

ORIGINAL

In the
Supreme Court of Ohio

STATE ex rel. CLEVELAND RIGHT TO	:	Case No. 2013-1668
LIFE, INC., et al.,	:	
	:	Original Action in Mandamus
Relators,	:	and Prohibition
	:	
v.	:	
	:	
STATE OF OHIO CONTROLLING BOARD,	:	
et al.,	:	
	:	
Respondents.	:	

**ANSWER OF RESPONDENTS OHIO CONTROLLING BOARD AND OHIO
DEPARTMENT OF MEDICAID**

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FILED
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 CLERK OF COURT
 SUPREME COURT OF OHIO

In Answer to Relators' Verified Complaint for writ of mandamus and prohibition, Respondents Ohio Controlling Board and the Ohio Department of Medicaid hereby state as follows:

1. Respondents state that the allegations in Paragraph 1 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents admit this case is not about the wisdom of Medicaid coverage. Answering further, Respondents deny that the Ohio Department of Medicaid's decision to provide coverage to the lower-income Ohioans who meet the eligibility criteria set forth under the federal law, as opposed to the Controlling Board's subsidiary decision to authorize the Department to spend the additional (and entirely) federal money it will receive as a result of that decision, is at issue in this case. Except as expressly admitted, Respondents deny the allegations in Paragraph 1.

2. Respondents state that the allegations in Paragraph 2 of the Complaint are legal conclusions to which no response is required. Respondents also state that the United States Supreme Court's decision in *National Federation of Independent Business v. Sebelius*, 132 S. Ct. 2566 (2012), speaks for itself. To the extent any further response is required, Respondents deny that the Ohio Department of Medicaid's decision to provide coverage to the lower-income Ohioans who meet the eligibility criteria set forth under the federal law, as opposed to the Controlling Board's subsidiary decision to authorize the Department to spend the additional (and entirely) federal money it will receive as a result of that decision, is at issue in this case.

3. Respondents state that the allegations in Paragraph 3 of the Complaint are legal conclusions to which no response is required. To the extent any additional response is required, Respondents deny the allegations in Paragraph 3 and specifically deny that the challenged

actions on the part of the Controlling Board or the Department of Medicaid contravene any Ohio statute or the Ohio Constitution.

4. Respondents state that the allegations in Paragraph 4 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents deny the allegations in Paragraph 4 and specifically deny that Relators are entitled to any relief.

5. Respondents state that the allegations in Paragraph 5 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents deny the allegations in Paragraph 5 and specifically deny that Relators are entitled to a writ of mandamus.

6. Respondents state that the allegations in Paragraph 6 are legal conclusions to which no response is required. To the extent any response is required, Respondents deny the allegations in Paragraph 6 and specifically deny that mandamus is appropriate in this case.

7. Respondents state that the allegation in Paragraph 7 of the Complaint is a legal conclusion to which no response is required. To the extent any response is required, Respondents deny that the Ohio Department of Medicaid's decision to provide coverage to the lower-income Ohioans who meet the eligibility criteria set forth under the federal law, as opposed to the Controlling Board's subsidiary decision to authorize the Department to spend the additional (and entirely) federal money it will receive as a result of that decision, is at issue in this case.

8. In response to Paragraph 8 of the Complaint, Respondents state that Section 1902 of the Social Security Act speaks for itself.

9. In response to Paragraph 9 of the Complaint, Respondents state that Section 1902 of the Social Security Act speaks for itself

10. In response to Paragraph 10 of the Complaint, Respondents state that Section 1903 of the Social Security Act speaks for itself.

11. In response to Paragraph 11 of the Complaint, Respondents state that the allegations in Paragraph 11 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents state that the United States Supreme Court's decision in *National Federation of Independent Business v. Sebelius* speaks for itself.

12. Respondents state that the allegations in Paragraph 12 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents state that the United States Supreme Court's decision in *National Federation of Independent Business v. Sebelius* speaks for itself.

13. Respondents state that the allegations in Paragraph 13 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents state that the United States Supreme Court's decision in *National Federation of Independent Business v. Sebelius* speaks for itself.

