

In the Supreme Court of Ohio

STATE OF OHIO, EX REL.
ELIZABETH A. KOBLY, et al.,
Judges, Youngstown
Municipal Court

Relators

-vs-

YOUNGSTOWN CITY COUNCIL, et al.

Respondents

Case No 2009-0866

RELATORS' INDEX OF TESTIMONY
AND DIRECT TESTIMONY

JOHN B. JUHASZ No 0023777
7081 West Boulevard, Suite No 4
Youngstown, Ohio 44512-4362
Telephone: 330.758.7700
Facsimile: 330.758.7757
E-mail: Jbjjurisdoc@yahoo.com
COUNSEL FOR RELATORS

Anthony J. Farris No 0055695
E-mail: AJF@CityofYoungstownOH.com
Rebecca M. Gerson No 0062695
E-mail: rgerson@cityofyoungstownoh.com
26 South Phelps Street
Youngstown, Ohio 44503
Telephone: 330.742.8874
Facsimile: 330.742.8867
COUNSEL FOR RESPONDENTS

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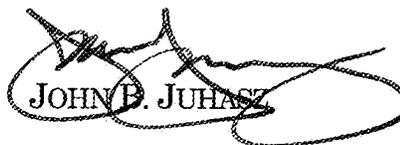
Respectfully submitted,



JOHN B. JUHASZ № 0023777
7081 West Boulevard, Suite 4
Youngstown, Ohio 44512-4362
Telephone: 330.758.7700
Facsimile: 330.758.7757
E-mail: Jbjjurisdoc@yahoo.com
COUNSEL FOR RELATORS

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing sent by regular United States Mail, postage prepaid, hand delivered to counsel or counsel's office; sent by telecopier this 22 day of June, 2013 to Anthony Farris, Esq., and Rebecca M. Gerson, Esq., Counsel for Respondents, 26 South Phelps Street, Youngstown, Ohio 44503.



JOHN B. JUHASZ

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¹(...continued)
evidentiary hearing.

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SWORN DIRECT TESTIMONY OF
JUDGE ELIZABETH A. KOBLY

JOHN B. JUHASZ N^o 0023777
7081 West Boulevard, Suite N^o 4
Youngstown, Ohio 44512-4362
Telephone: 330.758.7700
Facsimile: 330.758.7757
E-mail: Jbjjurisdoc@yahoo.com
COUNSEL FOR RELATORS

Anthony J. Farris N^o 0055695
E-mail: AJF@CityofYoungstownOH.com
Rebecca M. Gerson N^o 0062695
E-mail: rgerson@cityofyoungstownoh.com
26 South Phelps Street
Youngstown, Ohio 44503
Telephone: 330.742.8874
Facsimile: 330.742.8867
COUNSEL FOR RESPONDENTS

In the Supreme Court of Ohio

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Case No. 2009-0866

SWORN DIRECT TESTIMONY OF
JUDGE ELIZABETH A. KOBLY

Q Would you state your name, please?

A Elizabeth Kobly.

Q What is your current occupation?

A I'm a Judge in the City of Youngstown Municipal Court and have been since the year 2000.

Q Do you know the legal authority under which the Youngstown Municipal Court exists and operates?

A The Ohio Constitution talks about courts that are created by law and the Youngstown Municipal Court, like other municipal courts in the state, exists under R.C. §1901.01.

Q Can you describe the present composition of the Youngstown Municipal Court?

A When I assumed office in 2000, there were three Municipal Court Judges. Judge Robert A. Douglas Jr., retired in 2012. Apparently at the urging of Chief Justice O'Connor, Governor Kasich did not appoint a replacement, and eventually the state legislature abolished the third judgeship. So now there are two municipal judges, myself and Judge Robert P. Milich. We also have one Court magistrate, Anthony Sertick. We are obligated by the Constitution and statutes to maintain and operate the Youngstown Municipal Court and the probation department.

Q What staff do the judges have?

A Each Municipal Court Judge has secretary and a bailiff. The Magistrate has a bailiff/secretary. We have a court administrator, assignment clerks to schedule cases, a jury commissioner and an administrative assistant, their respective assistants, and we have 3 service bailiffs, and we have the probation department.

Q Where, physically, is the court located?

A The Youngstown Municipal Court and the support services for the Court are presently housed on the second floor of the Youngstown City Hall, and have been for quite some time. Temporarily, the probation department is housed in the basement of City Hall. When the Mayor and the City Council continued to refuse our requests for new space, we had no choice but to remodel the probation department.

Q Are the physical facilities of the Youngstown Municipal Court such that the Court has suitable accommodations?

A Absolutely not. The facilities are, and have been for the entire time that I have been on the bench, entirely inadequate. If you look at Appendices C and D of the Ohio Superintendence Rules, we do not even come close.

Q What sorts of inadequacies are there that make the facilities in your view not suitable accommodations for a court?

A To begin with, the Court facility is not clean, adequately heated and air-conditioned, or adequately maintained. On top of that, courtrooms do not have an adequate seating capacity so that parties, witnesses, and observers often have to stand. Parties and witnesses must confer with prosecutors and defense attorneys in the hallways and areas adjacent to the courtrooms. There is no privacy to confer.

Q Are there other deficiencies?

A Many more. Tables, and chairs are insufficient for all court personnel who are regularly present in the courtrooms. Tables and chairs cannot be situated in the courtrooms to allow private exchanges between clients and counsel away from jurors and others in the courtrooms. The rooms are just too small there is no room for blackboards and other demonstrative tools and we don't have them anyway. Until Judge Douglas retired and they did not fill his seat, the Magistrate had no courtroom to use. We had to take ourselves out of courtrooms on a rotating basis to enable the magistrate to conduct hearings, small claims trials, and the like. We have no jury assembly room. We use the City Council chambers as a

jury assembly room. There are no books or magazines and there are no televisions for the jurors to watch while they wait to be called.

We have only one jury deliberation room. It is small, not well ventilated, and not soundproofed. There are no restroom facilities available for the jurors in or near the rooms that are used as jury assembly and jury deliberation rooms. In fact, the only public restroom is a one stall, one room unisex bathroom, located in the basement of City Hall, two floors below the court and six floors below the City Council Chambers that we use as a jury assembly room. The jury deliberation room is situated in a way that anyone could walk down the hall and straight into the jury room. There is no public telephone on the second floor, where the court and the clerk's office are located. Nor are there public telephone facilities on the sixth floor where the jurors assemble.

