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I. RedFlex’s and Toledo’s propositions of law do not involve a substantial—and unsettled—constitutional question.

Under Article IV, Section 1, the General Assembly has the exclusive power to create courts and define their jurisdiction. *State ex rel. Ramey v. Davis*, 119 Ohio St. 596, 165 N.E. 298 (1929), syllabus. Thus, charter municipalities do not have home-rule power to regulate a court’s jurisdiction. *Cupps v. Toledo*, 170 Ohio St. 144, 163 N.E.2d 384 (1959), paragraph one of syllabus. As of 1959, this issue is “settled by the decisions of this court.” *Id.* at 149. Thus, if a court’s jurisdiction would be different under an ordinance than it is under a statute enacted by the General Assembly, then the ordinance is unconstitutional.

Here, under R.C. 1901.20(A)(1), the Toledo municipal court “has jurisdiction.” But under Toledo’s ordinance, that court does *not* have jurisdiction. Did the Sixth District correctly determine that Toledo’s ordinance violates Article IV, Section 1?

In a treatise published before this case, counsel for the Municipal League says “yes”:

Section 1, Article IV of the Ohio Constitution is a special provision dealing with the creation of courts **and supersedes** the general power of local self-government granted in **Section 3, Article XVIII**. The sovereignty of the state, as to courts, extends over all the state, including municipalities, whether charter or noncharter, and municipalities thus have no power to create courts or regulate their jurisdiction. **Ordinances and statutes enacted by the legislative bodies of the state or municipalities are enforced through judicial tribunals created by the state.** There is no dual sovereignty between the state and municipal governments.

Gotherman, Babbit, and, Lang Baldwin's Ohio Practice, Local Government Law—Municipal, §3:20 (First Edition). (emphasis added.)

RedFlex, Toledo and their *amici* invite this court to change established Ohio law and hold that Article XVIII now supersedes Article IV. Remarkably, appellants extend their invitation to change Ohio law without ever once even mentioning *Cupps* and related precedent. This “ostrich-like tactic of pretending that potentially dispositive authority against a litigant's contention does

not exist is...pointless.” *Gonzalez-Servin v. Ford Motor Company*, 662 F.3d 931, 934 (7th Cir. 2011). This court should decline appellants’ invitation: the purported “debate” over the relationship between Article IV and Article XVIII is wholly nonexistent—any such “debate” has been well settled in this state for decades.

Rather than candidly acknowledging settled law, the appellants’ obvious hope is that this court accepts jurisdiction and—by judicial fiat—exempts “photo enforcement” ordinances from municipal-court jurisdiction, when the legislature did not create that exemption itself. Appellants offer no principled reason for this court to do this. And in fact, this court’s precedent directly counsels otherwise. The Supreme Court is not to be a “willing participant in divesting the courts of judicial power.” *State ex. rel. Ohio Academy of Trial Lawyers v. Sheward*, 86 Ohio St.3d 451, 501, 715 N.E.2d 1062, 1102 (1999). This case presents such a divestiture effort by Toledo and its business partner, RedFlex. Because this case merely involves application of settled law—law the Sixth District applied properly—there is no reason for this court to accept jurisdiction. The Sixth District has correctly told Toledo that it cannot impair or restrict a court’s jurisdiction. There is nothing more to do here.

In its brief, *amicus curiae* Optotraffic, LLC states that “(i)t is impossible to square *Mendenhall*, which expressly considered the use of pre-suit administrative procedures, and *Scott*, with the Sixth District’s decision in *Walker*.” Far from “impossible,” it’s easy to square the decision below with *Mendenhall* and *Scott*. Neither the plaintiff in *Mendenhall* nor the relator in *Scott* even raised Article IV, Section 1 challenges; instead they made home-rule challenges under Article XVIII only. “It has long been the policy of this court not to address issues not raised by the parties.” *Sizemore v. Smith*, 6 Ohio St. 3d 330, 453 N.E.2d 632 (1983), fn 2.¹ Neither

¹ Toledo’s brief at footnote 1 references *State ex. rel. Turner v. Brown*. Toledo correctly notes

Mendenhall nor *Scott* even mention—let alone decide—application of Article IV, Section 1 and therefore, those cases are entitled to no consideration here:

A reported decision, although in a case where the question might have been raised, is entitled to no consideration whatever as settling, by judicial determination, a question not passed upon or raised at the time of the adjudication. *State ex. rel. Gordon v. Rhodes*, 158 Ohio St. 129, 107 N.E.2d 206 (1952), paragraph one of syllabus.

