a person or entity that is doing or seeking to do business with the General Assembly. Attorneys, physicians, and psychologists should list each practice separately but need not disclose the names of their clients or patients, unless those clients or patients are legislative agents. If the client or patient is a legislative agent, you must disclose each client or patient, unless excepted under Revised Code 102.02(A)(2)(c).

For each source of income listed, briefly describe the services for which the income was received.

IF NONE, CHECK HERE

SOURCE OF INCOME	SERVICE PERFORMED	AMOUNT (A, B, C, D, E, OR F)
A. SELF EMPLOYMENT LAW OFFICE OF DANNY R. BUBB	LEGAL SERVICES	F
B. STATE OF OHIO	STATE REP.	E
C. UNITED STATES MARINE CORPS RESERVE	COLONEL	C
D. VILLAGE OF RIPLEY, OHIO	MAGISTRATE	C
E. OAK HILL BANK	INTEREST	B
F. FIFTH THIRD BANK & FIRST STATE BANK	INTEREST & DIVIDENDS	B
G. NATIONAL BANK & TRUST	INTEREST	B
H. THE CITIZENS BANK OF HIGDENSPORT	INTEREST	B
I. WACHOVIA SECURITIES	INTEREST & DIVIDENDS	B
J. RIPLEY FEDERAL SAVINGS BANK	INTEREST	B

B. IF YOU ARE AN EMPLOYEE OF THE GENERAL ASSEMBLY OR ANY LEGISLATIVE AGENCY: You are required to list each source of gross income. You are not required to disclose any dollar amounts except as indicated below. Also, list each source of income received by any other person for your use or benefit. Remember to list your employment as a source of income. "Income" includes gross income for federal tax purposes and interest and dividends on all governmental securities. You are not required to list the sources of income of your spouse, unless the income was received for your use or benefit.

NO FILING FEE

THIS STATEMENT IS TO BE FILED IN 2008 FOR THE CALENDAR YEAR 2007

JOINT LEGISLATIVE ETHICS COMMITTEE

Financial Disclosure Statement

2007

Please include complete addresses and telephone numbers for both your home and your employer PLEASE PRINT OR TYPE (Do not use pencil)

House Or Senate District # 88

1. NAME OF PERSON FILING STATEMENT

Bubp LAST DANNY FIRST R. MIDDLE INITIAL

307 N. MARKET ST. West Union 45693 STREET CITY ZIP CODE

Adams COUNTY TELEPHONE NUMBER 937-544-9056

3. CURRENT EMPLOYER (Other than the General Assembly) SELF EMPLOYED

307 N. MARKET ST. West Union Ohio 45693 STREET CITY STATE ZIP CODE

Adams COUNTY TELEPHONE NUMBER 937-544-2581

4. PLEASE CHECK THE APPROPRIATE BOX, AND FILL IN THE REQUESTED INFORMATION.

a. MEMBERS OF THE GENERAL ASSEMBLY DURING 2007 OR 2008

Elected OR Appointed to the General Assembly

If appointed, what was the date of your appointment

If elected or appointed, what are (were) the dates of your most current term: From 1-1-07 To 12-31-08

b. NON INCUMBENT CANDIDATES FOR THE GENERAL ASSEMBLY DURING 2008

Date of first election (primary, special or general) in which your candidacy is to be vote upon:

c. EMPLOYEES OF THE GENERAL ASSEMBLY OR LEGISLATIVE SERVICE COMMISSION

Designated by JLEC as a required filer Date of employment

d. VOLUNTARY FILERS

Name of Agency of Voluntary Filer

FILED-6 PM 3:37

1. INCOME

Complete **EITHER** Section A or Section B, whichever is the appropriate section.

A. IF YOU ARE A MEMBER OF THE GENERAL ASSEMBLY IN 2006 OR WERE A MEMBER OF THE GENERAL ASSEMBLY IN 2007: You are required to list EVERY source of income and must identify the amount of each source of income received in accordance with the following ranges using the appropriate letter: A. \$0 - \$999; B. \$1,000 - \$9,999; C. \$10,000 - \$24,999; D. \$25,000 - \$49,999; E. \$50,000 - \$99,999; F. \$100,000 or more. Also, list each source of income received by any other person for your use or benefit. "Income" includes gross income for federal tax purposes and interest and dividends on all governmental securities. You are not required to list the sources of income of your spouse, unless the income was received specifically for your use or benefit. MILEAGE REIMBURSEMENT IS REPORTED IN "SECTION 8. TRAVEL". DO NOT INCLUDE MILEAGE REIMBURSEMENT IN "SECTION 1. INCOME".

You are not required to list the individual items of income from your business or profession, only the name of any business, governmental agency, or employer from which you received income EXCEPT (1) you must list the source and dollar amount of income received, or shared with a partner in your business or profession, that is attributable to services or goods provided to a client or customer who is a "legislative agent" AND/OR (2) you must list the source and dollar amount of income received from a person or entity that is doing or seeking to do business with the General Assembly. Attorneys, physicians, and psychologists should list each practice separately but need not disclose the names of their clients or patients, unless those clients or patients are legislative agents. If the client or patient is a legislative agent, you must disclose each client or patient, unless excepted under Revised Code 102.02(A)(2)(c).

For each source of income listed, briefly describe the services for which the income was received.

EXAMPLE:

SOURCE OF INCOME	SERVICE PERFORMED	AMOUNT (A, B, C, D, E, OR F)
State of Ohio	Senator/Representative	E
Smith and Jones Law Firm	Lawyer	C
Friendly National Bank	Interest on Savings Account	A
Christopher Columbus - Legislative Agent	Boat Insurance Policy	\$143.00

IF NONE, CHECK HERE

SOURCE OF INCOME	SERVICE PERFORMED	AMOUNT (A, B, C, D, E, OR F)
A. SELF EMPLOYMENT LAW OFFICE OF DANNY R. DUBP	LEGAL SERVICES	F
B. state of Ohio	state REP.	E
C. United States Marine Corps	COLONEL	C
D. Village of Ripley, Ohio	MAGISTRATE	C
E. Village of Winchester, Ohio	MAGISTRATE	C
F. Oak Hill Bank	Interest	B
G. Fifth Third Bank & First St. OR of Adams Ct	Interest & Dividends	C
H. NATIONAL BANK & TRUST	Interest	B
I. The Citizens Bank of Higginspoint	Interest	B
J. Wachovia Securities	Interest & Dividends	C
K. Ripley Federal Savings Bank	Interest	A
L. RENTAL INCOME FROM TENANTS	RENT	B

\$40 FILING FEE

THIS STATEMENT IS TO BE FILED IN 2009 FOR THE CALENDAR YEAR 2008

JOINT LEGISLATIVE ETHICS COMMITTEE

2008 Financial Disclosure Statement

To be filed in 2009

Please include complete addresses and telephone numbers for both your home and your employer PLEASE PRINT OR TYPE (Do not use pencil)

[X] House Or [] Senate District # 88

1. NAME OF PERSON FILING STATEMENT

Bubp LAST Danny FIRST R. MIDDLE INITIAL

2. HOME ADDRESS 307 N. Market St. West Union 45693 STREET CITY ZIP CODE

Adams COUNTY TELEPHONE NUMBER 937-544-9056

3. CURRENT EMPLOYER (Other than the General Assembly) SELF Employed

307 N. Market St. West Union Ohio 45693 STREET CITY STATE ZIP CODE

Adams COUNTY TELEPHONE NUMBER 937-544-2581

4. PLEASE CHECK THE APPROPRIATE BOX, AND FILL IN THE REQUESTED INFORMATION.

a. MEMBERS OF THE GENERAL ASSEMBLY DURING 2008 OR 2009

[X] Elected OR [] Appointed to the General Assembly

If appointed, what was the date of your appointment

If elected or appointed, what are (were) the dates of your most current term: From 1-1-09 To:

b. EMPLOYERS OF THE GENERAL ASSEMBLY OR LEGISLATIVE AGENCY

[] Designated by JLEC as a required filer Date of employment

c. VOLUNTARY FILERS

[] Name of Agency of Voluntary Filer

2009 APR -9 PM 3:02 OFFICE OF LEGISLATIVE INSP. GENERAL 12-31-10

1. INCOME

Complete **EITHER** Section A or Section B, whichever is the appropriate section.