There are no private rooms for lawyers to confer with their clients, and there are no witness waiting rooms. Witnesses are often forced to stand in the hallway when a separation of witnesses is ordered. The violations bureau and pay-in windows are not located near a public parking area. The only sign that tells people who might not know where they are going that the Municipal Court is located within City Hall is painted on the glass doors which are the entrance to City Hall, but they are recessed, under an alcove, and difficult to see.

There is no nearby public parking. There is not enough room for court personnel to prepare, maintain, and store necessary court records.

There has been little, if any, effort to make facilities ADA compliant, in terms of ramps, automatic doors, and accessible restrooms.

Q It's been suggested that one jury room is enough because the court does not have a large number of jury trials. Does each courtroom need its own jury deliberation room?

A Yes. We have been unable, when we've had three judges, and even now that we have only two judges, to schedule jury trials at the same time. This poses an obvious scheduling problem for the courts. But there are additional problems when you have an incarcerated defendant who will not waive speedy trial, or even someone who is free on bond but who will not waive speedy trial. The time limits, of course, are much shorter in misdemeanor cases than in felony cases. Defendants and their lawyers file jury demands for any number of reasons. Sometimes they do it simply to stall for time. Sometimes they do it so that if they cannot resolve the case, it's tried to a jury rather than to the bench. Many times in cases where there have been jury demands filed, the cases are resolved. But often the resolution comes not very long before the trial. The point is that we still have to schedule jury trials, we still have to summon jurors, and we still have to have the facilities for jury trials, because you never know whether the jury trial will go forward or whether the case will be resolved.

Q What about security?

A Security is somewhat better now than it was, but that's only because the judges put their foot down and hired trained law enforcement

officers, mostly retired police officers. But just because it is better does not mean that it is anywhere near safe. Youngstown has an awful lot of violent crime, and that means preliminary hearings on murders, other shootings, robbery, rapes, and assaults. These are emotionally charged cases. The facilities simply aren't designed to permit good security. In fact, a few years ago, we had an incident that made the national news after highly a charged court hearing. We've already submitted the videotape of that incident as evidence in this case. That case, and other not quite so serious incidents have made it clear to us that the facilities are a security nightmare.

In addition, there's no secure way to bring defendants who are in custody into court. Prisoners are transported into and within the court facility through areas that are accessible to the public. Prisoners are literally brought through the public hallways. Because of this law enforcement officers who are in direct contact with the prisoners carry firearms. There is no secure prisoner holding area equipped with video monitoring; that there is no effective secondary security perimeter at the entrance to the office space that houses the judges and court staff personnel; there is no ability to stop anyone from accessing the court area at any time of the day.

Q Prior to commencing this lawsuit, did you and the other judges make efforts to obtain suitable court facilities without filing suit?

A Absolutely. I've been on the bench since 2000. Judge Douglas was there longer than me. Aside from our own efforts since I have been on the bench, I am generally aware of efforts made by Judge Douglas and

some of our predecessors in office going all the way back to the mid-1990s. We've been told by the City that the facilities are inadequate. We've been told by the City that we need new facilities. But all we've ever been told by the City is what we are entitled to, not what we are going to get furnished. In fact, so far as I'm aware, in the 17 years since his issue was first brought up in 1996, the City has not set aside one red cent for construction or renovation in order to provide the court with suitable accommodations.

Q Were you finally forced to enter an order for suitable accommodations?

A We really had no choice. For the entire time that I've been here, I've been aware that we have been trying to get a new facility. We've been stonewalled, we've been pooh-poohed, we have been ignored, and otherwise just refused.

We even tried to meet with the mayor after we entered the order, but before we filed the lawsuit. It was as if he wanted to find reasons why the City could not fund the court new facilities. Sometime back, there was talk of new construction at what is known as the "Master's Block" project. But the judges realized that the City was never going to pay for that new construction, and so the effort was to find suitable facilities that might not involve new construction. We talked to the architect, Ray Jaminet, and developed a plan to renovate a building already owned by the city, called the City Hall Annex. It's actually an old United States post office and federal bankruptcy court facility.

But even when we proposed that, the City found reasons why the plan was unreasonable. The former mayor, Jay Williams, was somewhat melodramatic about it. He told us in that meeting that he could not write a check for \$8 million. He was informed that no one was asking him to do that. The judges were willing to put in most of the money that they had accumulated since raising court costs in the late 1990s. The City could finance the cost of the project over time. The debt service could easily be paid from city income tax proceeds that were in any event specifically designated for capital improvements. Even today, with this lawsuit now dragging on for about four years, the City has not set aside one red cent for a court facility, new or remodeled. The only money the City has spent concerning the court has been spent paying an architect who simply tells us what we don't need, even though he hasn't met with any of us or with our staffs.

Q There have been a lot of questions over the course of this lawsuit about whether there is a contract with Olsavsky-Jaminet Architects. What do you know about this, if anything?

A I know that there was a City ordinance. Whether there's a contract or not, I'm not certain. But the point for me is that whether there's a contract or not, what Mr. Jaminet has designed is a tentative plan that we have approved, a plan that meets Supreme Court guidelines, and the plan into which we have had input. The plan drawn by Mr. Stollo is nothing more than an effort to try to save money or, as Judge Douglas

termed it, "do it 'on the cheap.'" My understanding is that Supreme Court guidelines might not apply to existing facilities, but when we build or remodel, we should try to comply with those guidelines. After all, given the City's refusal to do anything, if we are able to achieve the facility we propose, it's likely that there will not be another court for at least fifty years. I can't imagine using this court facility, which is substandard, or the City's Strollo design, which is substandard, for the next fifty years.

In any event, all of the arguments about whether Jaminet was hired or what he was hired to do mean very little: the issue is whether our 2009 order, with which the City has done nothing to comply, is reasonable. And clearly it is.

The City wants to bicker over whether some guidelines are mandatory or not. We have determined, in our January 2009 order, that the Standards are to be followed. The Standards themselves say that they are an attempt to balance the diverse needs of each community, but that each locale is encouraged to promulgate policies and procedures to meet its specific needs. We have to remember that this is not a Municipal Court in a bedroom community, where most of the traffic cases are speeding or traffic control device cases, and most of the criminal cases are thefts from retailers in the bedroom community malls and shops. Youngstown is an economically distressed city, and has been. Many of the traffic cases are driving under suspension rather than speeding. Many of the criminal cases are not theft or receiving stolen property cases, but violent crimes. The felony cases are

often murder, felonious assault, rape, aggravated robbery, aggravated burglary and drug offenses, including trafficking. The misdemeanor cases are often assault, domestic violence, and substance abuse related cases. Whether it's a felony initial appearance or preliminary hearing, or whether it's a pretrial or a trial in misdemeanor cases, the cases are emotionally charged. Security concerns are paramount. We've seen what can happen when you have poor security in a facility that was not designed with security in mind. And so while not all of the security standards might need to be strictly enforced in, say the Mason Municipal Court, they do need to be applied and enforced here.