14. Respondents state that the allegations in Paragraph 14 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents state that the United States Supreme Court's decision in *National Federation of Independent Business v. Sebelius* speaks for itself.

15. Respondents state that the allegations in Paragraph 15 of the Complaint are legal conclusions to which no response is required. To the extent any response is required,

Respondents state that the United States Supreme Court's decision in *National Federation of Independent Business v. Sebelius* speaks for itself.

16. Respondents state that the allegations in Paragraph 16 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents state that the United States Supreme Court's decision in *National Federation of Independent Business v. Sebelius* speaks for itself.

17. Respondents state that the allegations in Paragraph 17 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents state that the United States Supreme Court's decision in *National Federation of Independent Business v. Sebelius* speaks for itself.

18. Respondents state that the allegations in Paragraph 18 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents state that the United States Supreme Court's decision in *National Federation of Independent Business v. Sebelius* speaks for itself.

19. Respondents state that the allegations in Paragraph 19 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents state that the United States Supreme Court's decision in *National Federation of Independent Business v. Sebelius* speaks for itself.

20. Respondents state that the allegations in Paragraph 20 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents state that the United States Supreme Court's decision in *National Federation of Independent Business v. Sebelius* speaks for itself.

21. Respondents deny the allegation in Paragraph 21 for lack of knowledge.

22. Respondents deny the allegation in Paragraph 22 for lack of knowledge.

23. In response to Paragraph 23, Respondents admit that the General Assembly introduced the State of Ohio biennium budget bill for fiscal year 2014-2015 as House Bill 59 as alleged in Paragraph 23 of the Complaint, but state that the bill was introduced on February 12, 2013.

24. In response to Paragraph 24 of the Complaint, Respondents state that HB 59 as introduced speaks for itself. Answering further, Respondents admit that HB 59 as introduced contained the Governor's budget proposals.

25. In response to Paragraph 25 of the Complaint, Respondents state that HB 59 as introduced speaks for itself. Further answering, Respondents deny the allegations in Paragraph 25.

26. In response to Paragraph 26 of the Complaint, Respondents state that HB 59 as introduced speaks for itself.

27. In response to Paragraph 27 of the Complaint, Respondents admit that the language in HB 59 quoted in Paragraph 26 of the Complaint does not appear in the version of HB 59 that was passed by the Ohio House of Representatives. Respondents further state, however, that the amendments to R.C. 5163.03 that required the Medicaid program to cover mandatory eligibility groups and that permitted the Medicaid program to cover optional eligibility groups remained in the bill. Except as expressly admitted, Respondents deny the allegations in Paragraph 27.

28. In response to Paragraph 28, Respondents admit that the version of HB 59 that was passed by the Senate did not reintroduce the language quoted in Paragraph 26 of the Complaint. Respondents further state, however, that the amendments to R.C. 5163.03 that

required the Medicaid program to cover mandatory eligibility groups and that permitted the Medicaid program to cover optional eligibility groups remained in the bill. Except as expressly admitted, Respondents deny the allegation in Paragraph 28.

29. In response to Paragraph 29 of the Complaint, Respondents state that HB 59 as submitted to the Governor speaks for itself.

30. Respondents state that the allegations in Paragraph 30 of the Complaint are legal conclusions to which no response is required. Further answering, Respondents state that the version of HB 59 that was submitted to the Governor speaks for itself. Respondents deny the remaining allegations in Paragraph 30.

31. Respondents admit that the language quoted in Paragraph 31 of the Complaint was included in the version of HB 59 that was submitted to the Governor, which speaks for itself. Further answering, Respondents state that the language quoted in Paragraph 31 was vetoed by the Governor and is not therefore included in the prevailing appropriations act.

32. In response to Paragraph 32 of the Complaint, Respondents state that section 1902(a)(10)(A)(i)(VIII) of the Social Security Act, 42 U.S.C. 1396a(a)(10)(A)(i)(VIII), speaks for itself.