A. IF YOU ARE A MEMBER OF THE GENERAL ASSEMBLY IN 2009 OR WERE A MEMBER OF THE GENERAL ASSEMBLY IN 2008: You are required to list EVERY source of income and must identify the amount of each source of income received in accordance with the following ranges using the appropriate letter: A. \$0 - \$999; B. \$1,000 - \$9,999; C. \$10,000 - \$24,999; D. \$25,000 - \$49,999; E. \$50,000 - \$99,999; F. \$100,000 or more. Also, list each source of income received by any other person for your use or benefit. "Income" includes gross income for federal tax purposes and interest and dividends on all governmental securities. You are not required to list the sources of income of your spouse, unless the income was received specifically for your use or benefit. **MILEAGE REIMBURSEMENT IS REPORTED IN "SECTION B. TRAVEL". DO NOT INCLUDE MILEAGE REIMBURSEMENT IN "SECTION 1. INCOME".**

You are not required to list the individual items of income from your business or profession, only the name of any business, governmental agency, or employer from which you received income EXCEPT (1) you must list the source and dollar amount of income received, or shared with a partner in your business or profession, that is attributable to services or goods provided to a client or customer who is a "legislative agent" AND/OR (2) you must list the source and dollar amount of income received from a person or entity that is doing or seeking to do business with the General Assembly. Attorneys, physicians, and psychologists should list each practice separately but need not disclose the names of their clients or patients, unless those clients or patients are legislative agents. If the client or patient is a legislative agent, you must disclose each client or patient, unless excepted under Revised Code 102.02(A)(2)(c).

For each source of income listed, briefly describe the services for which the income was received.

EXAMPLE:

SOURCE OF INCOME	SERVICE PERFORMED	AMOUNT (A, B, C, D, E, OR F)
State of Ohio	Senator/Representative	D
Smith and Jones Law Firm	Lawyer	C
123 Main Street	Rental Income	B
Friendly National Bank	Interest on Savings Account	A
Christopher Columbus - Legislative Agent	Boat Insurance Policy	\$143.00

IF NONE, CHECK HERE

SOURCE OF INCOME	SERVICE PERFORMED	AMOUNT (A, B, C, D, E, OR F)
A. SELF EMPLOYMENT LAW OFFICE OF DANNY A. BUBB	LEGAL	F
B. United States Marine Corps	COLONEL	F
C. State of Ohio	State Rep.	E
D. Village of Ripley, Ohio	MAGISTRATE	B
E. WESBANK BANK INC.	INTEREST	B
F. FIFTH THIRD BANK	INTEREST	B
G. NATIONAL BANK & TRUST	INTEREST	B
H. THE CITIZENS BANK OF HINGHAMPORT	INTEREST	B
I. WACHOVIA SECURITIES	INTEREST & Dividends	B
J. FIRST STATE BANK	INTEREST & Dividends	B
K. Huntington National Bank	INTEREST	B
L. Rental Income FROM Rental Property	RENTAL UNITS	C

\$40 FILING FEE

THIS STATEMENT IS TO BE FILED IN 2010
FOR THE CALENDAR YEAR 2009

JOINT LEGISLATIVE ETHICS COMMITTEE

Financial Disclosure Statement

2009

Please include complete addresses and telephone numbers for both your home and your employer.

PLEASE PRINT OR TYPE (Do not use pencil)

House OR Senate

District # 88

1. NAME OF PERSON FILING STATEMENT

Bubp DANNY R.
LAST FIRST MIDDLE INITIAL

2. HOME ADDRESS

307 N. Market St. West Union 45693
STREET CITY ZIP CODE

Adams TELEPHONE NUMBER 937-544-9056
COUNTY

3. CURRENT EMPLOYER (Other than the General Assembly)

SELF EMPLOYED
307 N. Market St. West Union Ohio 45693
STREET CITY STATE ZIP CODE

Adams TELEPHONE NUMBER 937-544-2581
COUNTY

4. PLEASE CHECK THE APPROPRIATE BOX, AND FILL IN THE REQUESTED INFORMATION.

a. MEMBER OF THE GENERAL ASSEMBLY DURING 2009 OR 2010

Elected OR Appointed to the General Assembly

If appointed, what was the date of your appointment: ___/___/___

If elected or appointed, what are (were) the dates of your most current term: From: 1/1/09 To: 12/31/10

b. NON INCUMBENT CANDIDATES FOR THE GENERAL ASSEMBLY DURING 2010

Date of first election (primary, special, or general) in which your candidacy is to be voted upon ___/___/___

c. EMPLOYERS OF THE GENERAL ASSEMBLY OR LEGISLATIVE AGENCY

Designated by Employing Agency as a required filer Date of employment: ___/___/___

d. VOLUNTARY FILERS

Name of Agency of Voluntary Filer: _____

2009 APR -6 AM 11:28
OFFICE OF
LEGISLATIVE
NSP: GENERAL

1. INCOME

Complete EITHER Section A or Section B, whichever is the appropriate section.

A. IF YOU ARE A MEMBER OF THE GENERAL ASSEMBLY IN 2010 OR WERE A MEMBER OF THE GENERAL ASSEMBLY IN 2009: You are required to list EVERY source of income and must identify the amount of each source of income received in accordance with the following ranges using the appropriate letter: A. \$0 - \$999; B. \$1,000 - \$9,999; C. \$10,000 - \$24,999; D. \$25,000 - \$49,999; E. \$50,000 - \$99,999; F. \$100,000 or more. Also, list each source of income received by any other person for your use or benefit. "Income" includes gross income for federal tax purposes and interest and dividends on all governmental securities. You are not required to list the sources of income of your spouse, unless the income was received specifically for your use or benefit. **MILEAGE REIMBURSEMENT IS REPORTED IN "SECTION 8. TRAVEL". DO NOT INCLUDE MILEAGE REIMBURSEMENT IN "SECTION 1. INCOME".**

You are not required to list the individual items of income from your business or profession, only the name of any business, governmental agency, or employer from which you received income EXCEPT (1) you must list the source and dollar amount of income received, or shared with a partner in your business or profession, that is attributable to services or goods provided to a client or customer who is a "legislative agent" AND/OR (2) you must list the source and dollar amount of income received from a person or entity that is doing or seeking to do business with the General Assembly. Attorneys, physicians, and psychologists should list each practice separately but need not disclose the names of their clients or patients, unless those clients or patients are legislative agents. If the client or patient is a legislative agent, you must disclose each client or patient, unless excepted under Revised Code 102.02(A)(2)(c).

For each source of income listed, briefly describe the services for which the income was received.

EXAMPLE:

SOURCE OF INCOME	SERVICE PERFORMED	AMOUNT (A, B, C, D, E, OR F)
State of Ohio	Senator/Representative	E
Smith and Jones Law Firm	Lawyer	C
Friendly National Bank	Interest on Savings Account	A
Christopher Columbus - Legislative Agent 123 Main Street	Boat Insurance Policy Rental Income	\$143.00 B

IF NONE, CHECK HERE

SOURCE OF INCOME	SERVICE PERFORMED	AMOUNT (A, B, C, D, E, OR F)
A. SELF EMPLOYMENT LAW OFFICE OF DANNY R. BUBP	LEGAL - LAWYER	F
B. STATE OF OHIO	STATE REP.	E
C. VILLAGE OF RIPLEY, OHIO	MAGISTRATE	C
D. VILLAGE OF WINCHESTER, OHIO	MAGISTRATE	B
E. HUNTINGTON NATIONAL BANK	INTEREST	B
F. MERCHANTS NATIONAL BANK	INTEREST	B
G. FIFTH THIRD BANK	INTEREST	B
H. FIRST STATE BANK & BANCORP	INTEREST & DIVIDENDS	B
I. HILLIARD LYONS	DIVIDENDS	B
J. WELLS FARGO - FIRST CLEARING LLC	INTEREST & DIVIDENDS	B
K. IRS	3 INTEREST	B

See Attachment

IN THE MAYOR'S COURT OF RIPLEY, OHIO

VILLAGE OF RIPLEY

PLAINTIFF

-VS-

CASE NO. 10TR000253

Will Teegarden

DEFENDANT

JUDGEMENT ENTRY

On this 10th day of January, ²⁰¹¹2010, the Defendant appearing in open court represented by Counsel 1 without Counsel, having duly waived his/her rights to Counsel in writing pursuant of C.R. 44.

Defendant entered a plea of Guilty and was found Guilty to the stated offense of: Speed and the following charges(s) are dismissed

Speed in violation of Village Ordinance 73.10, a misdemeanor of the minor degree.
in violation of Village Ordinance _____, a misdemeanor of the _____ degree.
in violation of Village Ordinance _____, a misdemeanor of the _____ degree.

THE FOLLOWING SENTENCE IS IMPOSED:

*Proof of Ins. shown
NO POINTS*

\$ 20.00 plus court costs of \$ 85.00 to be paid by 1-21-11.
\$ _____ .00 plus court costs of \$ _____ .00 to be paid by _____ .
\$ _____ .00 plus court costs of \$ _____ .00 to be paid by _____ .