The City wants to nitpick about things like covered parking, as if that makes the present facilities a reasonable place to hold court. But the 7th District Court of Appeals judges have underground parking, and those judges do not face the security risks that we do.

Q The City makes no pretense about the fact that it favors Mr. Strollo's preliminary design. Do you find it adequate?

A No.

Q Why not?

A Let's start with hearing room/jury assembly area. You can't have them both be the same room. You can't have a jury assembly area and a hearing room together. In the Appendix D to the court facility standards it defines what should be in a courtroom, and it goes through the seating capacity so the people don't have to wait outside in the hallway. There

should be witness chairs, the bench shall be elevated, there shall be counsel tables. However, the Strollo design says that a jury assembly area is going to exist in that same very room, and the jury assembly area is supposed to include reading materials and televisions and telephones and all kinds of things that are not supposed to be in a courtroom.

Next, his space study says "These are not intended as a design solution but clearly illustrate that there's ample capacity on these floors to substantively comply with the intent of the standards as set forth by the Supreme Court of Ohio." His purpose was not to comply with the standards but simply to see if the Court would fit into the Annex.

Additionally, the Strollo design calls for the outside transport of the prisoners from the jail van into the building. The standard provides that prisoners should be transported into and within a court facility through areas that are not accessible to the public.

Outside parking for the judges is in the Strollo design. But the standards provide that when designing new or remodeling old court facilities, consideration should be given to circulation patterns that govern the movement of people to, from and in the courtroom. Also, judges, juries, court personnel and prisoners should have routes to and from the courtroom separate from public routes. The Strollo design has judges coming in at or near where the prisoners enter, and where the public enters into the ADA compliant entrance. The Strollo drawing doesn't show that parking for

judges is separated from anything. They're just spaces outside the building near where the prisoners would come in.

The Strollo design has the judges and the prisoners using the same elevator in violation of Standard 8. If there are two separate elevators, you're guaranteeing no contact. But with one elevator as Mr Strollo designed it, any number of human errors can land judges in the same elevator as a prisoner in the same tiny little confined space.

In addition, the Assignment office is too small to accommodate two windows to deal with the public and also provide work space. And the probation entrance and waiting area needs to be able to seat at least 12 people, and it doesn't.

Q Does the fact that there are only two judges now instead of three impact the needs of the Court?

A A defendant or a witness or a victim or a judge or a prosecutor still needs to have the same assurances whether there's one case or whether there's 100 cases. You still need to keep them secure; you still need to comply with the rules. The number of cases does not impact anything except for with the elimination of a courtroom.

The melee that was labeled by the media as the "brawl in City Hall," in that tiny little hallway, occurred on a day that did not have a large number of people in court. So the fact that there are fewer cases does not mean a lesser security threat.

Q What about the City's claimed inability to pay?

A I don't deny that the City appears to have financial problems. But it has claimed to have financial problems going all the way back into the 1990s when it recognized that the present court facilities are inadequate. Whether the City's claims of financial difficulty are due to the economy, due to poor management by city officials, or some combination of the two, doesn't really matter. Since 1996, when the Judges of this Court first declared in writing that the facilities were inadequate, the City has not set aside ten cents to put toward a new facility.

Look at the Complaint we filed. It recites that in 2002, Youngstown City Ordinance 02-65 expressed the intent of City Council to allocate future city capital improvement funds to construct a City Justice Center and to amortize the debt thereon, thereby committing a portion of the City's income tax receipts which were dedicated to capital improvements for the construction of a justice facility. But still the Respondents and their predecessors in office have refused to provide the Youngstown Municipal Court with suitable accommodations, and they have failed to dedicate any income tax proceeds to defray the cost thereof. And the City uses the County Jail.

That's what our complaint alleges. And what we have learned during the course of this lawsuit is that the City Council and the Mayor pay lip service to the idea that a new court facility is needed. If we wait until these city officials claim that they can afford a court, we will be in this facility for

the next 100 years. We've learned that the City collects over \$4 million a year that is supposed to be spent only for capital improvements. Has the City set aside one red cent of this money for a court? No. Has the City even looked into how much it would cost to capitalize the project over 15 or 20 or 30 years? No. Instead, they transfer the capital improvement money out every year to the other funds and use it for city operations that they apparently categorize, with some poetic license, as "capital improvements."

We have had to use special project funds to make repairs and renovations since the City has stalled. We installed an air conditioning system and heating systems. We are presently gutting the existing probation department so that we can actually have an area that is conducive to the business that they conduct their business. All of that was paid for out of moneys that the court has amassed over the years, which we would have preferred to use for a new court facility.

We recently learned that the City expects a windfall in taxes from the V & M Star project; almost \$12 million. Yet, every city official who was questioned said either that they don't know what they're going to do with the money or that they're going to use it for something else besides the Municipal Court. They will go out and try to borrow over \$5 million for a new water department garage, but they will not borrow \$8 million or whatever it would take for a different court.

Not a new court. Plans for new construction were abandoned long ago. This is to refurbish an existing building so that there are no land

acquisition costs. It's expensive, but so is a new garage, or remodeling City Council Chambers (which has been done), or remodeling the Mayor's Office (which has been done). It's very clear to me that the City Council and the Mayor treat the Municipal Court not as a separate and coequal branch of government but as an inferior department, where they can dole out whatever they feel like doling out. And thus far that has been nothing.

Q What about an adequate remedy at law short of mandamus?

A I don't see how there is any adequate legal remedy. We (and by we, I mean present and predecessor municipal judges) tried talking and meeting from 1996 until 2008. We got nowhere. All we heard were empty promises and empty words, but no action. In January 2009, we entered the order. When we tried to meet with city officials before filing a lawsuit to enforce the order, no one told us they wanted to work with us. Instead, we were told that the City couldn't afford what we ordered and could not afford to write an \$8 million check. All the while, the City was collecting \$4 million a year or more in income taxes specifically earmarked for capital improvements. They could forgo other capital improvements for two years and pay for this project outright. They could borrow the money and retire the debt with capital improvements money and still be able to do most of the things that they want to do. But they have not done anything in four years to comply with the order. Contempt would be useless. The Mayor and Council appear to have regarded us with contempt since 1996. Some of the Council members did not even seem to be aware of the order. To the extent that

they were aware of it, they seemed to be waiting for the Mayor to tell them what to do. Contempt or a fine would be pointless. Could we really jail them until a court is built? That's not realistic. Nothing short of an order from a court—a court other than ours—will do anything.