II. Toledo’s second proposition of law does not involve a constitutional question and is not relevant to determining this case.

Toledo’s second proposition of law insists that R.C. 1901.20 does not confer municipal courts with exclusive jurisdiction of noncriminal ordinance violations. This proposition plainly involves statutory interpretation as opposed to a “substantial constitutional question.” Further, this proposition is a red herring. The appeals court below did not have to—nor did it—address the “exclusive-jurisdiction” issue: as long as the Toledo municipal court “has jurisdiction”—whether exclusive or not—that jurisdiction cannot be “impaired” or “restricted” by ordinance. Municipalities may not pick and choose which ordinances are enforced in court. Otherwise, Article IV, Section 1 has little meaning.

III. The Municipal League’s second proposition of law does not involve a constitutional question or issue of public or great general interest.

The Municipal League urges that, “Claims of restitution that allege unjust enrichment cannot be brought against municipalities.” This court declined to hear this proposition in *Lycan v. Cleveland*, Supreme Court Case No. 11-0358—another unjust-enrichment case against a “big

that *Turner* was dismissed “without opinion.” Thus, *Turner* is not precedent. In fact, it is not a decision at all. Article IV, Section 2(C) requires the Supreme Court of Ohio to give reasons for its decisions. In other words, the Supreme Court may not decide cases “in secret.” This court dismissed *Turner* without any reasoning, syllabus, facts, analysis or law cited. In essence, this court decided not to decide *Turner*.

city.” If the Municipal League is correct, municipalities are free to unconstitutionally collect and hold moneys without consequence. Of course, this is not the law. Municipalities are immune from unjust-enrichment claims *only* when a municipal contractor without an enforceable contract sues a city under a quasi-contract theory as an alternative to a pure breach-of-contract claim. Courts will leave the contractor where found—without an enforceable contract. The legislature has enacted exacting statutory requirements governing formation of municipal contracts. Contractors sit in the best position to insist on compliance with these statutes and therefore, courts will not allow slipshod contractors to assert quasi-contract claims as an alternative or substitute to a pure breach-of-contract claim in order to avoid compliance with the statutes. This rationale makes sense when applied to municipal contracts. But it simply has no application here: this case has *nothing* to do with the legal (or illegal) formation of municipal contracts under the Ohio Revised Code.

This case is about a municipality—and its private business partner, RedFlex—holding and collecting moneys unconstitutionally. By definition, holding or collecting moneys unconstitutionally is “wrongful.” *Santos v. Ohio Bur. of Workers’ Comp.*, 101 Ohio St.3d 74, 801 N.E.2d 441, 2004-Ohio-28, ¶17. Moneys held and collected unconstitutionally are subject to restitution: municipalities are not free to simply hold and collect moneys unconstitutionally with impunity, as the Ohio Municipal League nonsensically urges.²

IV. This is not a case of public or great general interest.

Instead of offering unsettled propositions of law regarding issues of first impression or appellate-court conflicts—or explaining why settled law should be overruled—appellants try to

² The Municipal League’s attempt to interject its own proposition of law should also be rejected because the rules only allow an *amicus curiae* to “file a jurisdictional memorandum urging the Supreme Court to accept or decline to accept a jurisdictional appeal.” Sup.Ct.Prac.R. 7.06(A)(1).

sensationalize this case with arbitrary allegations of “400 newspaper articles” and allusions to “\$100 million.” As shown below, these figures are irrelevant and deceptive. But even if they were accurate, newspaper articles and financial disputes do not warrant this court’s attention. Indeed, the moneys RedFlex refers to are a fraction of “big city” annual budgets across Ohio, collectively exceeding several billion dollars per year. Further, government officials from these cities—including Toledo’s mayor—have consistently maintained that photo-enforcement programs are “not about money.” Because the narrow and singular legal issue in this case does not depend upon newspaper articles or the amount in controversy, this court should approach its discretionary jurisdiction here as if this case involves one person seeking a single refund.