33. In response to Paragraph 33 of the Complaint, Respondents admit that the Governor vetoed the language quoted in Paragraph 31 of the Complaint. Answering further, Respondents state that the June 30, 2013 Veto Message of the Governor (Relators' Exhibit B) speaks for itself.

34. In response to Paragraph 34 of the Complaint, Respondents state that the Bill Analysis of HB 59 speaks for itself.

35. In response to Paragraph 35 of the Complaint, Respondents state that the Controlling Board request submitted by the Ohio Department of Medicaid (Relators' Exhibit A) speaks for itself. Respondents deny the remaining allegations in Paragraph 35.

36. In response to Paragraph 36 of the Complaint, Respondents state that the Controlling Board request submitted by the Ohio Department of Medicaid (Relators' Exhibit A) speaks for itself. Respondents deny the remaining allegations in Paragraph 36.

37. Respondents admit the allegation in Paragraph 37 of the Complaint.

38. Respondents deny the allegation in Paragraph 38 of the Complaint.

39. In response to Paragraph 39 of the Complaint, Respondents state that the recording of Director McCarthy's testimony at the Controlling Board hearing speaks for itself. Answering further, Respondents admit that Director McCarthy indicated that he "personally [was] not aware of such a situation" in response to a question about whether he was "aware of any other time where a Governor came to the Controlling Board in order to obtain funding for a program that the General Assembly had tried to prevent." Respondents deny any remaining allegations in Paragraph 39.

40. Respondents deny the allegations in Paragraph 40 of the Complaint.

41. In response to Paragraph 41 of the Complaint, Respondents state that the comments made during the Controlling Board proceedings speak for themselves.

42. In response to Paragraph 42 of the Complaint, Respondents state that the recording of Director McCarthy's testimony at the Controlling Board hearing speaks for itself. Respondents deny the remaining allegations in Paragraph 42.

43. Respondents deny the allegations in Paragraph 43 of the Complaint.

44. Respondents restate the responses in all preceding paragraphs as if fully restated herein.

45. Respondents admit the allegations in Paragraph 45 of the Complaint.

46. Respondents admit the allegations in Paragraph 46 of the Complaint.

47. Respondents deny the allegations in Paragraph 47 of the Complaint for lack of knowledge.

48. In response to Paragraph 48 of the Complaint, Respondents admit that each of the Representatives who are named as Relators in this action represents a House District of approximately 100,000 Ohioans. Respondents deny that the Representatives represent the interests of 600,000 Ohioans in pursuing this action.

49. Respondents deny the allegations in Paragraph 49 of the Complaint.

50. Respondents deny the allegations in Paragraph 50 of the Complaint to the extent they do not contain legal or other assertions to which no response is required.

51. Respondents deny the allegations in Paragraph 51 of the Complaint for lack of knowledge.

52. Respondents deny that federal funds the Department of Medicaid will receive as a result of its decision to provide coverage to the lower-income Ohioans who meet the eligibility criteria set forth under the federal law will be used to jeopardize unborn life. Respondents deny the allegations in Paragraph 52 of the Complaint for lack of knowledge.

53. Respondents deny the allegations in Paragraph 53 of the Complaint for lack of knowledge.

54. Respondents deny that federal funds the Department of Medicaid will receive as a result of its decision to provide coverage to the lower-income Ohioans who meet the eligibility

criteria set forth under the federal law will be used to jeopardize unborn life. Respondents deny the remaining allegations in Paragraph 54 of the Complaint for lack of knowledge.

55. Respondents deny the allegations in Paragraph 55 of the Complaint for lack of knowledge.

56. In response to Paragraph 56 of the Complaint, Respondents state that R.C. 127.12 speaks for itself.

57. In response to Paragraph 57 of the Complaint, Respondents state that R.C. 127.14(B) speaks for itself.

58. In response to Paragraph 58 of the Complaint, Respondents state that R.C. Chapter 5163 speaks for itself.

59. Respondents deny that this Court has jurisdiction over this action.

60. Respondents deny the allegations in Paragraph 60 of the Complaint to the extent they do not quote this Court's decision in *State ex rel. Michel v. Keip*, 66 Ohio St. 2d 379 (1981), which speaks for itself.