ELIZABETH A. KOBLY

Sworn to Before Me and Subscribed in My Presence this 24 day of
June, 2013.



NOTARY PUBLIC

JOHN B. JUHASZ, Attorney at Law
Notary Public — State of Ohio
My Commission Has No Expiration Date
Sec. 147.03 R. C.

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7081 West Boulevard, Suite N^o 4
Youngstown, Ohio 44512-4362
Telephone: 330.758.7700
Facsimile: 330.758.7757
E-mail: Jbjjurisdoc@yahoo.com
COUNSEL FOR RELATORS

Anthony J. Farris N^o 0055695
E-mail: AJF@CityofYoungstownOH.com
Rebecca M. Gerson N^o 0062695
E-mail: rgerson@cityofyoungstownoh.com
26 South Phelps Street
Youngstown, Ohio 44503
Telephone: 330.742.8874
Facsimile: 330.742.8867
COUNSEL FOR RESPONDENTS

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SWORN DIRECT TESTIMONY OF
JUDGE ROBERT P. MILICH

Q State your full name for the record, please?

A Robert P. Milich, M-I-L-I-C-H.

Q What is your present title?

A Judge, Youngstown Municipal Court.

Q How long have you held the position?

A Since April 1, 1998.

Q Do you know the legal authority under which the Youngstown Municipal Court exists and operates?

A The Ohio Constitution talks about courts that are created by law and the Youngstown Municipal Court, like other municipal courts in the state, exists under R.C. §1901.01.

Q Can you describe the present composition of the Youngstown Municipal Court?

A Originally when I came to the bench, there were three Municipal Court Judges. When Judge Robert A. Douglas Jr., retired in 2012, Governor Kasich did not appoint a replacement. Eventually the General Assembly abolished the third judgeship. So now there are two municipal judges, myself and Judge Elizabeth A. Kobly. We also have one Court magistrate, Anthony Sertick. We are obligated by the Constitution and statutes to maintain and operate the Youngstown Municipal Court and the probation department.

Q Why have you brought this action against the City Council and the Mayor?

A Aside from court cases that talk about the obligation to have the courts treated as a co-equal branch of government, the statute provides that City Council is obligated to provide suitable accommodations for Youngstown Municipal Court as the City's judicial branch of government. The Mayor, who under the charter has to request legislation for expending funds, won't do it. The conditions are deplorable and unsafe.

Q Where physically is the Court located?

A. The Youngstown Municipal Court and the support services for the Court are presently housed on the second floor of the Youngstown City

Hall, and have been for quite some time. Temporarily, the probation department is housed in the basement of City Hall. When the Mayor and the City Council continued to refuse our requests for new space, we had no choice but to remodel the probation department.

Q Are the physical facilities of the Youngstown Municipal Court such that the Court has suitable accommodations?

A No. The facilities are, and have been for the entire time that I have been on the bench, entirely inadequate. The late Chief Justice of the Ohio Supreme Court, Thomas Moyer, said it looked like a third world country. That was in 1998, and nothing's changed since then. There's been no effort to really recognize the needs of the Court, nor has anyone shown an interest in what our workload was or is, and what the needs of the court truly are. I have been in courts all over the state and there aren't too many worse than this.

Q What are some of the inadequacies?

A The Court facility is not adequately heated and air-conditioned, adequately maintained, or even clean. The sanitation continues to be a problem. We have people who get sick. Our computer technician had several bouts with lice or mites, or something from the pigeons, and the parasites come in through the air conditioner. His office is so tiny that you can barely get into it.

The courtrooms are too small to conduct trials or hearings. The trial tables are so close that there can be no privacy between the prosecutor and police, or between defendants and their counsel. The chambers are entirely too small. My office when I was City law director was four or five times bigger than my current office as a Judge. My office in the Health Department was bigger than the office I have now.

Q Anything else?

A Blackboards and other necessary demonstrative aids are not available in all courtrooms. Until Judge Douglas retired and was not replaced, the Court's Magistrate did not have courtroom and office facilities similar to those of a judge. The courtrooms do not each have a soundproof jury deliberation room located in a quiet area as near the courtroom as possible. There are no private restroom facilities available for the jurors for the rooms that are used as jury assembly and deliberation rooms.

In fact, there is only one jury deliberation room. Just because you don't always have a jury trial doesn't mean you don't need a jury room. The poor jury has to endure deplorable conditions. There is no adequate waiting room for jurors. We use City Council chambers as a jury assembly room. There is no reading material, television, or telephones for jurors to use.

We have no witness waiting rooms. Witnesses are often relegated to standing in the hallway when a separation of witnesses is ordered during

a trial or hearing. There are no consultation rooms for use by attorneys. They have to talk to their clients in the hallways or wherever they can try to find privacy, which is almost impossible to do.

The violations bureau and pay-in windows are not located near public parking areas, and in fact are on the second floor, as we are. There simply is not enough room for court personnel to prepare, maintain, and store necessary court records. On the second floor of City Hall, where the courtrooms and the Clerk's office are located, there are no restroom facilities at all and no telephones. The only restroom facility that the public who comes to the Municipal Court can use is located two floors below the Court in the basement of City Hall. The "public restroom" is a one commode unisex restroom.

Prisoners are transported into and within the court facility through areas that are accessible to the public. There is no separate prisoner entrance, and so public hallways are used. During the transport of prisoners, law enforcement officers who carry firearms are in direct contact with the prisoners and the public. There is no secure prisoner holding area equipped with video monitoring. There is no effective security perimeter at the entrance to the office space that houses judges and court personnel. In fact, there is no ability to stop anyone from accessing the court area or chambers

at any time of the day.

We have half the space that we're advised by our architect that we should have for the workload and the staff that we have. We've got facilities that have to be multi-tasked, like the jury room being used by lawyers. We have no other place for lawyers to talk to their clients. That continues to be a problem. We have potential risks of numerous people in the hall from different sides of issues in pending cases.

Q Much has been made during this case about declining caseloads, and fewer court appearances through video arraignments. Does this mean you do not need a different facility?

