

IN THE SUPREME COURT OF OHIO

DONALD YEAPLES, ET AL.,)	Case No. 2013-0941
)	
Relators/Appellees,)	On Appeal from the
)	Cuyahoga County Court of Appeals,
vs.)	Eighth Judicial District
)	
HONORABLE STEVEN E. GALL,)	Court of Appeals Case No. 13 CA 99454
ET AL.,)	
)	
Respondents/Appellants.)	

MERIT BRIEF OF APPELLEE HONORABLE STEVEN E. GALL

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MERIT BRIEF OF APPELLEE HON. STEVEN E. GALL

This is an appeal as of right pursuant to S. Ct. Prac. R. 5.01 from a decision of the court of appeals in a case that originated in the court of appeals and that invokes the appellate jurisdiction of the Supreme Court of Ohio.

This case arises out of the underlying case of Yeaples v. Precision Directional Boring LLC that was filed in the Cuyahoga County Court of Common Pleas on January 10, 2012 and was docketed there as Case No. 12 CV 773151. On March 28, 2012, the judge then presiding over the case granted the Precision Directional Boring defendants' motion to transfer the case for improper venue and ordered the Cuyahoga County clerk of court to transfer the action to the Medina County Court of Common Pleas. On July 17, 2012, the Medina County Court of Common Pleas determined that the proper venue for the action was the Cuyahoga County Court of Common Pleas and ordered the Medina County clerk of court to transfer the action back to the Cuyahoga County Court of Common Pleas. Following his election to office in November 2012, The Honorable Steven E. Gall granted on January 4, 2013 the Precision Directional Boring defendants' motion to refuse venue and adhere to predecessor judge's March 28, 2012 order determining that venue was not proper in Cuyahoga County, ordering the Cuyahoga County clerk of court to transfer the case back to Medina County.

On January 24, 2013, relators/appellees Donald Yeaples and Debra Yeaples commenced an original action in mandamus and procedendo in the Eighth District Court of Appeals against respondent/appellee The Honorable Steven E. Gall and respondents/appellants Precision Directional Boring LLC and Gary Cole in the case docketed there as 13 CA 99454. On March 20, 2013, appellee Judge Gall filed his motion for summary judgment. On April 9, 2013, the Yeaples opposed Judge Gall's motion for summary judgment and filed a cross-motion for

summary judgment. On May 7, 2013, Precision Directional Boring and Cole filed their own motion for summary judgment.

On May 24, 2013, the Court of Appeals granted writs of mandamus and procedendo in favor of the Yeaples, ordering Judge Gall to vacate the orders transferring the underlying case to Medina County, directing him to accept venue over the underlying case, and ordering him to adjudicate the merits of the case. *See Yeaples v. Gall*, 8th Dist. No. 99454, 2013-Ohio-2207. On June 11, 2013, appellants Precision Directional Boring LLC and Gary Cole filed their notice of appeal in the Supreme Court of Ohio.

Appellee Judge Gall respectfully submits that the issues presented in this case have been ably presented by counsel for the Yeaples appellees; counsel for the Precision Directional Boring appellants; counsel for the amicus curiae; and by the journal entry and opinion issued by the Court of Appeals. Judge Gall's motion for summary judgment filed in the Court of Appeals set forth the basis for his trial court rulings to refuse venue and the reasons he believed warranted denial of the requested writs of mandamus and procedendo. Judge Gall does not believe that the decisional process in this case will be advanced materially by his further legal briefing in this case other than to say that he respects the decision of the Court of Appeals but agrees with and therefore adopts by reference the arguments set forth here by the Precision Directional Boring appellants and their amicus curiae. Beyond that, Judge Gall will of course comply with the mandate issued by any court of superior jurisdiction.

Respectfully submitted,

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PROOF OF SERVICE

Pursuant to S.Ct.Prac.R. 3.11, a true copy of the foregoing Merit Brief of Appellee Honorable Steven E. Gall was served this 24th day of September 2013 by ordinary U.S. Mail, postage pre-paid, upon:

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