IMPRISONMENT: _____ days in the Brown County Jail with _____ days suspended.

Defendant's privileges to operate a motor vehicle are suspended for a period of _____ days.

Defendant is placed on probation for _____ year(s) with the following conditions:

Defendant is not to violate any laws.

Defendant is to pay restitution to _____ in the amount of \$ _____.

Defendant is to complete _____ hours of community service.

Defendant must abide by all additional orders or instructions of the Court.

Other: _____

ORDERED this 10th day of January, ²⁰¹¹2010.

[Signature]
DEFENDANT

[Signature]
MAGISTRATE DANNY R. BUBB

IN THE MAYOR'S COURT OF RIPLEY, OHIO

VILLAGE OF RIPLEY

PLAINTIFF

-VS-

CASE NO. 11CRB00001

Eric McIntosh

2 Buckner St

150111 Ky DEFENDANT

1-292-3128 - Corbin Bentley

JUDGEMENT ENTRY

On the 10th day of January, ²⁰¹¹~~2010~~, the Defendant appearing in open court represented by Counsel 1 ~~x~~ without Counsel, having duly waived his/her rights to Counsel in writing pursuant of C.R. 44.

Defendant entered a plea of No Contest and was found Guilty to the stated offense of: Theft and the following charge(s) are dismissed

- Theft in violation of Village Ordinance 131.08, a misdemeanor of the 1st degree.
- _____ in violation of Village Ordinance _____, a misdemeanor of the _____ degree.
- _____ in violation of Village Ordinance _____, a misdemeanor of the _____ degree.

THE FOLLOWING SENTENCE IS IMPOSED:

- \$ 1000.00 plus court costs of \$ 85.00 to be paid by 50.00 per week.
- \$ _____ plus court costs of \$ _____,00 to be paid by _____.
- \$ _____ plus court costs of \$ _____,00 to be paid by _____.

PRISON: 90 days in the Brown County Jail with 90 days suspended.

Defendant's privileges to operate a motor vehicle are suspended for a period of _____ days.

Defendant is placed on probation for _____ year(s) with the following conditions:

Defendant is not to violate any laws.

Defendant is to pay restitution to _____ in the amount of \$ _____.

Defendant is to complete _____ hours of community service.

Defendant must abide by all additional orders or instructions of the Court.

Other: all pri's suspended on condition that fines are paid as ordered - Pay 5000
Per Wua Beginning 1/11/11
2011
to all payments are paid as noted
2010
one of 750.00 suspended

ORDERED this 10th day of January

Eric McIntosh
DEFENDANT

Danny R. Buby
MAGISTRATE DANNY R. BUBY

IN THE MAYOR'S COURT OF RIPLEY, OHIO

VILLAGE OF RIPLEY

PLAINTIFF

-VS-

Roger Mackey

DEFENDANT

CASE NO. 107RD00250

JUDGEMENT ENTRY

his 10th day of January, ~~2010~~ ²⁰¹¹, the Defendant appearing in open court represented by Counsel 1 X without Counsel, having duly waived his/her rights to Counsel in writing pursuant of C.R. 44.

Defendant entered a plea of _____ and was found _____ to the stated offense of: _____ and the following charges(s) are dismissed _____

_____ in violation of Village Ordinance _____, a misdemeanor of the _____ degree.
_____ in violation of Village Ordinance _____, a misdemeanor of the _____ degree.
_____ in violation of Village Ordinance _____, a misdemeanor of the _____ degree.

THE FOLLOWING SENTENCE IS IMPOSED: *Case dismissed at request of arresting officer M. Kendall*

E
\$ _____,00 plus court costs of \$ _____,00 to be paid by _____
\$ _____,00 plus court costs of \$ _____,00 to be paid by _____
\$ _____,00 plus court costs of \$ _____,00 to be paid by _____

CARCERATION: _____ days in the Brown County Jail with _____ days suspended.

Defendant's privileges to operate a motor vehicle are suspended for a period of _____ days.

Defendant is placed on probation for _____ year(s) with the following conditions:

Defendant is not to violate any laws.

Defendant is to pay restitution to _____ in the amount of \$ _____.

Defendant is to complete _____ hours of community service.

Defendant must abide by all additional orders or instructions of the Court.

Other: _____

ORDERED this 10th day of January, ~~2010~~ ²⁰¹¹.

DEFENDANT

Danny R. Bulp
MAGISTRATE DANNY R. BUBP

IN THE MAYOR'S COURT OF RIPLEY, OHIO

VILLAGE OF RIPLEY

PLAINTIFF

-VS-

Joshua Hannah

DEFENDANT

CASE NO. 10TR000260

JUDGEMENT ENTRY

his 10th day of January, ²⁰¹¹ 2010, the Defendant appearing in open court represented by Counsel 1st without Counsel, having duly waived his/her rights to Counsel in writing pursuant of C.R. 44.

Defendant entered a plea of Guilty and was found Guilty to the stated offense of Headlights Required and the following charges(s) are dismissed 73-1002

Headlights Required in violation of Village Ordinance 7404, a misdemeanor of the _____ degree.
_____ in violation of Village Ordinance _____, a misdemeanor of the _____ degree.
_____ in violation of Village Ordinance _____, a misdemeanor of the _____ degree.

THE FOLLOWING SENTENCE IS IMPOSED:

NO Points

RE

\$ 19.00 plus court costs of \$ 85.00 to be paid by 104.00
\$ _____,00 plus court costs of \$ _____,00 to be paid by _____
\$ _____,00 plus court costs of \$ _____,00 to be paid by _____

IMPRISONMENT: _____ days in the Brown County Jail with _____ days suspended.

Defendant's privileges to operate a motor vehicle are suspended for a period of _____ days.

Defendant is placed on probation for _____ year(s) with the following conditions:

Defendant is not to violate any laws.

Defendant is to pay restitution to _____ in the amount of \$ _____.

Defendant is to complete _____ hours of community service.

Defendant must abide by all additional orders or instructions of the Court.

Other: _____

ORDERED this 10th day of January

2011
2010

[Signature]
DEFENDANT

[Signature]
MAGISTRATE DANNY R. BUBB

IN THE MAYOR'S COURT OF RIPLEY, OHIO

VILLAGE OF RIPLEY

PLAINTIFF

-VS-

CASE NO. 10CRB00112

Missa Harper

DEFENDANT

JUDGEMENT ENTRY

On this 10th day of January, 2011, the Defendant appearing in open court represented by Counsel _____, without Counsel, having duly waived his/her rights to Counsel in writing pursuant of C.R. 44.

Defendant entered a plea of _____ and was found _____ to the stated offense of _____ and the following charges(s) are dismissed _____

_____ in violation of Village Ordinance _____, a misdemeanor of the _____ degree.
_____ in violation of Village Ordinance _____, a misdemeanor of the _____ degree.
_____ in violation of Village Ordinance _____, a misdemeanor of the _____ degree.

THE FOLLOWING SENTENCE IS IMPOSED:

Dismissed at Request of complainant

_____ .00 plus court costs of \$ _____ .00 to be paid by _____
_____ .00 plus court costs of \$ _____ .00 to be paid by _____ w)
_____ .00 plus court costs of \$ _____ .00 to be paid by _____ court cost

IMPRISONMENT: _____ days in the Brown County Jail with _____ days suspended.

Defendant's privileges to operate a motor vehicle are suspended for a period of _____ days.

Defendant is placed on probation for _____ year(s) with the following conditions:

Defendant is not to violate any laws.

Defendant is to pay restitution to _____ in the amount of \$ _____.

Defendant is to complete _____ hours of community service.

Defendant must abide by all additional orders or instructions of the Court.

Other: _____

ORDERED this 10th day of January, 2011.

DEFENDANT

Danny R. Bubb
MAGISTRATE DANNY R. BUBB

IN THE MAYOR'S COURT OF RIPLEY, OHIO

VILLAGE OF RIPLEY

PLAINTIFF

-VS-

CASE NO. 10TR000251

Wison Fields

14 Front

DEFENDANT

JUDGEMENT ENTRY

On this 10th day of January, ~~2010~~ ²⁰¹¹, the Defendant appearing in open court represented by Counsel 1 without Counsel, having duly waived his/her rights to Counsel in writing pursuant of C.R. 44.

Defendant entered a plea of Guilty and was found Guilty to the stated offense of: 71.28 and the following charges(s) are dismissed

NO O.L. in violation of Village Ordinance 71.29A(B), a misdemeanor of the minor degree.
Headlights in violation of Village Ordinance 74.04, a misdemeanor of the minor degree.
expired in violation of Village Ordinance _____, a misdemeanor of the _____ degree.