A Workload has never been measured. The more crucial aspect of a court is the workload. I may see somebody ten times on a probation case that is reflected nowhere in case filings or case numbers. With the Veterans' court and specialized dockets, I may have somebody coming back for two years. That shows up as one case, so there's no measurement of workload. Workload has actually gone up.

Q Do you feel unsafe, or unprotected, in this building?

A Certainly.

Q Did you try to avoid filing this lawsuit?

A Yes. Over the years, letters were sent by the Judges to the City, and meetings have been held. Not only until the suit was filed in

2009, but even today, 4 years later, the City has committed no funding to either renovation or construction. We had a meeting before we filed suit, but after we had entered the order. The Mayor announced that the City had no present ability to provide suitable accommodations for the Court. Mayor Jay Williams told Judge Douglas "you're never going to get a court facility." That was after a two-hour shouting match between Judge Douglas and Jay Williams. Before that, Mayor George McKelvey said, "you'll never get a court facility." Twelve years of stalling before the lawsuit was filed and now four more since it has been filed. Still, no proper court facilities; still, it is unsafe; still, we can't work safely or properly and we can't protect the public.

Q Would you characterize the action of bringing this mandamus complaint as hastily brought?

A Just the opposite. If anything we waited too long. In July, 1996, the judges entered an order indicating that the Court was "in dire need of additional space to reasonably, efficiently and effectively administer justice." The issue of adequate space and facilities for the Court's operations was repeatedly raised with the Council and the Mayor and their predecessors in office for a dozen years. By the time we brought the suit, the City had been stalling for those 12 years. And then, after we brought the case, they want to talk about alternate plans, and comparing costs in a way that is really comparing apples to oranges.

Even though the requirements we set out in our January 2009 order are reasonable, and even though the City's burden is to demonstrate why the order is unreasonable, they don't do that. They just repeat over and over that it costs too much. The Law Department was remodeled. The Mayor's office was remodeled. Council was remodeled. But the third branch of government isn't shown any respect for the job it has to do, a job about which most of the Council members do not know the details. As I said previously, we don't have people who understand our situation or who want to understand, and those who do understand it don't want to understand it for their own political reasons.

Q Have you done anything to try to make providing a new court easier for the City?

A Yes. Back in 1998, after a visit to the Court by a delegation from the Ohio Supreme Court, the Court issued an amended judgment entry that increased Court costs and established a special projects fund. But the Mayor—and it does not matter which one—has always refused to introduce legislation to allow us to spend that money toward obtaining a better court.

Q Has the City set aside any money?

A No. Not a penny. In 2002, Youngstown City Ordinance 02-65 expressed the intent of City Council to allocate future city capital improve-

ment funds from City income taxes to construct a City Justice Center and to amortize the debt. The City said it was committing a portion of the City's income tax receipts which were earmarked by law for capital improvements to construct a justice facility. But we still have the same court and the same police station. And the city jail has been closed. The City uses the County jail.

Q The City has constantly complained about proposals for covered parking for the judges and what it considers too many elevators. First, do you feel you need covered parking?

A Well, I parked in a parking deck next to the county office building when the building commissioner of the City of Youngstown would not provide me a spot. The building commissioner didn't think I needed a spot. That shows how the Court has been treated over the years. Now the City wants to complain about covered parking. But there are a lot of factors there. Outdoor parking, *per se*, is not safe or unsafe. It depends on the security that's provided. It's not outdoor versus indoor. Some indoor parking might be insecure. It all depends on how it's set up.

As far as elevators, the traffic patterns and standards dictate what Mr. Jaminet has done.

Q Much has been made about who hired Mr. Jaminet and what his contract was or is; do you know the details of this?

A No, and I say it does not matter. The City claims that they did not hire him to do what he has done. The fact is, the City did not do anything until we presented an order in January 2009 and a tentative plan for the City Hall Annex. Now, they want to complain about too much cost and too many elevators. But Mr. Jaminet asked us what our needs were. He spent time in Municipal Court. He saw the work flow. He saw the bottlenecks. He saw the deficiencies. He saw the violations of all the various codes. He saw all the problems there, and then he advised what we had to do to correct that. He consulted the standards.

Mr. Strollo, for whom I have a great respect, appears to have been hired to be a watchdog over Mr. Jaminet. Mr. Strollo never met with us or asked our needs. I never saw him in Court, watching how the place works, asking questions. All the hyperbole about who is the City's architect doesn't change the needs of the Court and tries to hide the fact that the City has done nothing for 17 years now since 1996. I have always been committed to one thing and was never locked on any one particular site. My only concern was to get into a facility that was adequate so that we can do our job safely and securely and protect the citizens. But the City just wants to stall. Mr. Strollo never talked to anybody in the courts that I know of. He never talked to me about what our needs are. He never really did any kind of analysis of what a court facility should be. We see the Strollo preliminary

plan as another stall, so that we have to start all over again, and talk to Mr. Strollo from the beginning. Just another stall, just like every year for the 12 years before we filed suit was a stall. We are tired of all the stalls. People are at risk.

Q From what you have seen, does the Strollo alternate proposal save that much money?

A Ray Jaminet can answer this better than I can, but the comparisons are not apples to apples. The Strollo proposal does not include certain costs that, if included, would put it much closer to the Jaminet design. There simply is not that much difference when you compare apples to apples.

Q Let's talk about how to get this done, assuming the Court issues the writ.

A Well, the City collects over \$4 million a year that by law is to be used for capital improvements. How much will it cost? We can't say. Mr. Jaminet has said that even the economy can influence it. If contractors are hungry, bids are lower. But the City has set aside no money. If it had set aside half a million dollars per year since 2000, that would be \$6 million. Coupled with what is in the special projects fund, that would have almost paid for it without borrowing a penny. But the City chose to buy new trucks for the street department and the parks department. Even without having

set any money aside, the City could set aside less than 15% of its capital improvements annual collections and pay off the debt for the project.

Q You have worked for years in the Youngstown City Hall, have you not?

A Yes.

Q Are you familiar with the facilities?

A Very much so.

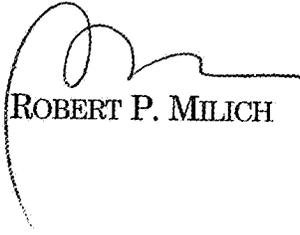
Q Relator's Exhibits J-1 through J-47, that were submitted previously, are they fair and accurate depictions of the scenes, events and conditions portrayed therein?

A Yes.

Q I know you submitted an affidavit about the photos and DVDs previously. Will you describe the DVDs again?

A Relator's Exhibit K depicts photographs of the Youngstown Municipal Court and Youngstown City Council chambers. All photographs in that exhibit are fair and accurate depictions of the scenes, events and conditions portrayed therein.