A. The amount in controversy in a particular case should not affect the jurisdictional analysis.

The record is silent as to the actual amount in controversy in this particular case. But even if one were to assume that its ten-million dollars, as RedFlex posits, this assumption has no relevance: a financial dispute does not a Supreme Court case make. Appellants offer no explanation—because there is none—as to how the potential amount in controversy in this case would impact this court’s analysis of the underlying legal issues, which are wholly unrelated to the amount in controversy. Appellants’ theorize that this court should be hungry to decide every potentially sizeable financial dispute even though the money at stake has *absolutely nothing* to do with the underlying legal issues asked to be reviewed. This court’s discretionary jurisdiction under Article IV, Section 2(B)(2)(e) embodies more restraint than that.

To be sure, Walker agrees that the amount of money in controversy in a particular case may make a case one of public or great general interest when the amount in controversy itself animates the legal issues. For example, due process requires that a punitive-damage award is not grossly excessive. Thus, if this court had occasion to announce a legal test in Ohio for

determining whether any particular punitive-damages verdict is grossly excessive, it would make good sense to consider the underlying punitive and compensatory verdicts when determining whether a particular case would be a good one to accept jurisdiction to announce a new legal test. Another example is if this court had occasion to decide whether a punitive-damages award against multiple defendants in one tort case is subject to a single “cap” under R.C. 2315.21(D) or whether each defendant has a separate cap under the statute. In both examples, unlike here, the amount in controversy directly impacts whether the cases are suitable to determining an issue of public or great general interest. Here, the constitutional issue has already been decided. This is not a case of public or great general interest based on the amount in controversy.

Next, appellants make it seem that if they have to make restitution, the money will just evaporate into thin air. Not so. Money will be returned to actual people, no doubt some of the citizens referenced in RedFlex’s brief. RedFlex and Toledo complain it will be a horrible event if they have to give the money back. The horrible event is when a private company and a city, a part of government, concoct an unconstitutional scheme designed specifically to make it totally onerous to see an actual judge with jurisdiction. Now that someone has successfully pushed back, appellants cry foul. Even if returning the money is a heavy lift for a city—which is yet to be established in the record—so what? It is no defense to a restitution claim that repayment will hurt a little. The concept of restitution *always* involves a party having to return something. Returning moneys held or collected in direct violation of the Ohio constitution is no different.

B. Even if the amount in controversy were relevant to determining jurisdiction, RedFlex only tells half the story: the company fails to mention (1) the applicable statute of limitations and (2) its own share of the liability—both of which diminishes Toledo’s exposure.

Attempting to stuff its one-hundred-million-dollar straw man, RedFlex claims that Walker “seeks to certify a class of every single person who has ever paid a citation” under TMC

313.12. And RedFlex also claims that Walker seeks to recover “every dime” unconstitutionally collected under that ordinance. RedFlex is wrong: no class representative can assert an unjust-enrichment claim spanning an unlimited duration. By law, Walker’s complaint for restitution is governed by a six-year limitations period. Further, the consequences of the decision below are not as impactful on municipal finances as RedFlex makes it seem. RedFlex’s cameras aren’t cheap: the company fails to mention that it reaps much of the take—sometimes up to 90%.³ So when RedFlex invokes the “4,000,000 Ohioans” that supposedly would be affected if the Sixth District is not reversed, the company is really just attempting to build a human shield around its own profits. Finally, if Walker wins case, appellants still retain a windfall:

- Toledo and RedFlex will keep all moneys that they unconstitutionally held or collected prior to the six-year limitations period, and
- Toledo and RedFlex enjoyed *interest-free* access to the moneys that must be returned.