FOLLOWING SENTENCE IS IMPOSED:

No Points

Insurance
Shown

\$ 150.00 plus court costs of \$ 85.00 to be paid by 265.00
30.00 plus court costs of \$ 0.00 to be paid by _____
0.00 plus court costs of \$ 0.00 to be paid by _____

IMPRISONMENT: _____ days in the Brown County Jail with _____ days suspended.

Defendant's privileges to operate a motor vehicle are suspended for a period of _____ days.

Defendant is placed on probation for _____ year(a) with the following conditions:

Defendant is not to violate any laws.

Defendant is to pay restitution to _____ in the amount of \$ _____.

Defendant is to complete _____ hours of community service.

Defendant must abide by all additional orders or instructions of the Court.

Other: pay 25.00 per week Beginning 1/14/11

ORDERED this 10th day of January, ~~2010~~ ²⁰¹¹

Wison Fields
DEFENDANT

Danny R. Bubp
MAGISTRATE DANNY R. BUBP

IN THE MAYOR'S COURT OF RIPLEY, OHIO

VILLAGE OF RIPLEY

PLAINTIFF

-VS-

CASE NO. 10TR000261

Nancy Ruark
354 McVius Dr.
Ripley DEFENDANT
606 375 2008

JUDGEMENT ENTRY

On this 24th day of January, ²⁰¹¹~~2010~~, the Defendant appearing in open court represented by Counsel without Counsel, having duly waived his/her rights to Counsel in writing pursuant of C.R. 44.

Defendant entered a plea of Guilty and was found Guilty to the stated offense of: Speed 73.00 and the following charge(s) are dismissed:

- Speed in violation of Village Ordinance ~~23.02~~, a misdemeanor of the _____ degree.
- No Redlights in violation of Village Ordinance 24.04, a misdemeanor of the _____ degree.
- _____ in violation of Village Ordinance _____, a misdemeanor of the _____ degree.

THE FOLLOWING SENTENCE IS IMPOSED:

No Points

- 0.00 plus court costs of \$ 85.00 to be paid by 2/7/10 or approx. that day at 1:30pm
- _____ .00 plus court costs of \$ _____ .00 to be paid by _____
- _____ .00 plus court costs of \$ _____ .00 to be paid by _____

IMPRISONMENT: _____ days in the Brown County Jail with _____ days suspended.

Defendant's privileges to operate a motor vehicle are suspended for a period of _____ days.

Defendant is placed on probation for _____ year(s) with the following conditions:

Defendant is not to violate any laws.

Defendant is to pay restitution to _____ in the amount of \$ _____.

Defendant is to complete _____ hours of community service.

Defendant must abide by all additional orders or instructions of the Court.

Other: _____

ORDERED this 24th day of January, ²⁰¹¹~~2010~~.

Nancy Ruark
DEFENDANT

Danny R. Bubb
MAGISTRATE DANNY R. BUBB

IN THE MAYOR'S COURT OF RIPLEY, OHIO

VILLAGE OF RIPLEY

PLAINTIFF

-VS-

Warren McDaniel

DEFENDANT

CASE NO. 10 TR0 00266

JUDGEMENT ENTRY

his 24th day of January, 2011, the Defendant appearing in open court represented by Counsel 1 without Counsel, having duly waived his/her rights to Counsel in writing pursuant of C.R. 44.

Defendant entered a plea of NO Contest and was found GUILTY to the stated offense of _____ and the following charges(s) are dismissed _____

DUS in violation of Village Ordinance 71.31, a misdemeanor of the _____ degree.
_____ in violation of Village Ordinance _____, a misdemeanor of the _____ degree.
_____ in violation of Village Ordinance _____, a misdemeanor of the _____ degree.

THE FOLLOWING SENTENCE IS IMPOSED:

50.00 today (1/24/11) by 4:30pm

1

\$ 1000.00 plus court costs of \$ 85.00 to be paid by _____
\$ _____ plus court costs of \$ _____ to be paid by _____
\$ _____ plus court costs of \$ _____ to be paid by _____

IMPRISONMENT: 90 days in the Brown County Jail with 90 days suspended.

Defendant's privileges to operate a motor vehicle are suspended for a period of _____ days.

Defendant is placed on probation for _____ year(s) with the following conditions:

Defendant is not to violate any laws.

Defendant is to pay restitution to _____ in the amount of \$ _____.

Defendant is to complete _____ hours of community service.

Defendant must abide by all additional orders or instructions of the Court.

Other: all fines suspended on condition that fines are pd and must -- to pay 50.00

ORDERED this 24th day of January, 2011

Pen were beginning 1/28/11

Warren McDaniel
DEFENDANT

Danny R. Bubb
MAGISTRATE DANNY R. BUBB

IN THE MAYOR'S COURT OF RIPLEY, OHIO

VILLAGE OF RIPLEY

PLAINTIFF

-VS-

CASE NO. IDTRD 00264

Amenda Flores
17 W 2nd St Apt 3
9/5x11c DEFENDANT
606-782-3369

JUDGEMENT ENTRY

this 24th day of January, ²⁰¹¹~~2010~~, the Defendant appearing in open court represented by Counsel
1 x without Counsel, having duly waived his/her rights to Counsel in writing pursuant of C.R. 44.

Defendant entered a plea of Guilty and was found Guilty to the stated offense of:
Dismissed from 73.1003 and the following charge(s) are dismissed

speed in violation of Village Ordinance 33.10, a misdemeanor of the _____ degree.
Headlights Required in violation of Village Ordinance 74.04, a misdemeanor of the _____ degree.
_____ in violation of Village Ordinance _____, a misdemeanor of the _____ degree.

THE FOLLOWING SENTENCE IS IMPOSED: NO Points

R
\$ 0.00 plus court costs of \$ 85.00 to be paid by 2/7/10 w approx that day at 1:30pm
\$ _____ .00 plus court costs of \$ _____ .00 to be paid by _____
\$ _____ .00 plus court costs of \$ _____ .00 to be paid by _____

CARCERATION: _____ days in the Brown County Jail with _____ days suspended.
Defendant's privileges to operate a motor vehicle are suspended for a period of _____ days.
Defendant is placed on probation for _____ year(s) with the following conditions:
Defendant is not to violate any laws.
Defendant is to pay restitution to _____ in the amount of \$ _____
Defendant is to complete _____ hours of community service.
Defendant must abide by all additional orders or instructions of the Court.
Other: _____

ORDERED this 24th day of January, ²⁰¹¹~~2010~~.

Amenda Flores
DEFENDANT

Danny R. Burr
MAGISTRATE DANNY R. BURR

IN THE MAYOR'S COURT OF RIPLEY, OHIO

VILLAGE OF RIPLEY

PLAINTIFF

-VS-

CASE NO. 11CRB00004

Virginia Turner

DEFENDANT

JUDGEMENT ENTRY

this 24th day of January, ²⁰¹¹~~2010~~, the Defendant appearing in open court represented by Counsel 1 without Counsel, having duly waived his/her rights to Counsel in writing pursuant of C.R. 44.

Defendant entered a plea of Not Guilty and was found _____ to the stated offense of: 135.06 and the following charges(s) are dismissed 135.06

Driving in violation of Village Ordinance 135.06, a misdemeanor of the 4th degree.
_____ in violation of Village Ordinance _____, a misdemeanor of the _____ degree.
_____ in violation of Village Ordinance _____, a misdemeanor of the _____ degree.

THE FOLLOWING SENTENCE IS IMPOSED:

Case dismissed

RE

\$ _____ .00 plus court costs of \$ _____ .00 to be paid by _____.
\$ _____ .00 plus court costs of \$ _____ .00 to be paid by _____.
\$ _____ .00 plus court costs of \$ _____ .00 to be paid by _____.

CARCERATION: _____ days in the Brown County Jail with _____ days suspended.

Defendant's privileges to operate a motor vehicle are suspended for a period of _____ days.

Defendant is placed on probation for _____ year(s) with the following conditions:

Defendant is not to violate any laws.

Defendant is to pay restitution to _____ in the amount of \$ _____.

Defendant is to complete _____ hours of community service.

Defendant must abide by all additional orders or instructions of the Court.

Other: Def to have no contact with Danny Deussen

ORDERED this 24th day of January, ²⁰¹¹~~2010~~.

DEFENDANT

Danny R. Bulp
MAGISTRATE DANNY R. BULP

IN THE MAYOR'S COURT OF RIPLEY, OHIO

VILLAGE OF RIPLEY

PLAINTIFF

-VS-

Virginia Turner

DEFENDANT

CASE NO. 11CRB00003

JUDGEMENT ENTRY

this 24th day of January, 2010, the Defendant appearing in open court represented by Counsel 1 R without Counsel, having duly waived his/her rights to Counsel in writing pursuant of C.R. 44.

