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TABLE OF CONTENTS

THE LEAGUE HAS AN IMPORTANT INTEREST IN THE COURT ACCEPTING
JURISDICTION OF THIS CASE 1

INTRODUCTION: THIS CASE INVOLVES MATTERS OF PUBLIC AND GREAT
GENERAL INTEREST 1

CONCLUSION..... 2

TABLE OF AUTHORITIES

Statutes

Ohio Revised Code § 124.34 1

Rules

Supreme Court Practice Rule 18.02(C) 1

Pursuant to Supreme Court Practice Rule 18.02(C), amicus curiae the Ohio Municipal League (“League”) respectfully submits this memorandum in support of Appellant’s motion to reconsider this Court’s decision not to accept this discretionary appeal.

**THE LEAGUE HAS AN IMPORTANT INTEREST
IN THE COURT ACCEPTING JURISDICTION OF THIS CASE**

The League was incorporated as an Ohio non-profit corporation in 1952 by city and village officials who saw the need for a statewide association to serve the interests of Ohio municipal government. The League is currently composed of a membership of more than 700 Ohio cities and villages.

The League and its members have an interest in ensuring that municipal corporations are able to discipline employees that are not subject to a collective bargaining agreement in a manner that best serves the operations of the municipal corporation, regardless of whether such discipline adheres to a progressive discipline structure, and in ensuring that public employees can be disciplined for acts of misfeasance, malfeasance, nonfeasance, neglect of duty and failure of good behavior, regardless of whether a criminal act or ethical violation occurred.

**INTRODUCTION: THIS CASE INVOLVES
MATTERS OF PUBLIC AND GREAT GENERAL INTEREST**

R.C. 124.34 is silent on the issue of progressive discipline and provides that the tenure of any employee in the classified service “shall be during good behavior and efficient service” and that no employee shall be reduced in pay or position, suspended, or removed except for certain stated reasons, including neglect of duty, failure of good behavior, misfeasance, malfeasance, and nonfeasance.

This Court has an opportunity to clarify that R.C. 124.34 does not require progressive discipline and that a court abuses its discretion in a R.C. 124.34 appeal when it reduces a disciplinary penalty rank because the employee, who is not covered by a collective bargaining

agreement, had no other prior reprimands or disciplinary action. This court also has an opportunity to clarify that a public employee can be disciplined under R.C. 124.34 for acts of misfeasance, malfeasance, nonfeasance, neglect of duty and failure of good behavior, **regardless of whether a criminal act or ethical violation was committed.**

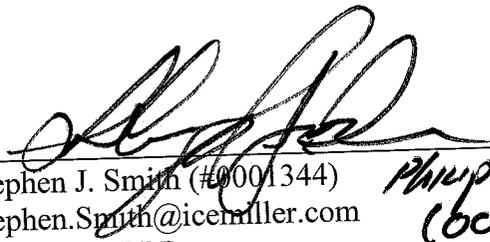
These matters are of great concern to state and local governments as progressive discipline should not be required in the absence of a collective bargaining agreement requiring a progressive discipline structure and, in order to ensure the proper operation of government departments and the delivery of services, a public entity must be able to discipline employees for misfeasance, malfeasance, nonfeasance, neglect of duty and failure of good behavior, absent a finding that a criminal act or ethical violation was committed. It is unreasonable and contrary to state law to exempt public employees that engage in acts of misfeasance, malfeasance, nonfeasance, neglect of duty and failure of good behavior from disciplinary action because their conduct did not rise to the level of a criminal or ethical violation.

This case involves matters of public and great general interest and is worthy of the time and attention of this Court.

CONCLUSION

The League respectfully requests that the Court reconsider its decision to decline jurisdiction and accept this case for review as it involves a matter of public and great general interest.

Respectfully submitted,



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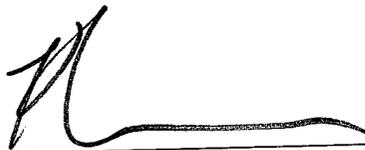
*Counsel for Amicus Curiae
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CERTIFICATE OF SERVICE

A copy of the foregoing *Memorandum in Support of Jurisdiction of Amicus Curiae the Ohio Municipal League* has been sent via regular U.S. mail, postage pre-paid this 26th day of February, 2013 to:

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