C. The newspaper articles demonstrate appellants’ political spin.

RedFlex offers that “400 newspaper articles”—no doubt consisting of far fewer articles aggregated across the AP or Reuters wires—have been written about “traffic cameras” in the past year and therefore this case must be a matter of public or great general interest. That doesn’t follow at all. *First*, this case is about the relationship between Article IV, Section 1 and Article XVIII, Section 3 and 7 of the Ohio Constitution—not “traffic cameras” per se. Walker has never argued—and the Sixth District did not hold—that municipalities may not “regulate on the subject of local traffic,” as RedFlex bizarrely insists. Regulating traffic is one thing—divesting a court of its jurisdiction is another issue entirely. Appellants are mixing apples (home rule) with oranges

³ See e.g., <http://www.toledoblade.com/local/2012/08/01/Speed-only-cameras-positioned-in-South-Toledo-1.html> (explaining percentage split between RedFlex and Toledo over the years); See also, <http://www.toledoblade.com/local/2007/11/08/Toledo-city-council-weighs-higher-fines-with-more-red-light-cameras.html> (detailing various contractual arrangements.)

(Article IV, Section 1) in hopes of confusing a straightforward issue: municipalities do not have home-rule power to divest a court of its jurisdiction. *Second*, the newspaper articles printed undermine RedFlex's claim that this case is of public or great general interest: of the "400 newspaper articles" in the past year, almost none are about this case or its legal issues. The overwhelming majority of the newspaper articles from the past year concern political issues surrounding traffic cameras.

Because the Supreme Court of Ohio is not the Court of Public Opinion, political issues are irrelevant here. RedFlex's invocation of "newspaper articles" aptly demonstrates the company's desire to politicize this case. Appellants demand from this court what they cannot get from the General Assembly. Ironically, appellants—the ones who want judges out of the way—want this court to do them a political favor and depart from settled constitutional precedent and effectively make a political or legislative decision holding that municipalities may divest a municipal court of its jurisdiction of "photo-enforcement" ordinances when the General Assembly has itself only permitted this for certain parking violations. This court has rightly repudiated judicial activism and instructed that courts should exercise restraint and apply statutes as written, not delete or add words, or create or expand statutory exceptions. A court's jurisdiction under Article IV, Section 1 is a policy determination left exclusively to the General Assembly. Neither this court nor a municipality can restrict a court's jurisdiction by fiat. And all the newspaper articles in the world do not change that fact.

Under the separation of powers between the legislative and judicial branches, if appellants seek a second exception in R.C. 1901.20(A)(1) for "photo-enforcement" ordinances, their remedy is to lobby the General Assembly for an additional exception, not lobby the Supreme Court of Ohio. And if appellants cannot successfully lobby the legislature, there is yet

another legislative fix in Toledo's own control: Toledo itself can amend TMC 413.031 so as to not divest the Toledo municipal court of its jurisdiction. Appellants can pursue "photo-enforcement" cases in the municipal court. But until then, Toledo has no home-rule power to enact ordinances that divest the municipal court of its constitutionally-protected jurisdiction. If so, Toledo—and any other municipality from Akron to Zanesville—could nullify R.C. 1901.20(A)(1) on an ordinance-by-ordinance basis—precisely what Art. IV, Sec. 1 forbids.

D. Municipal court judges are not now in command of cities across Ohio.

Appellants say the sky is falling, that suddenly municipal judges will surely be at the helm of cities across Ohio very soon. Of course, this is pure fantasy: this case has to do with preserving judicial power, not expanding it. And the decision below has absolutely nothing to do with home rule, business licensing, or the other items appellants discuss. If municipalities want to license dance halls or taxi-cab drivers, they are free to do so.⁴ But if a dance-hall operator or taxi-cab driver allegedly operates *without* a license in violation of an ordinance, then the municipal court "has jurisdiction" of that alleged violation. *See e.g., City of Richmond Heights v. LoConti*, 19 Ohio App. 2d. 100, 250 N.E.2d 84 (1969) (defendant charged in Lyndhurst municipal court for operating business without a license and faced \$500 fine under municipal ordinance.) A municipality is not free to divest a court of its jurisdiction of determining an alleged violation of a "photo-enforcement" ordinance just as a municipality may not divest a court of the type of violation at issue in *Richmond Heights v. LoConti*. In both instances, the

