

IN THE SUPREME COURT OF OHIO

CASE NO. 2012-1774

MICHAEL LINGO, et al.
Plaintiff-Appellants

-vs-

STATE OF OHIO, et al.
Defendant-Appellees

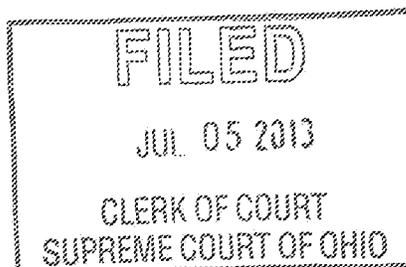
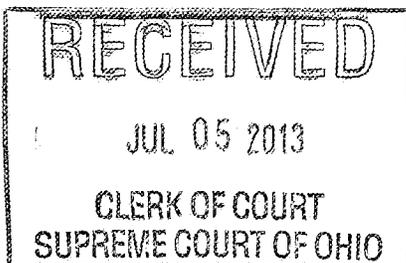
ON APPEAL FROM THE EIGHTH DISTRICT
COURT OF APPEALS CASE NO. 97537

MOTION FOR LEAVE TO PARTICIPATE IN ORAL ARGUMENT OF AMICUS CURIAE, THOMAS E. DAY, JR., CLERK OF COURTS, BEDFORD MUNICIPAL COURT; VICTORIA DAILEY, CLERK OF COURTS, CHARDON MUNICIPAL COURT; AND LISA MASTRANGELO, CLERK OF COURTS, WILLOUGHBY MUNICIPAL COURT

Ronald A. Mingus (0047217)
Brent S. Silverman (0062859)
REMININGER CO., L.P.A.
101 Prospect Avenue, West
1400 Midland Building
Cleveland, Ohio 44115
216-687-1311 – P | 216-687-1841 – F
rmingus@reminger.com
bsilverman@reminger.com

Frank Gallucci (0072680)
PLEVIN & GALLUCCI
55 Public Square, Suite 2222
Cleveland, Ohio 44113
216-861-0804 - P
fgallucci@pglawyer.com
Attorneys for Plaintiff-Appellants

*Attorneys for Amicus Curiae Thomas E. Day,
Jr., Clerk of Courts, Bedford Municipal Court, Victoria Dailey
Clerk of Courts, Chardon Municipal Court and Lisa Mastrangelo,
Clerk of Courts, Willoughby Municipal Court*



David Cuppage (0047104)
Scott D. Simpkins
**CLIMACO, WILCOX, PECA, TARANTINO &
GAROFOLI CO., L.P.A.**
55 Public Square, Suite 1950
Cleveland, Ohio 44115
216-621-8484 – P
dmcupp@climacolaw.com
sdsimp@climacolaw.com
*Attorneys for Defendant-Appellee
Raymond Wohl Clerk of the Berea
Municipal Court*

James N. Walters, III (0023298)
City of Berea, Law Director
11 Berea Commons
Berea, Ohio 44107
440-826-5831 – P
jwalters@cityofberea.org
*Attorney for Defendant-Appellee Raymond
Wohl Clerk of the Berea Municipal Court*

W. Craig Bashein (0034591)
BASHEIN & BASHEIN CO., L.P.A.
50 Public Square
Terminal Tower, 35th Floor
Cleveland, Ohio 44113
216-539-8437 – P
cbashein@basheinlaw.com
Attorney for Plaintiff-Appellants

Paul Flowers (0046625)
PAUL W. FLOWERS CO., L.P.A.
Terminal Tower, Suite 3500
50 Public Square
Cleveland, Ohio 44113
216-344-9393- P
pwf@pwfco.com
Attorney for Plaintiff-Appellants

Patrick Perotti (0005481)
DWORKEN & BERNSTEIN CO.
Suite 950
55 Public Square
Cleveland, Ohio 44113
216-206-6464 – P
pperotti@dworkenlaw.com
Attorney for Plaintiff-Appellants

Pursuant to Supreme Court Practice Rule 9.6, Amicus Curiae, Thomas E. Day, Jr., Clerk of Courts for the Bedford Municipal Court, Victoria Dailey, Clerk of Courts for the Chardon Municipal Court, and Lisa Mastrangelo, Clerk of Courts for the Willoughby Municipal Court ("Amicus Clerks") respectfully request the opportunity to participate in the oral argument of this case scheduled for September 10, 2013.

The Amicus Clerks support the position of the Defendant-Appellee, Raymond J. Wohl, Clerk of the Berea Municipal Court. Counsel for Defendant-Appellee does not give consent to permitting the Amicus Clerks to share the 15 minutes of oral argument allotted to Defendant-Appellee. Accordingly, the Amicus Clerk ask this Court for the opportunity to be heard.

The Amicus Clerks respectfully assert that extraordinary circumstances do exist to support leave for them to participate at oral argument. As this Court is aware from the Briefs that have been filed, all three Amicus Clerks (and multiple other municipal court clerks) have been sued in a separate action in the Cuyahoga County Court of Common Pleas, the Case of *Gregory B. Williams, et al. v. Debora F. Comery, Clerk of Courts, et al.*, Case No. 768540, pending on the docket of the Honorable Judge John J. Russo. (the "Amicus Clerk Litigation").