61. The allegations in Paragraph 61 of the Complaint are legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations in Paragraph 61 of the Complaint.

62. The allegations in Paragraph 62 of the Complaint are legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations in Paragraph 62 of the Complaint.

63. In response to Paragraph 63 of the Complaint, Respondents state that Article I of the Ohio Constitution speaks for itself.

64. In response to Paragraph 64 of the Complaint, Respondents state that Article II of the Ohio Constitution speaks for itself.

65. In response to Paragraph 65 of the Complaint, Respondents state that Article II of the Ohio Constitution speaks for itself.

66. In response to Paragraph 66 of the Complaint, Respondents state that Article II of the Ohio Constitution speaks for itself.

67. In response to Paragraph 67 of the Complaint, Respondents state that Article II of the Ohio Constitution and this Court's decision in *State ex rel. Meshel v. Keip*, 66 Ohio St. 2d 379 (1981), speak for themselves. Answering further, Respondents specifically deny that *Meshel* supports Relators' claim to relief in this action.

68. The allegations in Paragraph 68 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents deny the allegations in Paragraph 68 and specifically deny that *Meshel* supports Relators' claim to relief in this action. Answering further, Respondents state that Article II of the Ohio Constitution and this Court's decision in *State ex rel. Meshel v. Keip*, 66 Ohio St. 2d 379 (1981), speak for themselves.

69. The allegations in Paragraph 69 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents deny the allegations in Paragraph 69 and specifically deny that *Meshel* supports Relators' claim to relief in this action. Answering further, Respondents state that this Court's decision in *State ex rel. Meshel v. Keip*, 66 Ohio St. 2d 379 (1981), speaks for itself.

70. The allegations in Paragraph 70 of the Complaint are legal conclusions to which no response is required. Answering further, Respondents state that this Court's decisions cited in Paragraph 70 of the Complaint speak for themselves.

71. The allegations in Paragraph 71 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents deny the allegations in Paragraph 71 and specifically deny that *Meshel* supports Relators' claim to relief in this action. Answering further, Respondents state that this Court's decision in *State ex rel. Meshel v. Keip*, 66 Ohio St. 2d 379 (1981), speaks for itself.

72. In response to Paragraph 72 of the Complaint, Respondents state that R.C. 127.17 speaks for itself.

73. The allegations in Paragraph 73 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents deny the allegations in Paragraph 73 and specifically deny that *Meshel* supports Relators' claim to relief in this action. Answering further, Respondents state that this Court's decision in *State ex rel. Meshel v. Keip*, 66 Ohio St. 2d 379 (1981), speaks for itself.

74. The allegations in Paragraph 74 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents deny the allegations in Paragraph 74 and specifically deny that *Meshel* supports Relators' claim to relief in this action. Answering further, Respondents state that this Court's decision in *State ex rel. Meshel v. Keip*, 66 Ohio St. 2d 379 (1981), speaks for itself.

75. Respondents deny the allegations in Paragraph 75 of the Complaint to the extent they are not legal conclusions to which no response is required.

76. Respondents deny the allegations in Paragraph 76 of the Complaint to the extent they are not legal conclusions to which no response is required.

77. The allegations in Paragraph 77 of the Complaint are legal conclusions to which no response is required. Answering further, Respondents state that the legal authorities cited in

Paragraph 77 of the Complaint speak for themselves, and that *Caldwell v. State*, 115 Ohio St. 458 (1926), does not include the language quoted in Paragraph 77 of the Complaint.

78. The allegations in Paragraph 78 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents deny the allegations in Paragraph 78.

79. The allegations in Paragraph 79 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents admit that R.C. 131.35, among other statutory authorities, authorizes the Controlling Board action challenged in this matter.

80. In response to Paragraph 80 of the complaint, Respondents state that R.C. 131.35 speaks for itself.

81. The allegation in Paragraph 81 of the Complaint is a legal conclusion to which no response is required. Answering further, Respondents state that R.C. 127.17 and R.C. 131.35 speak for themselves. To the extent any further response is required, Respondents deny the remaining allegations in Paragraph 81.