Defendant entered a plea of Not Guilty and was found _____ to the stated offense of: _____ and the following charges(s) are dismissed 132.04

Disorderly Conduct in violation of Village Ordinance 132.04, a misdemeanor of the minor degree.
_____ in violation of Village Ordinance _____, a misdemeanor of the _____ degree.
_____ in violation of Village Ordinance _____, a misdemeanor of the _____ degree.

THE FOLLOWING SENTENCE IS IMPOSED:

Case dismissed

RE

\$ _____ .00 plus court costs of \$ _____ .00 to be paid by _____
\$ _____ .00 plus court costs of \$ _____ .00 to be paid by _____
\$ _____ .00 plus court costs of \$ _____ .00 to be paid by _____

CARCERATION: _____ days in the Brown County Jail with _____ days suspended.

Defendant's privileges to operate a motor vehicle are suspended for a period of _____ days.

Defendant is placed on probation for _____ year(s) with the following conditions:

Defendant is not to violate any laws.

Defendant is to pay restitution to _____ in the amount of \$ _____.

Defendant is to complete _____ hours of community service.

Defendant must abide by all additional orders or instructions of the Court.

Other: _____

ORDERED this 24th day of January, 2011

DEFENDANT

Danny R. Bubb
MAGISTRATE DANNY R. BUBB

Wilson, Erica

From: Cline, Jo Ellen [ClineJ@sconet.state.oh.us]
Sent: Tuesday, June 24, 2008 9:27 AM
To: Wilson, Erica
Subject: Mayor's Court Rules

Erica,

I looked again at HB 372 and the chapter of the Revised Code dealing with Attorneys (4705.) does not talk about education requirements. This is, as I said, due to the Court's authority under the Ohio Constitution to regulate the practice of law (which would include continuing education). If Rep. Bulp runs into problems with his CLE credits please let me know.

The General Assembly has given the Court the authority to adopt the Mayor's Court Education and Procedure Rules (see R.C. §1905.03 and 1905.031). If there is a desire to allow for special consideration for those called to active duty, I believe that there would need to be legislation amending those sections either prior to or in conjunction with an amendment to the rules. This would not necessarily help Rep. Bulp in his current deployment situation but might help in the future.

As I read the attached Rules 3 and 4, because a different magistrate was appointed during Rep. Bulp's deployment, his appointment upon return would be a "new appointment" meaning he has to take the 8 hour basic course. The links below should take you directly to Rules 3 and 4, if not, just click on the Table of Contents hyperlinks.

Please let me know if Rep. Bulp has further questions, and as I said earlier, some of these rules are quirky to say the least...

<http://www.sconet.state.oh.us/Rules/mayor/mayors.pdf>

<http://www.sconet.state.oh.us/Rules/mayor/mayors.pdf>

Jo Ellen Cline
Legislative Counsel
65 South Front Street
Columbus, Ohio 43215
(614) 387-9522
(614) 387-9529 (Fax)

Wilson, Erica

From: Tanya Drinnon [Tdrinnon@bubplawoffice.com]
Sent: Wednesday, June 25, 2008 11:37 AM
To: 'Bubp Col Danny (Governor's LNO)'
Cc: kim@villageofripley.com; Wilson, Erica
Subject: RE: [U] RE: Mayors Court

Danny,

I pulled the file and it was the Ohio Department of Insurance who issued the letter stating that you had six months to complete the credits upon returning from active duty. The letter came from:

Lee Anne Washburn,
Education Supervisor, Licensing Division,
Office of Fraud, Enforcement & Licensing
2100 Stella Court
Columbus, OH 43215
(614) 644-2568

Also, we had to actually call Pro Metric 1-800-532-2170 to get the okay, but I believe this is the insurance industry's discretion. Anyway, the Ohio Dept. of Insurance letter specifically stated that due to active duty it is temporarily put on hold, and upon return it will resume and must be complete within a six month period. I had to fax Danny's orders to this Ms. Washburn immediately upon receiving them and will have to fax his dismissal orders when he receives them as well.

If you need any additional information, please let me know what I can do to help.

Also, Danny, do you know about what time period you will be home, because I do need to start looking for courses to sign you up for, free of course, in order to complete your license. Finally, just on a quick side note, are you CLE credits for general practice of law complete? Any problems there? Let me know.

Thanks,

Tanya M. Drinnon

Tanya M. Drinnon
Law Office of Danny R. Bubp
307 North Market Street,
West Union, OH 45693
Phone 937-544-2581
Fax 937-544-1802

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-----Original Message-----

From: Bubp Col Danny (Governor's LNO) [mailto: Danny.Bubp@ar.mnf-wiraq.usmc.mil]
Sent: Tuesday, June 24, 2008 1:15 AM
To: Kim Spiller; Wilson, Erica
Cc: Mary Jane Campbell; tdrinnon@bubplawoffice.com
Subject: RE: [U] RE: Mayors Court

Classification: UNCLASSIFIED

Erica;

I need you to do something for me. Kim has tried very hard to talk some sense into people in Columbus about my Magistrate situation. I want you to call Kim and let her tell you what she has done trying to get me ready to reassume my magistrates job in Ripley.

Even though I have been a County Court and Common Pleas Judge and a sitting Magistrate, Gerri Allen of the Supreme Court says I must take the basic, initial course instead of coming back and taking the refresher course on December 12th offered by the Ohio Municipal League. I don't know when the initial course is scheduled for. Kim, when is the next initial course set for?

Erica, after you talk to Kim, please call the director of the OML and talk to them about my situation instead of the Supreme Court. The OML is the organization who does the training and who issue the certificates. Once the new House Bill on Mayor's Courts is passed (assuming it is), then the Supreme Court will be over all of the Magistrates. But until then, I'm not sure we need to talk to someone at the Supreme Court like Gerri Allen who told Kim that there is no flexibility for a military member who is called up and then not given time to take the refresher course. I will tell you that I have been given 6 months after I get off active duty to get my educational requirements for my title insurance license. They told Tanya in my office I have 6 months after I get back to get my courses taken. Tanya, do you know where the 6 month flexibility is written down which gives me time after I get back to meet my requirements? If the insurance department gives me 6 months, why wouldn't the Ohio Municipal League? Kim was told initially that I had 6 months to do it when I got back but now Gerri Allen at the Ohio Supreme Court says I have to start over. I DO NOT ACCEPT THAT!

So, Erica see what you can find out and let me know. I think this may be another situation that it all depends on who you talk to. Keep me informed guys. Thanks for everything you all do.

Dan

Classification: UNCLASSIFIED

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From: Kim Spiller [mailto:kim@villageofripley.com]

Sent: Monday, June 23, 2008 9:40 PM

To: Bubp Col Danny (Governor's LNO)

Subject: RE: [U] RE: Mayors Court

Danny

I called the Ohio Supreme Court and spoke to Gerri Allen to confirm and she said that since your certificate expired on 12/31/07 you would have to take the initial course before you could preside. I explained the situation and told her that you were registered for the course on 12/07/07 and had to cancel due to being called to active duty and that you could take the refresher course on 12/12/08. It didn't seem to matter, she just kept telling me that there were no exceptions in the law and that since your certificate expired 12/31/07 and you missed the refresher course in 12/07 you do have to take the initial course. I am very frustrated with this. I was initially told that you could pick up where you left off when you returned. She said I was given wrong information.

Kim Spiller

-----Original Message-----

From: Bubp Col Danny (Governor's LNO) [mailto: Danny.Bubp@ar.mnf-wiraq.usmc.mil]
Sent: Monday, June 23, 2008 1:25 PM
To: Kim Spiller
Subject: [U] RE: Mayors Court

Classification: UNCLASSIFIED

Thanks for the update Kim! Clearly there is still a chance to kill this bill. It still has to go before Senator Niehaus according to the info below and, ultimately, the Governor would have to sign the bill into law. The reason Rep. Wolpert is sponsoring this is because Ohio Supreme Court Chief Justice Moyer wants to have control of ALL Judges and Magistrates under him in the State of Ohio. Right now the magistrates answer to the Ohio Municipal League and not the Chief Justice.

I wish I were there to be able to continue the fight against this legislation. The system works now and it's unfortunate that the Chief Justice Moyer is going to get his way. For all of the jurisdictions under 1600 population, their police officers will be in the County Court all of the time. There won't be one day a week or every two weeks for court. The village will lose their police while they go to county court and sit around waiting for the prosecutor to handle the case. Also, I wonder what prosecutor is going to prosecute the cases. Does the village have to provide a prosecutor?