Relator's Exhibits L1 through L4 are security videos that fairly and accurately depict a melee which occurred in the Youngstown Municipal Court on July 16, 2010.


ROBERT P. MILICH

Sworn to Before Me and Subscribed in My Presence this 21st day of
June, 2013.


NOTARY PUBLIC

JOHN B. JUHASZ, Attorney at Law
Notary Public — State of Ohio
My Commission Has No Expiration Date
Sec. 147.03 R.C.

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In the Supreme Court of Ohio

STATE OF OHIO, EX REL.
ELIZABETH A. KOBLY, *et al.*,

Relators

-vs-

YOUNGSTOWN CITY COUNCIL, *et al.*

Respondents

Case No. 2009-0866

SWORN DIRECT TESTIMONY OF
GEORGE DENNEY

JOHN B. JUHASZ N^o 0023777
7081 West Boulevard, Suite N^o 4
Youngstown, Ohio 44512-4362
Telephone: 330.758.7700
Facsimile: 330.758.7757
E-mail: Jbjjurisdoc@yahoo.com
COUNSEL FOR RELATORS

Anthony J. Farris N^o 0055695
E-mail: AJF@CityofYoungstownOH.com
Rebecca M. Gerson N^o 0062695
E-mail: rgerson@cityofyoungstownoh.com
26 South Phelps Street
Youngstown, Ohio 44503
Telephone: 330.742.8874
Facsimile: 330.742.8867
COUNSEL FOR RESPONDENTS

In the Supreme Court of Ohio

STATE OF OHIO, EX REL.
ELIZABETH A. KOBLY, *et al.*,

Relators

-vs-

YOUNGSTOWN CITY COUNCIL, *et al.*

Respondents

Case No. 2009-0866

SWORN DIRECT TESTIMONY OF
GEORGE DENNEY

Q State your full name for the record, please?

A George Denney, D-E-N-N-E-Y.

Q What is your present occupation?

A I am the administrator of the Youngstown Municipal Court.

Q In your occupation, is it among your duties to track the various receipts and expenditures of the court?

A Yes, I do that on a regular basis. I prepare a spreadsheet that lists the various funds outside of the general fund. The spreadsheet shows monthly collections, carryover balances, monthly average collections (which are also compared to the previous year monthly average collections), expenditures from each of the funds (actual and also estimated to give an accurate picture of available revenue), and a comparison of previous year expenditures.

Q From where do you obtain the information?

A From various city records, some electronic, maintained and utilized by the clerk of court in the finance department.

Q Do you maintain these figures on a regular, ongoing, basis?

A Yes.

Q Do you supply this information to the judges?

A Yes.

Q Do you use this information and rely upon it in the regular course of your duties?

A Yes.

Q Have you observed the judges of the Youngstown Municipal Court rely upon this information in making decisions about court operations and expenditures?

A Yes.

Q Is it part of your duties as Court Administrator to collect this information, prepare spreadsheets, maintain the information, and use it, in connection with the judges, to operate the Youngstown Municipal Court?

A Yes.

Q Is the spreadsheet that you prepare assembled from information that you receive from persons who have firsthand knowledge of that information ?

A Yes.

Q Is the information reflected in the spreadsheet made by a person with first-hand knowledge, at or near the time of the events which are the genesis of the financial information ?

A Yes.

Q Is it part of the regular duties of the individuals who record the first hand information to do so?

A Yes.

Q Is it a part of your regular duties to receive this information and to record it into a spreadsheet?

A Yes.

Q Can you describe Relators' Exhibit N, please?

A Relators' Exhibit N is the most recent spreadsheet I have prepared concerning the Youngstown Municipal Court funds. The Court fund balances are from Youngstown Finance Department records as of June 20, 2013. Expenditures, approved by City Council, are requested by the Court from time to time. These include for this year more than \$75,000 that's going to pay for Probation office renovations which are underway now.

I estimate the Court will spend about \$125,000.00 from these funds this year, which reduces the general fund operating budget by the same amount and saves the City that amount in general fund expenditures.

Q Can you review last year's expenditures from these funds?

A The Court spent about \$116,000.00 from Court Funds in 2012 for air conditioning systems, two cars for service bailiffs and computer software support. Otherwise, these expenditures would have been a cost to the city general fund.

Q Can you describe the several funds, give their balances, estimated annual collections for each, and estimated expenditures for each?

A Yes. Fund 2305, the Court Indigent Alcohol Treatment Fund has a \$20,887.00 pooled cash balance. By journal entry this week, the Court will give \$20,000.00 to the Mahoning County Alcohol and Drug Addiction Services Board to pay for indigent client services ordered by the Court. Records indicate about \$6,500.00 annual revenue to this fund.

Fund 2904 is the Court Municipal Probation Services Fund. It has a \$501,858.00 pooled cash balance. About \$20,000.00 is being spent this year from this Fund in support of Veterans' Court staffing, with another \$10,000.00 to cover costs of indigent defendants' competence exams ordered by the Court. Records indicate about \$81,000.00 annual revenue with vast majority of the money generated by the Court's Probation Services Fee.

Fund 4001 is the Court Capital Improvements Fund. It has a \$560,393.00 pooled cash balance. About \$75,000.00 is being spent for Probation office renovations which are currently underway. Records indicate about \$25,000.00 annual revenue to this Fund.

Fund 4002 is the Court Computerization Fund. It has a \$112,000.00 pooled cash balance. \$35,000.00 is being spent this year to cover costs of

computer maintenance and software support agreements. Annual revenue is about \$20,000.00.

Fund 4003 is the Court Special Projects Fund. It has a \$2,130,527.00 pooled cash balance. Annual revenue is about \$115,000.

Q Are these matters reflected in Relators' Exhibit N?

A Yes.


GEORGE DENNEY

Sworn to Before Me and Subscribed in My Presence this 21st day of June, 2013.


NOTARY PUBLIC
JOHN B. JUHASZ, Attorney at Law
Notary Public — State of Ohio
My Commission Has No Expiration Date
Sec. 107.03 R.C.