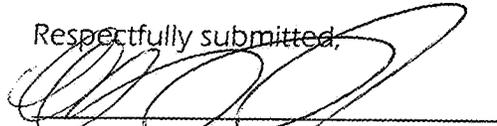
The crux of both the case *sub judice* and the Amicus Clerk Litigation is Plaintiffs-Appellants' claim that they and others were overcharged court costs. The legal issues in the case *sub judice* are substantially similar to those in the Amicus Clerk Litigation. Indeed, Judge John J. Russo has recognized that the decision in the case *sub judice* will be dispositive of the issues involved in the Amicus Clerk Litigation. On March 22, 2012, Judge Russo, *sua sponte*, stayed the Amicus Clerk Litigation upon the following order:

THIS MATTER IS STAYED PENDING THE OUTCOME OF THE APPEAL OF CASE NO. 564761 WHICH IS CURRENTLY BEFORE THE EIGHTH DISTRICT COURT OF APPEALS (CA-97537). THE DECISION OF THE APPELLATE COURT(S) WILL BE DISPOSITIVE OF THE ISSUES INVOLVED IN THE PRESENT MATTER. AS DUPLICITIST LITIGATION OF THE ISSUES DOES NOT SERVE JUDICIAL ECONOMY, THIS MATTER IS STAYED PENDING THE FINAL OUTCOME OF THE PREVIOUS CASE AND WILL ONLY BE RETURNED TO THIS COURT'S ACTIVE DOCKET UPON MOTION OF THE PARTIES. NOTICE ISSUED. (EMPHASIS ADDED).

The right to be heard is a fundamental element of due process. Because the Amicus Clerk Litigation has been stayed, the Amicus Clerks have no ability to argue their position in their own case. The Amicus Clerks need the opportunity to participate in oral argument to set forth their position on the issues which will be dispositive of the Amicus Clerk Litigation. In light of the fact that the decision in this case will have binding effect on all municipal court clerks who are defendants in the Amicus Clerk Litigation, extraordinary circumstances exist which militate in favor of the Amicus Clerks being permitted to be heard at oral argument.

For the foregoing reasons, the Amicus Clerks respectfully request leave to be permitted time at oral argument on September 10, 2013.

Respectfully submitted,



Ronald A. Mingus (0047217)

Brent S. Silverman (0062859)

REMINGER CO., L.P.A.

101 Prospect Avenue, West

1400 Midland Building

Cleveland, Ohio 44115

216-687-2123 – P | 216-687-1841 – F

rmingus@reminger.com

bsilverman@reminger.com

Attorneys for Amicus Curiae Thomas E. Day, Jr., Clerk of Courts, Bedford Municipal Court, Victoria Dailey, Clerk of Courts, Chardon Municipal Court and Lisa Mastrangelo, Clerk of Courts, Willoughby Municipal Court

CERTIFICATE OF SERVICE

The foregoing has been served, via email and First-Class United States Mail, postage prepaid, this 1st day of July, 2013, upon:

Frank Gallucci, Esq.
PLEVIN & GALLUCCI
55 Public Square
Suite 2222
Cleveland, OH 44113

Attorneys for Plaintiff-Appellants

William Craig Bashein, Esq.
BASHEIN & BASHEIN CO., LPA
35th Floor
Terminal Tower
50 Public Square
Cleveland, OH 44113

Paul Flowers, Esq.
PAUL W. FLOWERS, CO., LPA
Terminal Tower, 35th Floor
50 Public Square
Cleveland, OH 44113

Patrick Perotti, Esq.
DWORKEN & BERNSTEIN
55 Public Square
Cleveland, OH 44113

David Cuppage
Scott D. Simpkins
**CLIMACO, WILCOX, PECA,
TARANTINO & GAROFOLI CO., L.P.A.**
55 Public Square, Suite 1950
Cleveland, Ohio 44115

*Attorneys for Defendant-Appellee
Raymond Wohl Clerk of Court
Berea Municipal Court*

James N. Walters, III
City of Berea, Law Director
11 Berea Commons
Berea, Ohio 44107

Peter Galyardt, Esq.
Office of the Public Defender
250 E. Broad Street, Suite 1400
Columbus, OH 43215

*Attorney for Amicus Curiae, Office
of the Ohio Public Defender*

Theodore A. Hamer, III, Esq.
City of Kettering Law Director
3600 Shroyer Road
Kettering, OH 45429

*Attorneys for Amicus Curiae,
Andrea White, Clerk of the
Kettering Municipal Court*

Wayne Waite, Esq.
Freund, Freeze & Arnold
Fifth Third Center
1 South Main Street, Suite 1800
Dayton, OH 45402



Ronald A. Mingus (0047217)
Brent S. Silverman (0062859)
REMINER CO., L.P.A.