82. The allegations in Paragraph 82 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents state that the publication entitled "Controlling Board: An Informational Brief Prepared for Members of the Ohio General Assembly by the Legislative Service Commission Staff," which is quoted in Paragraph 82, speaks for itself.

83. In response to Paragraph 83, Respondents admit that certain state representatives signed a Protest, which is attached to Relators' Complaint as Relators' Exhibit C. Answering

further, Respondents state that Relators' Exhibit C speaks for itself. Except as expressly admitted, Respondents deny the allegations in Paragraph 83 of the Complaint.

84. In response to Paragraph 84, Respondents state that Relators' Exhibit C speaks for itself.

85. In response to Paragraph 85, Respondents state that Relators' Exhibit C speaks for itself.

86. In response to Paragraph 86, Respondents state that Relators' Exhibit C speaks for itself.

87. Respondents deny the allegations in Paragraph 87 to the extent they are not legal conclusions to which no response is required. Answering further, Respondents specifically deny that the Controlling Board acted without authority in approving the Department of Medicaid's appropriation request and deny that the Department of Medicaid's decision to provide coverage to the lower-income Ohioans who meet the eligibility criteria set forth under the federal law, as opposed to the subsidiary decision to authorize the Department of Medicaid to spend the additional (and entirely) federal money it will receive as a result of that decision, is at issue in this case. Respondents deny any remaining allegations in Paragraph 87 of the Complaint.

88. In response to Paragraph 88 of the Complaint, Respondents deny that Relators are entitled to any relief in this action, including a writ of mandamus.

89. In response to Paragraph 89 of the Complaint, Respondents state that R.C. 5163.02 speaks for itself.

90. In response to Paragraph 90 of the Complaint, Respondents deny that Relators are entitled to any relief in this action, including a writ of mandamus.

91. In response to Paragraph 91, Respondents deny that Relators maintain a clear public right to the relief they seek in this action.

92. In response to Paragraph 92, Respondents deny that Right to Life Relators maintain a clear public right to the relief they seek in this action.

93. Paragraph 93 is a legal conclusion to which no response is required. To the extent a response is required, Respondents deny that the Ohio Controlling Board has any clear legal duty to provide the relief Relators seek in this action.

94. Respondents deny the allegations in Paragraph 94 of the Complaint.

95. Respondents deny the allegations in Paragraph 95 of the Complaint.

96. Respondents deny the allegations in Paragraph 96 of the Complaint.

97. The allegation in Paragraph 97 is a legal conclusion to which no response is required.

98. Respondents deny the allegations in Paragraph 98 and specifically deny that the Ohio Department of Medicaid's decision to provide coverage to the lower-income Ohioans who meet the eligibility criteria set forth under the federal law, as opposed to the Controlling Board's subsidiary decision to authorize the Department to spend the additional (and entirely) federal money it will receive as a result of that decision, is at issue in this case.

99. In response to Paragraph 99, Respondents deny that Relators are entitled to any relief and further deny that any expedition is necessary in this action.

100. The allegations in Paragraph 100 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents state that the cases on which Relators rely in Paragraph 100 of the Complaint speak for themselves.

101. The allegations in Paragraph 101 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents state that the cases on which Relators rely in Paragraph 101 of the Complaint speak for themselves.

102. The allegations in Paragraph 102 of the Complaint are legal conclusions to which no response is required. Answering further, Respondents state that the legal authorities on which Relators rely in Paragraph 102 of the Complaint speak for themselves. To the extent any further response is required, Respondents deny the allegations in Paragraph 102.

103. Respondents deny the allegations in Paragraph 103 of the Complaint and specifically deny that Relators have standing and that this matter should be resolved through an original action in this Court.

104. Respondents deny the allegations Paragraph 104 of the Complaint to the extent they do not quote the United States Supreme Court's decision in *National Federation of Independent Business v. Sebelius*, which speaks for itself.

105. The allegations in Paragraph 105 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents state that *State ex rel. Ohio Academy of Trial Lawyers v. Sheward*, 86 Ohio St. 3d 451 (1999), speaks for itself and specifically deny that *Sheward* supports jurisdiction in this action.