Anyway, there just are too many issues raised with all of this and I wish the county court judges were being more vocal about it. but, they are all intimidated by Chief Justice Moyer. Too bad. There will be more delay and less prosecution by doing all of this.

Hey, if I take that course on December 12th with Steve, why wouldn't I be able to hold court on December 15th?

Classification: UNCLASSIFIED

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From: Kim Spiller [mailto:kim@villageofripley.com]
Sent: Monday, June 23, 2008 7:28 PM
To: Bubp Col Danny (Governor's LNO)
Subject: FW: Mayors Court

Danny,

The attached is the latest information I have on HB 154. If I get anything else, I will forward on to you to keep you as informed as I am.

Kim Spiller

-----Original Message-----

From: Amy King [mailto:amyk@baldwingroup.com]
Sent: Tuesday, May 06, 2008 5:20 PM
To: Amy King
Subject: Mayors Court

Mayor's Court Clerks,

House Bill 154 was passed in Committee last week. Attached is a document drafted by Larry Wolpert giving an overview of the major changes to the Bill. The Bill is not a law yet - it still has to go back to the Senate who can make amendments to it, and then it could go back into a committee and they can make amendments, and so on, and so on, and so on.

For those of you who were unable to attend the Mayor's Court Clerks Conference last month, the Association of Mayor's Court Clerks of Ohio's lobbyist, Daryl Devers, was present and discussed the status of HB154. He stated that, in his opinion, the end of the Senate's session in May will leave this bill hanging until, at least, after the November elections. He also stated that, even if this bill passes through the Senate and the House, it still has to get the Governor's signature on it to become a law. It's time to start lobbying the Governor - this law has too many drastic changes in it and it will, in no uncertain terms, become a Judicial nightmare. And the Governor should be made aware of that.

It appears that they are very firm on the population size restriction of 1,600. However, they are using the year 2000 census numbers - that are almost 8 years old. If your Municipality has less than the required population size you have the option of partnering with one or more adjoining municipalities to create one Community Court - as long as your combined population size is over the 1,600 requirement. If you are not actively lobbying to save your court, then now might be time to make friends with your neighbors.

By the way.....has anyone even considered who is going to pay for the transfer/conversion of all of the Mayor's Court's data to the Municipal Court?

Amy King
Chuck Rupprecht
The Baldwin Group, Inc.
877-956-2967

Wilson, Erica

From: Rhodes, Bethany
Sent: Thursday, October 22, 2009 1:54 PM
To: Wilson, Erica; Bubb, Danny; dbubb@bubplawoffice.com
Subject: FW: Magistrates - Confidential
Attachments: MagistrateOp_09-007[1].docx

The Supreme Court of Ohio

BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE

65 SOUTH FRONT STREET, 5TH FLOOR, COLUMBUS, OH 43215-3431
(614) 387-9370 (888) 664-8345 FAX: (614) 387-9379
www.supremecourt.ohio.gov

OFFICE OF SECRETARY

OPINION 2009-7

Issued August 14, 2009

SYLLABUS: It is improper under the Ohio Code of Judicial Conduct for a newly appointed full-time or part-time domestic relations court magistrate to continue serving out a term as an elected member of city council. Rule 4.5 requires a magistrate to resign as magistrate upon becoming a candidate in a primary or general election for a nonjudicial elective office. A corollary of Rule 4.5 is that a magistrate may not continue to serve in a nonjudicial office that he or she was elected to prior to becoming a magistrate. Rule 1.2 and Rule 1.3 buttress the view that a magistrate may not continue to serve in a nonjudicial elective office. Rule 1.2 requires a magistrate to act in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and to avoid impropriety and the appearance of impropriety. Rule 1.3 requires that a magistrate not abuse the prestige of judicial office to advance personal or economic interests. The simultaneous holding of a position as magistrate and an elective position of city council member may compromise public confidence in the magistrate's independence, integrity, and impartiality; may create an appearance of impropriety; and may appear to lend the prestige of being a magistrate to advance personal interests. Further, there may be statutory compatibility issues to consider, but those are beyond the scope of this advisory opinion.

OPINION: This opinion addresses a question regarding a newly appointed part-time magistrate continuing to hold an elected office as city council member.

Is it proper for a newly appointed part-time domestic relations court magistrate to continue serving out a term as an elected member of city council?

Part-time magistrates like part-time judges are subject to Rule 4.5 of the Ohio Code of Judicial Conduct. See Part III, Application, Ohio Code of Judicial Conduct. Full-time magistrates and full-time judges are also subject to Rule 4.5. See Part I, Application, Ohio Code of Judicial Conduct.

Rule 4.5 of the Ohio Code of Judicial Conduct requires that "[u]pon becoming a candidate in a primary or general election for a nonjudicial elective office, a judge

shall resign from judicial office." Rule 4.5 provides one exception, not applicable herein, that "[a] judge may continue to hold judicial office while he or she is a candidate for election to or serving as a delegate in a state constitutional convention, if the judge is otherwise permitted by law to do so."

Pursuant to Rule 4.5, a magistrate must resign as magistrate, just as a judge must resign as judge, if he or she becomes a candidate in a primary or general election for a nonjudicial office.

A necessary corollary to the Rule 4.5 requirement that a magistrate resign as a magistrate upon becoming a candidate in a primary or general election for a nonjudicial elective office is that a magistrate may not continue to serve in a nonjudicial office to which he or she was elected prior to becoming a magistrate.

In Opinion 2004-3 (2004), the Board addressed, among other issues, whether a magistrate may simultaneously serve as a magistrate while serving in a nonjudicial elected position. That opinion interpreted Canon 7(B)(4) of the former Ohio Code of Judicial Conduct which was superseded by the Ohio Code of Judicial Conduct, effective March 1, 2009. Rule 4.5 is identical in substance to former Canon 7(B)(4). See Comparison Section, Rule 4.5, Ohio Code of Judicial Conduct.

In Op. 2004-3, the Board advised: "It is improper under Canon 7(B)(4) for a full-time or part-time magistrate to serve on a local, city, or state board of education or to run for election or re-election to a board of education." The Board also advised: "It is improper under Canon 7(B)(4) for a full-time or part-time magistrate to serve on a board of county commissioners or to run for election or re-election to a board of county commissioners." The Board expressed the view that "if an individual holds an elected non-judicial office and *subsequently* receives an appointment as magistrate, a choice is required. The individual should *either* decline the appointment *or* resign from the non-judicial elective office and accept the appointment as magistrate."

Like the Board's view in Opinion 2004-3 that Canon 7(B)(4) prohibits a magistrate from simultaneously serving in a nonjudicial elective office, the Board's view is that Rule 4.5 prohibits a magistrate from continuing to serve in a nonjudicial elective office.

Further, other rules in the Ohio Code of Judicial Conduct buttress the view that a magistrate may not continue to serve in a nonjudicial elective office. Full-time and part-time magistrates like full-time and part-time judges are subject to Rule 1.2 and Rule 1.3. See Parts I and III, Application, Ohio Code of Judicial Conduct.

Rule 1.2 requires that "[a] judge shall act at all times in a manner that promotes public confidence in the *independence, integrity, and impartiality* of the judiciary, and shall avoid *impropriety* and the appearance of *impropriety*." Rule 1.3 requires that "[a] judge shall not abuse the prestige of judicial office to

advance the personal or *economic interests* of the judge or others, or allow others to do so." The simultaneous holding of a position as magistrate and the elective position of city council member may compromise public confidence in the magistrate's independence, integrity, and impartiality; may create an appearance of impropriety; and may appear to lend the prestige of being a magistrate to advance personal interests.

For judges, the legal issue of holding another elective office is long settled. A judge may not continue to hold another elective office. The Ohio Constitution and related statutes prohibit a *judge* from holding any other office of profit or trust under authority of Ohio or of the United States. See Ohio Const. art. IV, § 6 (B); Ohio Rev. Code Ann. § 141.04 (D) (West Supp. 2009) [chief justice of the supreme court, justices of the supreme court, court of appeals judges, court of the common pleas judges, probate court judges] Ohio Rev. Code Ann. § 1901.11(D) (West 2005) [municipal court judges]; Ohio Rev. Code Ann. § 1907.16(B) (West 2005) [county court judges].

But, a magistrate, unlike a judge, is not subject to the constitutional and statutory prohibitions on holding any other office of profit or trust under authority of Ohio or the United States. "Because the prohibition of Ohio Const. art. IV, § 6(B) and R.C. 141.04(D) does not expressly include magistrates, the prohibition is not applicable to magistrates." OAG Op. 96-062 (1996) (n.1). [In OAG Op. 96-062, the attorney general advised that there is statutory compatibility for a part-time domestic relations magistrate to serve as a member of the county board of election, but noted the consideration did not constitute an opinion on the applicability of the Code of Judicial Conduct.]