⁴ Toledo's brief at page 15 lifts a snippet from another brief, filed in another court, by another party to make it seem like Mr. Walker is claiming that cities may no longer have agencies. What Toledo omits from its brief is the fact that the quoted passage was merely responding to an argument suggesting that municipal courts have jurisdiction of misdemeanors only, as opposed to "jurisdiction of the violation of any ordinance...and of the violation of any misdemeanor," which is what R.C. 1901.20(A)(1) says expressly.

municipal court's jurisdiction cannot be impaired or restricted. "Photo enforcement" ordinances are nothing special in this regard. If they were, the General Assembly would have enabled municipalities like Toledo to exempt ordinances like §313.12 from the local municipal courts' jurisdiction, as it has done for "parking violations."

E. The other pending cases weigh *against* accepting jurisdiction now.

Appellants observe that other cases are pending against other municipalities. But this observation weighs *against* accepting jurisdiction now. Appellants once again imply that the Supreme Court of Ohio should be hungry to weigh in on every dispute pending in lower courts—*before* intermediate appellate courts have weighed in. If this were a proper theory of discretionary jurisdiction, this court would have an unbelievably burdensome workload on top of an already-busy docket. Four or five cases pending in scattered counties hardly "clogs" dockets.

F. This court should decline to accept jurisdiction because even if appellants' propositions of law were adopted, the Sixth District still must be affirmed.

Although it illustrates why these cases belong in court and not in a slapdash agency, Walker prevailed below on a theory wholly independent of Article IV, Section 1 and R.C. 1901.20. 2013-Ohio-2809, ¶39. Appellants offer no proposition of law regarding this part of the decision below. Thus, this case will be remanded no matter what happens in this court.

V. Walker's S.Ct.Prac.R. 7.03(B)(2) statement: RedFlex's sole proposition of law—and both of Toledo's propositions of law—lack merit.

The reason appellants' propositions of law have no merit mirrors why this court should decline jurisdiction: it is "settled" that charter municipalities have no home-rule power to impair or restrict a court's jurisdiction. As aptly stated in the treatise quoted above, Article IV, Section 1 is a "special" provision that "supersedes" Article XVIII, Sections 3 and 7. RedFlex states that this case is about more than "traffic cameras." But this is what makes the appellants'

jurisdictional briefs so perplexing—appellants act as if “traffic camera” ordinances occupy some special place in the law. They don’t. The General Assembly can—but has not—given these ordinances preferred legal status, nor exempted them from the municipal courts’ jurisdiction.

Appellants and *amici* use a new catchphrase—“pre-suit administrative process”—never used below but echoed throughout their jurisdictional briefs. The so-called “pre-suit administrative process” is the very thing that divests the municipal court of its jurisdiction of “the violation” of §313.12. Thus, in a narrow sense, appellants are correct: any “decision” made by one of Toledo’s hearing officers is not a judgment. But that is because Toledo has no home-rule authority to anoint its hearing officer with jurisdiction over an alleged ordinance violation when the General Assembly—acting under Article IV, Section 1—has unambiguously legislated that the municipal court “has jurisdiction.”

Next, appellants imply that the municipal court’s jurisdiction has not been divested because §313.12(d)(4) states that “(a) decision in favor of the City of Toledo may be enforced by means of a civil action or any other means provided by the Ohio Revised Code.” Appellants are wrong. *First*, under R.C. 1901.20(A)(1), the court “has jurisdiction of the violation,” not merely jurisdiction to “enforce” an illegal decision made by an appointed officer. The action contemplated by §313.12(d)(4) is akin to a collection and garnishment proceeding, not a proceeding to litigate liability for an alleged violation.⁵ *Second*, appellants omit reference to TMC 313.12(d)(6). That provision permits Toledo—without ever going to court—to immobilize or impound vehicles. *Third*, RedFlex’s reliance on §313.12(d)(4) is purely academic. In the real world, Toledo and RedFlex do not go to court. Instead, they “enforce”—without ever going to

⁵ See also, §313.12(d)(3).

court—through impoundment or immobilization of the ticketed-owner’s vehicle. Or they harm the owner’s credit by putting the owner into collection.⁶ In a nutshell, this is the home-rule power appellants curiously insist is permitted under Article IV and Article XVIII. The notion that appellants actually involve judges in enforcing §313.12 is completely disingenuous.