106. The allegations in Paragraph 106 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents state that *State ex rel. Ohio Academy of Trial Lawyers v. Sheward*, 86 Ohio St. 3d 451 (1999), and *State ex rel. Newell v. Brown*, 162 Ohio St. 147 (1954), speak for themselves and specifically deny that they support jurisdiction in this action.

107. The allegations in Paragraph 107 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents state that *State ex rel. Ohio Academy of Trial Lawyers v. Sheward*, 86 Ohio St. 3d 451 (1999), speaks for itself and specifically deny that *Sheward* supports jurisdiction in this action.

108. The allegations in Paragraph 108 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents deny that public right standing is justified in this matter.

109. The allegations in Paragraph 109 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents state that this Court's decision in *State v. Bodyke*, 126 Ohio St. 3d 266, 2010-Ohio-2424, speaks for itself.

110. The allegations in Paragraph 110 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents state that this Court's decision in *State ex rel. Bryant v. Akron Metro. Park District of Summit County*, 120 Ohio St. 464 (1929), speaks for itself.

111. The allegations in Paragraph 111 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents state that this Court's decision in *State v. Bodyke*, 126 Ohio St. 3d 266, 2010-Ohio-2424, speaks for itself.

112. The allegations in Paragraph 112 of the Complaint are legal conclusions to which no response is required. To the extent any response is required, Respondents admit that the Department of Medicaid's decision to provide coverage to lower-income Ohioans who meet the eligibility criteria set forth under the federal law will provide coverage to thousands of Ohioans who would not otherwise be covered. Answering further, Respondents deny that the Ohio Department of Medicaid's decision to provide this coverage, as opposed to the Controlling

Board's subsidiary decision to authorize the Department to spend the additional (and entirely) federal money it will receive as a result of that decision, is at issue in this case.

113. Respondents deny the allegations in Paragraph 113 of the Complaint.

114. The allegations in Paragraph 114 are assertions to which no response is required.

115. In response to Paragraph 115, Respondents admit that certain state representatives signed a Protest, which is attached to Relators' Complaint as Relators' Exhibit C. Answering further, Respondents state that Relators' Exhibit C speaks for itself. Except as expressly admitted, Respondents deny the allegations in Paragraph 115 of the Complaint.

116. In response to Paragraph 116 of the Complaint, Respondents admit that this case presents only legal issues and does not involve any complex factual issues.

117. Respondents deny the allegations in the Prayer for Relief and specifically deny that Respondents are entitled to any relief.

118. Respondents deny all allegations not expressly admitted.

DEFENSES

119. This Court lacks jurisdiction over Relators' claims.

120. Relators lack standing to pursue relief.

121. Relators fail as a matter of law to demonstrate entitlement to the relief they seek.

122. A writ of mandamus is inappropriate as a matter of law because Relators cannot demonstrate (1) they have a clear legal right to the relief requested in this action (2) Respondents are under a clear legal duty to perform the requested acts; or (3) that they have no plain and adequate remedy at law.

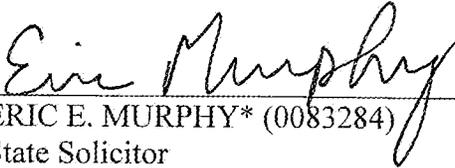
123. A writ of prohibition is inappropriate as a matter of law because Respondents are non-judicial entities who do not exercise judicial or quasi-judicial power.

124. Relators' Complaint does not comply with the requirements of S.Ct.Prac.R. 12.02(B) and R.C. 2731.04.

125. Relators' Complaint fails to state a claim upon which relief can be granted.

Respectfully submitted,

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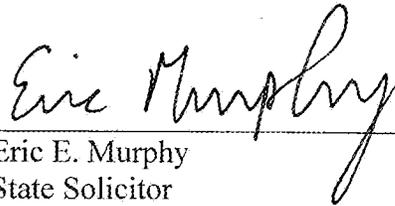
Counsel for Respondents

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served on this November 5, 2013, via U.S. Mail
and e-mail to:

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