

IN THE SUPREME COURT OF OHIO

STATE OF OHIO EX REL. )  
 LARRY KLAYMAN, )  
 )  
 Relator, )  
 )  
 vs. )  
 )  
 CUYAHOGA COUNTY COURT )  
 OF COMMON PLEAS, DOMESTIC )  
 RELATIONS COURT, ET AL., )  
 )  
 Respondents. )

CASE NO. 2013-0296  
 Original Action in Mandamus

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**RESPONDENT CUYAHOGA COUNTY COURT OF COMMON PLEAS,  
 DOMESTIC RELATIONS COURT'S BRIEF IN OPPOSITION TO  
 RELATOR'S MOTION FOR RECONSIDERATION**

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LARRY KLAYMAN  
 2020 Pennsylvania Ave, NW Suite 800  
 Washington, D.C. 20006  
 Tel: (310) 595-0800  
[leklayman@gmail.com](mailto:leklayman@gmail.com)

*Relator pro se*

TIMOTHY J. McGINTY (0024626)  
 Prosecuting Attorney of Cuyahoga County  
 CHARLES E. HANNAN \* (0037153)  
 Assistant Prosecuting Attorney  
 \* *Counsel of Record*  
 The Justice Center, Courts Tower, 8<sup>th</sup> Floor  
 1200 Ontario Street  
 Cleveland, Ohio 44113  
 Tel: (216) 443-7758/Fax: (216) 443-7602  
[channan@prosecutor.cuyahogacounty.us](mailto:channan@prosecutor.cuyahogacounty.us)

*Counsel for Respondent Cuyahoga County  
 Court of Common Pleas, Domestic Relations  
 Court*

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MICHAEL DEWINE (0009181)  
Ohio Attorney General  
DARLENE FAWKES PETTIT \* (0081397)  
\* *Counsel of Record*

SARAH PEIRCE (0087799)  
Assistant Attorneys General  
Constitutional Offices Section  
30 East Broad Street, 16<sup>th</sup> Floor  
Columbus, Ohio 43215  
Tel: (614) 466-2872/Fax: (614) 782-7592  
[darlene.pettit@ohioattorneygeneral.gov](mailto:darlene.pettit@ohioattorneygeneral.gov)  
[sarah.pierce@ohioattorneygeneral.gov](mailto:sarah.pierce@ohioattorneygeneral.gov)

*Counsel for Respondent Eighth District  
Court of Appeals*

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STATE OF OHIO EX REL.	)	CASE NO. 2013-0296
LARRY KLAYMAN,	)	
	)	Original Action in Mandamus
Relator,	)	
	)	
vs.	)	<b><u>RESPONDENT CUYAHOGA COUNTY</u></b>
	)	<b><u>COURT OF COMMON PLEAS,</u></b>
CUYAHOGA COUNTY COURT	)	<b><u>DOMESTIC RELATIONS COURT'S</u></b>
OF COMMON PLEAS, DOMESTIC	)	<b><u>BRIEF IN OPPOSITION TO</u></b>
RELATIONS COURT, ET AL.,	)	<b><u>RELATOR'S MOTION FOR</u></b>
	)	<b><u>RECONSIDERATION</u></b>
Respondents.	)	

On April 24, 2013, the Supreme Court of Ohio granted the motions to dismiss filed by respondent Cuyahoga County Court of Common Pleas, Domestic Relations Court (“respondent Domestic Relations Court”) and respondent Eighth District Court of Appeals (“respondent Court of Appeals”). On May 6, 2013, relator filed a motion for reconsideration. Pursuant to S.Ct.Prac.R. 18.03, respondent Domestic Relations Court respectfully urges this Court to deny relator’s motion for reconsideration for the following reasons.

The Supreme Court of Ohio has exercised its authority to grant reconsideration only when necessary to correct decisions which, upon reflection, are deemed to have been made in error. *See State v. Hood*, 135 Ohio St.3d 137, 2012-Ohio-6208, 984 N.E.2d 1057, ¶ 1; *Buckeye Community Hope Found. v. Cuyahoga Falls*, 82 Ohio St.3d 539, 541, 697 N.E.2d 181 (1998); *State ex rel. Huebner v. W. Jefferson Village Council*, 75 Ohio St. 3d 381, 383, 662 N.E.2d 339 (1995).

In this case, relator seeks reconsideration based on his assertion that he did not have time to respond to the March 13, 2013 motion to dismiss filed by respondent Court of Appeals.

Relator's motion for reconsideration does not suggest that he did not have time to respond to the March 20, 2013 motion to dismiss filed by respondent Domestic Relations Court.

But irrespective of whatever delays relator may have been experiencing in receiving mail that was sent to his designated mailing address, relator concedes that he was aware on March 22, 2013 that a motion to dismiss had been filed for which a timely response was due. Relator failed to file a timely response or request for an extension of time to respond to either respondent's motion to dismiss. And as respondent Domestic Relations Court indicated previously in its response to relator's motions to strike that addressed the same issue that relator raises in his request for reconsideration and is incorporated here by reference, respondent Domestic Relations Court (and respondent Court of Appeals) made service by mail as required by S.Ct.Prac.R. 3.11 by depositing the service copy with the United States Postal Service for mailing. See S.Ct.Prac.R. 3.11(B)(1). Consequently, relator has not established any legal error warranting reconsideration.

In truth, relator's motion for reconsideration would really appear to be an untimely-filed brief in opposition to the respondents' motions to dismiss. Putting aside the untimeliness of that response, relator still does not establish the grounds necessary for extraordinary relief in mandamus. Relator continues to assail the judgments rendered in the underlying divorce case proceedings, but those are matters that are properly subject to review and correction, if appropriate, through the plain and adequate legal remedy of appeal. They do not warrant the issuance of extraordinary relief in mandamus.

Relator's motion for reconsideration does not provide any grounds to conclude that this Court committed error when it dismissed relator's action in mandamus. Respondent Domestic Relations Court accordingly urges this Court to deny relator's motion for reconsideration.

Respectfully submitted,

TIMOTHY J. MCGINTY, Prosecuting Attorney  
of Cuyahoga County, Ohio

By: 

CHARLES E. HANNAN \* (0037153)

Assistant Prosecuting Attorney

*\* Counsel of Record*

The Justice Center, Courts Tower, 8<sup>th</sup> Floor

1200 Ontario Street

Cleveland, Ohio 44113

Tel: (216) 443-7758/Fax: (216) 443-7602

[channan@prosecutor.cuyahogacounty.us](mailto:channan@prosecutor.cuyahogacounty.us)

*Counsel for Respondent Cuyahoga County Court of  
Common Pleas, Domestic Relations Court*

**PROOF OF SERVICE**

A true copy of the foregoing Respondent Cuyahoga County Court of Common Pleas, Domestic Relations Court's Brief in Opposition to Relator's Motion for Reconsideration was served this 9<sup>TH</sup> day of May 2013 by regular U.S. Mail, postage prepaid, upon:

Larry Klayman  
2020 Pennsylvania Ave, NW Suite 800  
Washington, D.C. 20006

*Relator pro se*

Michael DeWine, Ohio Attorney General  
Darlene Fawkes Pettit,  
Sarah Pierce  
Assistant Attorneys General  
Constitutional Offices Section  
30 East Broad Street, 16<sup>th</sup> Floor  
Columbus, Ohio 43215

*Counsel for Respondent Eighth District Court of Appeals*



CHARLES E. HANNAN \*  
Assistant Prosecuting Attorney  
\* *Counsel of Record*