

ORIGINAL

No. 2013-0280

In the Supreme Court of Ohio

STATE, ex rel. PAUL CALVARUSO, et al. *Relators*,

v.

CHARLES BROWN, *Respondent*,

and

CITY OF AKRON, *Intervenor*

ORIGINAL ACTION FOR A WRIT OF QUO WARRANTO

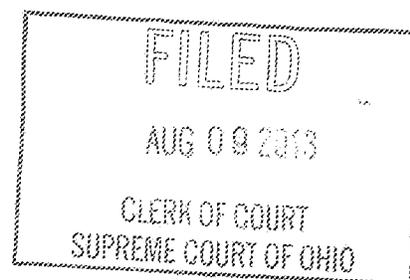
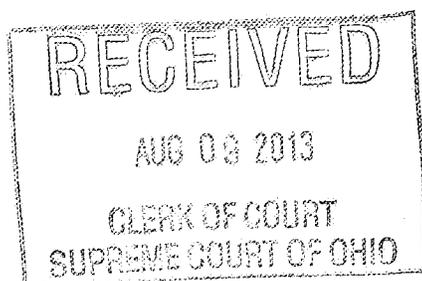
RESPONDENT CHARLES BROWN AND INTERVENOR CITY OF AKRON'S MOTION FOR ORAL ARGUMENT

Susannah Muskovitz (0011457)
(COUNSEL OF RECORD)
William E. Froehlich (0087857)
MUSKOVITZ & LEMMERBROCK, LLC
The BF Keith Building
1621 Euclid Avenue, Suite 1750
Cleveland, OH 44115
Tel: (216) 621-2020
Fax: (216) 621-3200
E-mail: muskovitz@mlabor.com
froehlich@mlabor.com

Attorneys for Relators

Cheri B. Cunningham (0009433)
Director of Law
Patricia Ambrose-Rubright (0009435)
(COUNSEL OF RECORD)
Tammy L. Kalail (0072295)
Assistant Directors of Law
City of Akron
161 S. High Street, Suite 202
Akron, Ohio 44308
Tel: (330) 375-2030
Fax: (330) 375-2041
E-mail: ccunningham@akronohio.gov
pambrose@akronohio.gov
tkalail@akronohio.gov

Attorneys for Respondent and Intervenor



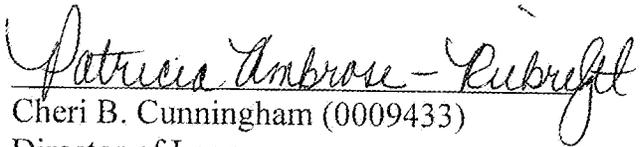
Respondent Charles Brown (“Brown”) and Intervenor City of Akron (“City”), pursuant to S.Ct.Prac.R. 17.02(B), respectfully request that this Court schedule oral argument on the merits in the above action.

This is a case of first impression and a matter of great public importance that touches on the Mayor of the City of Akron’s authority to hire Assistants to the Mayor pursuant to Section 105 of the Akron City Charter. There is no dispute Brown was hired into an appointed, unclassified position as Assistant to the Mayor pursuant to Akron City Charter Section 105. (*See* Jt. Statement of Facts, ¶ 9.) On its face, Section 105 contains no limitation on who may be appointed as an Assistant to the Mayor, or the duties that may be assigned to such an Assistant. As Brown and the City demonstrated in their evidence and Merits Brief, Assistants to the Mayor traditionally perform a wide range of duties for the City in various roles in different Departments and Divisions. Yet, in this case, Relators challenge what an Assistant to the Mayor may do in the Police Division under the guise of a quo warranto action attacking a separate designation (Acting Chief of Police) and different claimed position (“de facto” Deputy Chief).

This challenge is procedurally flawed for the reasons explained in Brown’s and the City’s Merit Brief and should be summarily rejected without reaching the issue of the duties that may be assigned to Assistants to the Mayor under Section 105 of the Akron City Charter. The novel restrictions sought by Relators on the Mayor’s plenary authority to appoint Assistants to the Mayor and assign duties to such Assistants, however, present a matter of great public importance. Accordingly, Brown and the City respectfully submit that this Court would be greatly aided by oral argument.

For all of the above reasons, Brown and the City respectfully request that this Court schedule oral argument in the above matter.

Respectfully submitted,



Cheri B. Cunningham (0009433)

Director of Law

Patricia Ambrose-Rubright (0009435)

(COUNSEL OF RECORD)

Tammy L. Kalail (0072295)

Assistant Directors of Law

City of Akron

161 S. High Street, Suite 202

Akron, Ohio 44308

Tel: (330) 375-2030

Fax: (330) 375-2041

E-mail: ccunningham@akronohio.gov

pambrose@akronohio.gov

tkalail@akronohio.gov

Attorneys for Respondent and Intervenor

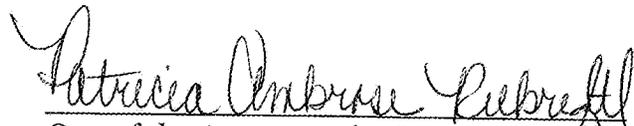
PROOF OF SERVICE

A copy of the foregoing **Respondent Charles Brown and Intervenor City of Akron's Motion for Oral Argument** was served on August 8, 2013 pursuant to Civ.R.

5(B)(2)(c) by mailing it by United States mail to:

Susannah Muskovitz
William E. Froehlich
MUSKOVITZ & LEMMERBROCK, LLC
The BF Keith Building
1621 Euclid Avenue, Suite 1750
Cleveland, OH 44115

Attorneys for Relators


Patricia Ambrose Rubright
One of the Attorneys for Respondent and Intervenor