A. Once a court “has jurisdiction,” no municipality has power to take that jurisdiction away.

The relevant portion of R.C. 1901.20(A)(1) states:

The municipal court has jurisdiction of the violation of any ordinance of any municipal corporation within its territory, unless the violation is required to be handled by a parking violations bureau or joint parking violations bureau pursuant to Chapter 4521. of the Revised Code, and of the violation of any misdemeanor committed within the limits of its territory.

This is a plain, definitive, broad, and unambiguous⁷ grant of jurisdiction (“The municipal court *has jurisdiction* of the violation of *any* ordinance of *any* municipal corporation within its territory...”), followed by a singular, narrow exception for “parking violations.” (“*unless* the violation is required to be handled by a parking violations bureau or joint parking violations bureau pursuant to Chapter 4521. of the Revised Code...”).⁸ The parking-violation exception does not apply here. Thus, the Toledo municipal court “has jurisdiction” of alleged TMC 313.12 violations. Under Article IV, Section 1, Toledo is powerless to regulate that jurisdiction. Appellants backwardly analyze the constitutional question: because Article IV, Section 1

⁶ <http://www.toledoblade.com/local/2012/08/18/Speed-cameras-aid-Toledo-coffers.html>

⁷ Without explanation, Toledo says that R.C. 1901.20(A)(1) is “ambiguous” and therefore we should look at the “title.” Not so. The statute is plain, but even if it were not, the legislature itself does not enact the “section headings” of statutes. Those headings “do not constitute any part of the law as contained in the ‘Revised Code.’” See R.C. 1.01.

⁸ The word “unless” means “under any other circumstance than that; except on the condition that.” *State ex. rel. Eberhardt v. Flxible Corp.*, 70 Ohio St.3d 649, 654, 640 N.E.2d 815, 819 (1994).

supersedes Toledo's home-rule powers, Toledo does not have home-rule power to restrict a court's jurisdiction as conferred by the General Assembly. And because Article IV, Section 1 *already* prevents municipalities from cherry picking a court's jurisdiction—the General Assembly did not need to use the word “exclusive” within R.C. 1901.20(A)(1) to preclude the possibility of a municipality conferring its own internal agency with exclusive jurisdiction of a particular ordinance violation. Thus, Toledo's reliance on R.C. Chapter 2506 puts the cart before the horse—that Chapter does not cure an Article IV, Section 1 violation.⁹

Appellants hope to gain traction through the dissent below. Citing *Mendenhall*, the dissent claims that cities have home-rule power to “supplement” a court's jurisdiction by giving “concurrent” jurisdiction to a local agency. *Mendenhall* says no such thing. Further, the dissent uses “concurrent”—a term of art—too loosely. Toledo has not given its agency *concurrent* jurisdiction of alleged violations arising under TMC 313.12: the city has conferred its hand-picked bureaucrat with *exclusive* jurisdiction of adjudicating TMC 313.12 violations. This flies in the face of Article IV, Section 1 and R.C. 1901.20(A)(1).

The dissent lost its way. For example, the dissent states that the word “any” as used in R.C. 1901.20(A)(1) modifies “ordinance.” 2013-Ohio-2809, ¶50. The dissent should have been in the majority: “any” does modify “ordinance.” It means “any ordinance.” Indeed, it is quite simple: the municipal court **“has jurisdiction”** of the violation of **“any ordinance.”**

⁹ RedFlex's claim on page 9 of its brief that R.C. 1901.20(A)(1) provides a mechanism to “appeal” to the municipal court is simply false. The statute says no such thing. Further, the General Assembly never intended busy common pleas judges to act as appellate judges in photo-enforcement cases. In fact, common pleas courts aren't even supposed to hear appeals from parking-violation bureaus. R.C. 4521.08(D); 1901.20(C).