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In the Supreme Court of Ohio

STATE OF OHIO, EX REL.
ELIZABETH A. KOBLY, *et al.*,

Relators

-vs-

YOUNGSTOWN CITY COUNCIL, *et al.*

Respondents

Case No. 2009-0866

SWORN DIRECT TESTIMONY OF
RAYMOND J. JAMINET, AIA

JOHN B. JUHASZ N° 0023777
7081 West Boulevard, Suite N° 4
Youngstown, Ohio 44512-4362
Telephone: 330.758.7700
Facsimile: 330.758.7757
E-mail: Jbjjurisdoc@yahoo.com
COUNSEL FOR RELATORS

Anthony J. Farris N° 0055695
E-mail: AJF@CityofYoungstownOH.com
Rebecca M. Gerson N° 0062695
E-mail: rgeron@cityofyoungstownoh.com
26 South Phelps Street
Youngstown, Ohio 44503
Telephone: 330.742.8874
Facsimile: 330.742.8867
COUNSEL FOR RESPONDENTS

In the Supreme Court of Ohio

STATE OF OHIO, EX REL.
ELIZABETH A. KOBLY, *et al.*,

Relators

-vs-

YOUNGSTOWN CITY COUNCIL, *et al.*

Respondents

Case No. 2009-0866

SWORN DIRECT TESTIMONY OF RAYMOND J. JAMINET, AIA

Q State your full name for the record, please?

A Raymond J. Jaminet, J-A-M-I-N-E-T.

Q What is your present occupation?

A I am an architect, member of the American Institute of Architects and licensed by the State of Ohio, ARC.6403555. I am the president of Olsavsky-Jaminet Architects, Inc., 114 East Front Street, Suite 200, Youngstown, Ohio 44503.

Q Do you have experience in the architecture, design, and construction of commercial and public buildings?

A Yes, extensive experience. I have been practicing architecture since 1964. Among the projects in which Olsavsky-Jaminet Architects, Inc., has been involved in recent years are the following:

- Ashtabula Lakeside Junior High School BP 31B (Architect)

- Austintown Fitch High School Athletic Field (Architect)
- Austintown Fitch High School Bleachers (Architect)
- Austintown Fitch High School-Paving & Fencing (Architect)
- Austintown Middle School (Architect)
- Austintown Middle School BP 2A-Sitework (Architect)
- Campbell Memorial High School Stadium Phase III (Architect)
- Chaney High School Technical Package BP#3 (Architect, Electrical Engineer, Mechanical Engineer)
- Chaney High School (Architect, Electrical Engineer, Structural Engineer)
- Chaney High School - B P #2 (Architect, Civil Engineer)
- Columbiana Co. Mental Health Apartments (Architect, Electrical Engineer, Structural Engineer)
- Concord Care Center (Architect, Owner's Representative)
- Edison Junior High School Demolition Package (Architect, Civil Engineer)
- Edison Middle School - Demolition (Architect, Electrical Engineer, Structural Engineer)
- Fairfield Township Cold Storage Buildings (Architect, Electrical Engineer, Structural Engineer)
- Grand Valley Athletic Complex Phase IV (Architect)
- Grand Valley Schools Athletic Complex Ph 1 (Architect)
- Grand Valley Schools Athletic Complex Ph 2 (Architect)

- Grand Valley Schools Athletic Complex (Architect)
- Grand Valley Schools Football Field (Civil Engineer)
- Leetonia Track and Practice Field (Architect)
- Leetonia Weight Training Facility (Architect)
- Lincoln Elementary School Demolition (Architect)
- Lincoln K-8 School (Architectural/Design Consultant)
- Mahoning County Courtroom (Architect)
- McKinley Elementary School-asbestos (Architect)
- St. Vincent De Paul Society Thrift Store (Architect)
- Warren City Schools-Abatement & Demolition (Architectural/Design Consultant)
- Warren City Schools-Demolition (Architectural/Design Consultant)
- Warren Schools Willard K-8 School (Architect)
- Warren Schools Willard K-8 School BP6A (Architect)
- Western Reserve Local Schools (Architect) • Western Reserve Transit Auth Main Facility (Architect, Electrical Engineer, Structural Engineer)
- Western Reserve Transit Authority (Architect, Civil Engineer)
- Western School District Track (Architect)
- Western Reserve Transit Authority Salvation Army Building Demolition (Architect)
- Youngstown Center of Industry & Labor (Architect)

- Physician's Office Building - Beeghly Medical Park, Boardman, Ohio

- Beeghly Medical Park, Boardman, Ohio

- College of Education - Youngstown State University; Youngstown, Ohio

- Museum of Labor & Industry; Youngstown, Ohio

- Commerce Building; Youngstown, Ohio

- St. Charles Church, Boardman, Ohio

- Boardman Public Library; Boardman, Ohio

- Heritage Manor, Liberty, Ohio

- Ohio Court of Appeals, Eleventh District, Warren, Ohio

- Security Dollar Bank, Niles, Ohio

Q how did you first become involved in preparing a design for the Youngstown Municipal Court?

A We were engaged by the City of Youngstown, Ohio to prepare a design and preliminary drawings of a new Youngstown Municipal Court facility, which originally included plans for a new Youngstown Police Department Station. We were selected on the basis of qualifications. The City advertised with an RFQ. We responded, we were interviewed and selected by a group of City officials, including then City engineer Carmen Conglose, then City Finance Director David Bozanich, and Youngstown Municipal Judge Robert A. Douglas, Jr. Others may have been there as well.

Q Was your contact just with Judge Douglas, or were other City officials involved?

A Other officials were involved. We met with the Judges, court staff, the magistrate, Clerk of Court Sarah Brown Clark, the police, the City Engineer. At one point we were actually directed by then Mayor George McKelvey to work directly with the court facility committee and City Engineer Carmen Conglose, and Carmen would be the liaison between City Hall and my office.

Q A number of options were considered, weren't they?

A Yes, originally there was a build and lease back proposal that was bid but was never awarded. Other sites were looked at, and eventually plans for what became known as the Masters Block or Masters Project were drawn. However, the design was rejected as too expensive, and thereafter the City Hall Annex was suggested as a possible location. We were instructed to prepare a design schematic to see if the court's needs would physically fit into the structure.

Q Did you have drawings of the building or did you have to prepare them?

A We were given the original plans by City Engineer Conglose and used those to make our schematics.

Q What were you asked to do?

A When funds were not authorized for the preparation of detailed construction drawings for the Masters Block, we were asked to

prepare a plan that would meet the needs of the Court, and that would comply with the various security and jury management standards, and court design standards, within an existing structure already owned by the City of Youngstown, and known as the "City Hall Annex."

Q Exhibit 5 is what, please?

A That is a schematic that we completed well in advance of July 27, 2009 date that appears on the exhibit. Drawings suitable for a court ordered mediation were prepared and completed on July 27, 2009, the day before the Supreme Court mediation, and the drawings were used at the mediation.