In Op. 2004-3, the Board stated that the "[r]esolution of the issue of whether an individual may simultaneously serve as *magistrate* while seeking election to or serving in a non-judicial elected position lies solely within the Ohio Code of Judicial Conduct." That statement may be overbroad, for a magistrate is subject to statutory compatibility issues. As examples, the Board notes two statutory provisions that may be relevant to the holding of the positions of magistrate and city council member.

R.C. 731.02 states that each member of the legislative authority of a municipal corporation "shall not hold any other public office, except that of notary public or member of the state militia, and shall not be interested in any contract with the city, and no such member may hold employment with said city." Ohio Rev. Code Ann. § 731.02 (West Supp. 2009).

R.C. 705.12 states that members of the legislative authority of a municipal corporation "shall not hold any other public office or employment, except that of notary public or member of the state militia, or state or county central committeeman of a political party, or state or county executive committeeman of a political party, or state or county officer of a political party, and shall not be interested in the profits or emoluments of any contract, job, work, or service for

the municipal corporation." Ohio Rev. Code Ann. § 705.12 (West 1994). [R.C. 705.12 is applicable to each plan of city government provided for in R.C. 705.41 to 705.86 (commission plan, city manager plan, federal plan). Ohio Rev. Code Ann. § 705.07 (West 1994).]

The Board acknowledges that advice as to statutory compatibility issues is under the advisory authority of the Office of the Ohio Attorney General. See e.g., Ohio Rev. Code Ann. §§ 109.12-109.14 (West 2002). Advice as to the application of the Ohio Code of Judicial Conduct is under the advisory authority of the Board of Commissioners on Grievances and Discipline. See Gov. Bar R. V(2)(C).

In conclusion, the Board advises as follows. It is improper under the Ohio Code of Judicial Conduct for a newly appointed full-time or part-time domestic relations court magistrate to continue serving out a term as an elected member of city council. Rule 4.5 requires a magistrate to resign as magistrate upon becoming a candidate in a primary or general election for a nonjudicial elective office. A corollary of Rule 4.5 is that a magistrate may not continue to serve in a nonjudicial office that he or she was elected to prior to becoming a magistrate. Rule 1.2 and Rule 1.3 buttress the view that a magistrate may not continue to serve in a nonjudicial elective office. Rule 1.2 requires a magistrate to act in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and to avoid impropriety and the appearance of impropriety. Rule 1.3 requires that a magistrate not abuse the prestige of judicial office to advance personal or economic interests. The simultaneous holding of a position as magistrate and an elective position of city council member may compromise public confidence in the magistrate's independence, integrity, and impartiality; may create an appearance of impropriety; and may appear to lend the prestige of being a magistrate to advance personal interests. Further, there may be statutory compatibility issues to consider, but those are beyond the scope of this advisory opinion.

Advisory Opinions of the Board of Commissioners on Grievances and Discipline are informal, nonbinding opinions in response to prospective or hypothetical questions regarding the application of the Supreme Court Rules for the Government of the Bar of Ohio, the Supreme Court Rules for the Government of the Judiciary, the Ohio Rules of Professional Conduct, the Ohio Code of Judicial Conduct, and the Attorney's Oath of Office.

Wilson, Erica

From: Wilson, Erica
Sent: Tuesday, January 12, 2010 9:39 AM
To: Lenzo, Mike
Subject: Mind Reader

My boss just asked about the magistrate ruling! ☺

Erica K. Wilson

Legislative Aide
Office of State Representative Danny Bupp
88th House District
Ohio House of Representatives
614.644.6034

Wilson, Erica

From: Yano, Marjorie
Sent: Wednesday, January 25, 2012 5:23 PM
To: Lenzo, Mike
Cc: Wilson, Erica
Subject: PRR
Attachments: Hartman Response Letter Jan 25.doc; Hartman Request - Records.pdf

For your records, I've attached the letter and pdf that were sent out to day in response to the Hartman PRR.

Marjorie Yano

marjorie.yano@ohr.state.oh.us
(614) 466-9091

Ohio House of Representatives



January 25, 2012

Dear Mr. Hartman,

On November 17, 2011 you requested the following public records from the office of State Representative Bubp:

- all records that discuss or evaluate the authority or ability for you to simultaneously hold the public offices of state representative and magistrate in a mayor's court;
- all records document any request tendered by or on your behalf as to the authority or ability for you to simultaneously hold the public offices of state representative and magistrate in a mayor's court;
- all records documenting any response to any request tendered by or on your behalf as to the authority or ability for you to simultaneously hold the public office of state representative and magistrate in a mayor's court;
- all records upon which you rely to establish the ability or authority for you to simultaneously hold the public offices of state representative and magistrate in a mayor's court.

Attached to this email are records responsive to this request.

Our legal team handles all public records requests for the 59 members of the House Republican caucus. Over the past year, we have received over 500 requests for records. It is our policy to respond to these requests on a first-in-first-out basis. No matter how small the request, it is our policy to not allow certain requests to "skip the line" to ensure a fair policy towards all. There were several voluminous public records requests in the queue prior to your request.

If you have any questions, please contact me.

Sincerely,

Marjorie Yano

Public Inquiries Officer
marjorie.yano@ohr.state.oh.us

**SUPREME COURT
OF THE STATE OF OHIO**

STATE OF OHIO *ex rel.* KENT LANHAM,)
)
 Relator,)
)
 -v-)
)
 DANNY R. BUBP, State Representative,)
)
 Respondent.)

CASE NO. 2012-0131

**RESPONDENT DANNY R. BUBP'S
CORRECTED RESPONSES TO
RELATOR'S FIRST SET OF
DISCOVERY DIRECTED TO
RESPONDENT DANNY BUBP**

Respondent, State Representative Danny R. Bulp, hereby responds to the Relator's First Set of Discovery.

GENERAL OBJECTIONS

1. Representative Bulp objects to the Discovery to the extent it seeks information protected by the attorney-client privilege, the legislative privilege, or any other statutory or common law privilege.
2. Representative Bulp objects to the Discovery to the extent it seeks information protected by the attorney work product doctrine and/or documents prepared in anticipation of litigation or for trial by or for Representative Bulp or his counsel.
3. Representative Bulp objects to the Discovery to the extent it is overbroad, unduly burdensome, vague, duplicative, not reasonably calculated to lead to the discovery of admissible evidence, calls for information outside the possession of Representative Bulp or his counsel, and/or fails to describe the documents sought with reasonable particularity.
4. Representative Bulp objects to the Discovery to the extent it purports to require answers or actions not required by the Ohio Rules of Civil Procedure.
5. Representative Bulp objects to the Discovery to the extent that the information sought is publicly available, is already in Relator's possession, or is in the possession or control of third parties.
6. By responding to the Discovery Requests, Representative Bulp does not hereby admit, adopt, or acquiesce in any factual or legal contention, assertion, or characterization contained in any particular discovery request.

7. In making these objections, Representative Bubp does not waive or intend to waive, but rather intends to preserve and is preserving, should it become appropriate:
- a. All objections to the competency, relevancy, materiality, and admissibility of any information that may be produced and disclosed in response to the Discovery;
 - b. All rights to object on any ground to the use of any information that may be produced or disclosed in response to the Discovery, or the subject matter thereof, in any subsequent proceedings, including the trial of this action;
 - c. All rights to object on any ground to any request for further responses to the Discovery or any other discovery requests from the Relator; and
 - d. All rights to revise, correct, supplement, clarify, or amend these responses.

INTERROGATORIES

1. For each record that you have refused to produce in response to the Public Records Request Letter, provide the following information:
- (i) The format of each record (e.g., e-mail, letter, memoranda, etc.)
 - (ii) The total number of pages for each record
 - (iii) The date of each record;
 - (iv) The sender/transmitter of each record;
 - (v) All recipients of the record;
 - (vi) Indicate whether each recipient was the addressee of the record or copied on the record (and, if copied, whether the recipient was blind copied);
 - (vii) The specific legal basis for not producing the record in response to the Public Records Request Letter;
 - (viii) If the record is not being produced or is being withheld based upon a claim of attorney-client privilege, then provide:
 - (a) The name, position and firm (if applicable) of the attorney which forms the basis for the invocation of the privilege; and
 - (b) A description of the record sufficient so as to demonstrate the application of the attorney-client privilege.