B. The parking-violation exception proves the rule.

The parking-violation exception directly contradicts appellants' flawed reasoning:

[T]he exception of a particular thing, from general words, proves, that in the opinion of the lawgiver, the thing excepted would be within the general clause, had the exception not been made.

Poole v. Fleeger's Lessee, 36 U.S. 185 (1837).

If parking violations—which are also noncriminal—are within the municipal court's jurisdiction absent an express statutory exception, then the municipal court “**has jurisdiction**” of “**any**” noncriminal ordinance violation not statutorily exempted from the court's jurisdiction, which necessarily includes TMC 313.12 violations. Once again, Toledo lacks power to unilaterally impair or restrict that jurisdiction by vesting exclusive—not “concurrent” or “supplemental”—jurisdiction in the Toledo police department. Further, the General Assembly in R.C. Chapter 4521 enacted a detailed scheme for operating parking-violation bureaus—including requiring municipalities to seek and receive permission from the local municipal court before establishing a parking-violation bureau. *See* R.C. 4521.04.

According to appellants—municipalities have “home-rule” power to negate the municipal court's jurisdiction of any ordinance violation and confer jurisdiction onto a municipal agency exclusively. If that were true, the parking-violation bureau exception—and all of R.C Chapter 4521—would be superfluous, which directly contradicts the “basic presumption” in statutory construction that “the General Assembly is not presumed to do a vain or useless thing, and that when language is inserted in a statute it is inserted to accomplish some definite purpose.” *Brown v. Martinelli*, 66 Ohio St. 2d 45, 50, 419 N.E.2d 1081, 1084 (1981).

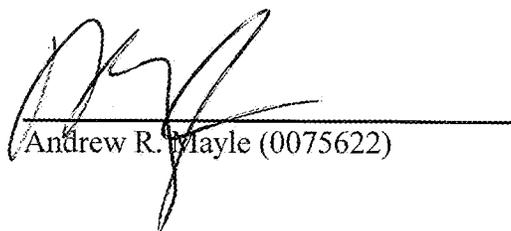
C. The Sixth District is correct: *BancOne* undermines appellants.

The jurisdictional briefs cite *State ex. rel. BancOne v. Walker*, 86 Ohio St.3d 169, 712 N.E.2d 742, 1999-Ohio-151. *BancOne* supports Walker: it holds that when the General Assembly intends to vest exclusive jurisdiction in an agency—as Toledo has done here—the General Assembly does so through “appropriate statutory language.” A perfect example of this is the parking-violations bureau exception. No “statutory language” confers the Toledo police department with exclusive jurisdiction of TMC 313.12 violations—appellants can only bootstrap jurisdiction by citing Toledo’s already self-serving ordinance.

Conclusion

Under R.C. 1901.20(A)(1), the Toledo municipal court “*has jurisdiction*” of the violation of “*any ordinance*,” which necessarily includes TMC 313.12. But under unique provisions that Toledo deliberately inserted into §313.12, the municipal court does not have jurisdiction. Thus, the ordinance is unconstitutional beyond a reasonable doubt. This is a simple case.

Respectfully submitted,


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CERTIFICATE OF SERVICE

I hereby certify that on September 9th, 2013 a true and accurate copy of the foregoing was sent by U.S. Mail, postage prepaid to the following:

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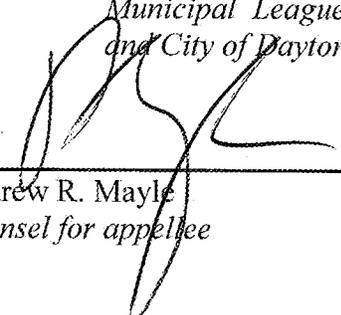
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