Q What standards did you use after meeting with Court staff?

A We used the Justice Facilities Report from the American Institute of Architects, which includes all the issues addressed in the Ohio standards. We reviewed the Ohio standards as well for compliance.

Q You have also reviewed the Strollo schematic, Exhibit 1, did you not?

A Yes.

Q Do you see items which in your professional opinion, to a reasonable degree of professional certainty, that are not in compliance with the standards in the Strollo design?

A I don't think they've addressed some of the issues such as the police facility and the judges' secure parking in a manner that is acceptable in my opinion as to what the intent of the Supreme Court facilities

programs require. "Secure" means indoor and the same goes for the police facility. The Strollo design has the police unloading prisoners in a parking lot. A sally port is where you actually take a vehicle inside, the policemen get out of the vehicle, store their weapons in a lockbox and then take the prisoners out of the vehicle and take them to a holding cell.

Q Anything else?

A The way the traffic is handled and getting the handicapped people and staff and others in the building does not make much sense to me. You don't bring the judges in where you have the public coming in. Also, I see the judges and prisoners using the same elevator in the Strollo schematic. Although that's a way to solve a problem, I don't think it's the correct way to solve it. You can do it with technology and keys and all that, but anytime you have a human being making a decision, it could lead to a problem.

Also, the handling of prisoners, taking them through public spaces, through secure corridors, doesn't make any sense to me. The police, again, and judges are using the same elevator.

Also, the courtrooms aren't of sufficient size, though the big courtroom is.

Q The City claims a huge cost difference between your design and Mr. Strollo's. Do you agree?

A I don't, because our projected cost of \$8,269,945.00 includes demolition, substructure, structural frame, roofing, exterior walls, interior

subdivision, vertical circulation, wall finishes, floor finishes, ceiling finishes, building specialties, casework and wood trim, equipment, fire protection, plumbing, HVAC, electrical technology and site development. It also includes general conditions of the contract, general contractors overhead and profit, contractors' payment and performance bond, design contingency and escalation contingency; and also architectural fees, testing, printing, permits and furnishings.

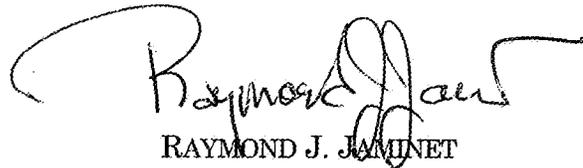
Q What about the Strollo design schematic costs?

A None of the architectural and engineering fees or soft costs are included. Nor does he include contractors' profits? How would you cost a project without putting in architect's fees or contractor's profit? Even in tough economic times, the contractors are going to submit bids that will give them some profit. When you add all those items back in (over \$600,00.00 for architect fees alone) you are a lot closer to our \$8.2 million figure than anyone seems willing to concede.

Q Is your figure set in stone?

A Of course not. There's no way to know exactly what you are going to run into. This is not new construction. That's the nature of refurbishing an old building as opposed to building a new one. In addition, the economy can affect things greatly. Increased petroleum prices can drive the cost of certain products up above the estimate, not to mention compliance with historical preservation requirements because of the age of the building, and because the structure is on the register of historic places. By

the same token, if the economy is slow, hungry contractors will bid less and take less of a profit than they would when times are good. This is simply a best estimate. But I do feel it superior to the Strollo estimate because we have included demolition, permit fees, contractor overhead and profit, and architects fees, and it was prepared by a professional construction cost accounting firm, Blundall Associates of Indianapolis, Indiana. If I cut all those things out of the design that I put together, the cost would drop dramatically. But it's simply not realistic.


RAYMOND J. JAMINET

Sworn to Before Me and Subscribed in My Presence this 21ST day of
June, 2013.


NOTARY PUBLIC

ANGELA CROFFORA

MY COMMISSION EXPIRES 10-16-15

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2013 monthly Clerk costs distribution and Court Funds Report

COURT FUND REPORT	2305 - Indigent Drug/Alcohol Treatment	2904 - A Probation Services FEE	2904 - B Probation Services VETS	2904 - C Probation Services SLIP	4001 - Capital Improvements	4002 - Computerization	4003 - Special Projects Facility	Bailiff Service Fee to city
	960692-8506	960706-8506	706002-8500	706001-8500	960210-8502	960213-8506,2	960214-8500,2	
2011 CARRYOVER		\$199,275.00	\$43,533.00	\$168,496.00				(deposited as city revenue)
	\$17,105.72	493668.97 LESS GRANT?			\$544,475.45	\$138,964.99	\$2,084,145.24	
2013 Income								
JANUARY	\$239.00	\$5,634.80	\$340.00	\$1,556.00	\$2,020.00	\$1,444.00	\$8,009.00	\$3,743.00
FEBRUARY	\$400.00	\$8,005.70	\$390.00	\$1,461.00	\$1,970.00	\$2,006.00	\$11,111.50	\$2,839.00
MARCH	\$254.00	\$7,300.00	\$350.00	\$1,761.00	\$1,670.00	\$1,722.00	\$9,525.50	\$3,215.00
APRIL	\$241.00	\$6,155.00	\$275.00	\$1,972.00	\$2,340.00	\$1,752.00	\$9,496.00	\$3,663.00
MAY								
JUNE								
JULY								
AUGUST								
SEPTEMBER								
OCTOBER								
NOVEMBER								
DECEMBER								
2013 YTD PER CLERK	\$1,134.00	\$27,095.50	\$1,355.00	\$6,750.00	\$8,000.00	\$6,924.00	\$38,142.00	\$13,460.00
2013 MONTHLY AVERAGE	\$283.50	\$6,773.88	\$338.75	\$1,687.50	\$2,000.00	\$1,731.00	\$9,535.50	\$3,365.00
2012 Monthly Average	\$169.00	\$5,006.00	\$304.00	\$1,473.00	\$2,463.00	\$1,546.00	\$9,824.00	\$3,513.00
2013 ytd POOLED CASH PER FINANCE	\$20,392	\$479,493			\$553,816	\$108,529	\$2,111,506	
2013 YTD EXPENDITURES		\$16,000 for costs related to renovations to Probation Dept offices.	\$20,000 including \$5,000 in matching funds for grant; and \$15,000 in support of Patterson's salary.		\$65,000 for Probation Dept office renovations, March 2013; \$7,500 for Probation Dept. 21 file cabinets part of construction	\$35,000 for CourtView software support;		
2012		\$2,000.00			\$54,000.00	\$60,300.00		\$116,300.00