Response:

Representative Bubp objects to Interrogatory number 1 on the ground that the Interrogatory calls for information that is protected by the Attorney-Client privilege. Representative Bubp further objects that no legal basis exists to require a party to produce a privilege log when privileged materials are withheld in response to a public records request. Representative Bubp further objects that nothing in the rules of civil procedure requires a party to produce a privilege log with the information specified above, and that producing all of the information specified above is likely to reveal privileged

communications. Notwithstanding the foregoing objections, Representative Bulp hereby attaches a log responsive to this interrogatory. To the extent that Relator is of the opinion that the attached log is insufficient, Representative Bulp is willing to produce the withheld documents to the Court for *in camera* review.

2. Identify the date and the means by which you (or someone on your behalf or at your direction) transmitted the Public Records Request Letter to any person associated with (either as a member or employee) the Ohio House of Representatives or the Republican Caucus of the Ohio House of Representatives. In your response, include the person who actually transmitted the Public Records Request Letter, the specific individual(s) to whom the request was transmitted, the manner in which the Public Records Request Letter was transmitted (e.g., hand delivery, via e-mail, etc.)

Response:

Representative Bulp objects to Interrogatory number two to the extent that it calls for revealing attorney-client communications. Representative Bulp further objects to Interrogatory number two on the ground that it is overbroad, unduly burdensome, and not calculated to lead to the discovery of admissible evidence. Notwithstanding the foregoing objections, any written records that are not privileged or confidential, evidencing transmission of the Public Records Request Letter for purposes of responding thereto will be produced in response to Document Request number one.

Further responding, Representative Bulp answers that the Public Records Request Letter was handed to Erica Wilson, his legislative aide, on or about November 17, 2011, who hand delivered a copy of the Letter to Michael Lenzo, House Majority Counsel, on the same or the next day. At some point in time, after November 17, 2011, Erica Wilson informed Representative Bulp that the request had been received.

3. Identify all communications that you (or someone on your behalf or at your direction) had with any person associated with (either as a member or employee) the Ohio House of Representatives or the Republican Caucus of the Ohio House of Representatives concerning the Public Records Request Letter. In your response, include the date of each communication, the specific individual(s) to whom such communications was [sic] made, if someone other than you made the communication on your behalf then the identity of such person, and the manner of such communication (e.g., orally, e-mail, etc.)

Response:

Representative Bulp objects to Interrogatory number three to the extent that it calls for revealing attorney-client communications. Representative Bulp further objects to Interrogatory number three on the ground that it is overbroad, unduly burdensome, and not calculated to lead to the discovery of admissible evidence. Notwithstanding the foregoing objections, any written records that are not privileged or confidential,

evidencing a communication regarding the Public Records Request Letter for purposes of responding thereto will be produced in response to Document Request number one.

Further responding, Representative Bulp answers that his legislative aide Erica Wilson had several conversations with House Majority Counsel Michael Lenzo and Deputy House Majority Counsel Marjorie Yano regarding the Public Records Request but no record was maintained of the date or manner of such communications.

4. Identify all communications that you (or someone on your behalf or at your direction) had with any person associated with (either as a member or employee) the Ohio House of Representatives or the Republican Caucus of the Ohio House of Representatives concerning the ability or authority for you to simultaneously hold the position of state representative and a magistrate in mayor's court. In your response, include the date of each communication, the specific individual(s) to whom such communications was [sic] made, if someone other than you made the communication on your behalf then the identity of such person, and the manner of such communication (e.g., orally, e-mail, etc.).

Response:

Representative Bulp objects to Interrogatory number four to the extent that it calls for revealing attorney-client communications, communications potentially covered by the legislative privilege and communications potentially covered by R.C. 102.06(F) and/or 101.34(F). Representative Bulp further objects to Interrogatory number four on the ground that it is overbroad, unduly burdensome, and not calculated to lead to the discovery of admissible evidence. The underlying subject matter of the Public Records Request Letter bears no relevance whatsoever to the pending mandamus action, which is a limited proceeding intended to determine whether Representative Bulp violated any clear legal duty arising under the Public Records Act when he responded to the Request.

Further responding, Representative Bulp answers that Relator already possesses the records provided in response to his public records request for all records documenting the communications described in this interrogatory.

DOCUMENT REQUESTS

1. Produce all documents that constitute or reference the transmittal of the Public Records Request Letter to any person associated with (either as a member or employee) the Ohio House of Representatives or the Republican Caucus of the Ohio House of Representatives.

Response:

Representative Bulp objects to Document Request number one to the extent that it calls for revealing attorney-client communications. Representative Bulp further objects to Document Request number one on the ground that it is overbroad, unduly burdensome, and not calculated to lead to the discovery of admissible evidence. Notwithstanding the

foregoing objections, any written records that are not privileged or confidential, evidencing a communication regarding the Public Records Request Letter for purposes of responding thereto will be produced in response to Document Request number one.

2. Produce all documents of any communications that you (or someone on your behalf or at your direction) had with any person associated with (either as a member or employee) the Ohio House of Representatives or the Republican Caucus of the Ohio House of Representatives concerning the Public Records Request Letter.

Response:

See response to Document Request number 1.

Verification of Answers to Interrogatories:

I hereby acknowledge, under oath, that the foregoing answers to Interrogatories are true and accurate to the best of my knowledge.

For Respondent:



Michael Lenzo
Majority Counsel, Ohio House of Representatives

STATE OF OHIO)

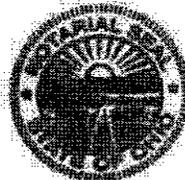
)ss:

COUNTY OF FRANKLIN)

Before me, a Notary Public in and for said county and state, personally appeared Michael Lenzo, who acknowledges that the Answers to the foregoing Interrogatories are true as he verily believes. In Testimony Thereof, I have hereunto set my hand and affixed my official seal on this 9th day of April, 2012.

 (Heather Mann)

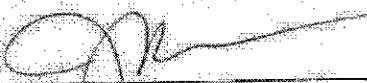
Notary Public



Heather H. Mann, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.

As to Objections, Legal positions and Responses to Requests of Production:

MICHAEL DeWINE
Ohio Attorney General



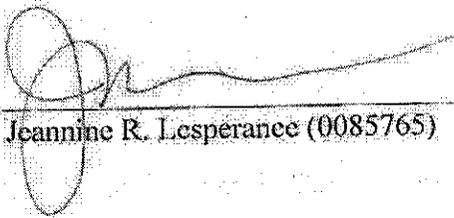
JEANNINE R. LESPERANCE (0085765)
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jeff.clark@ohioattorneygeneral.gov

Attorneys for Respondent Representative Danny Bulp

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing "Respondent Danny R. Bulp's Corrected Responses to Relator's First Set of Discovery Directed to Respondent Danny Bulp" was served via e-mail and regular mail, on the 9th day of April, 2012, upon the following:

Curt C. Hartman (0064242)
The Law Firm of Curt C. Hartman
3749 Fox Point Court
Amelia, OH 45102
(513) 752-8800
hartmanlawfirm@fuse.net
Attorney for Relator Kent Lanham



Jeannine R. Lesperance (0085765)

Response of Representative Danny Bubp to Relator's Interrogatory Number One
Lanham v. Bubp

Bates From	Bates To	Privilege	Client	Date(s)	Type	From	To	Comments
3		Attorney-Client	Representative Bubp	10/29/2009	email	Michael Lenzo	Erica Wilson, Bethany Rhodes	Describes attorney-client communications between Michael Lenzo and the Attorney General's Office
3		Attorney-Client	Representative Bubp	10/29/2009	email	Erica Wilson	Danny Bubp	Forwards email above
4	12	Attorney-Client	Representative Bubp, Ohio General Assembly	10/29/2009	letter with enclosures	Michael Lenzo	Kevin McIver	Attachments to emails on bates 3
13		Attorney-Client	Representative Bubp, Ohio General Assembly	10/30/2009	email	Michael Lenzo	Erica Wilson, Bethany Rhodes	Describes attorney-client communications between Michael Lenzo and the Attorney General's Office
14	17	Attorney-Client	Representative Bubp, Ohio General Assembly	10/30/2009	letter with enclosure	Michael Lenzo	Kevin McIver	Attachments to email on bates 13
18	22	Attorney-Client	Representative Bubp, Ohio General Assembly	10/30/2009	see comments	see comments	see comments	Identical to bates 13-17
23	33	Attorney-Client	Representative Bubp, Ohio General Assembly	10/29/2009	see comments	see comments	see comments	Identical to bates 3-12

Attorneys:

Kevin McIver, Chief, Opinions Section, Ohio Attorney General
 Michael Lenzo, Majority Legal Counsel, Ohio House of Representatives (in 2009 he was Minority Legal Counsel)
 Bethany Rhodes, Deputy Minority Legal Counsel, Ohio House of Representatives (in 2009)