

ORIGINAL

IN THE SUPREME COURT OF OHIO

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CASE NO. 14-0319

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STATE EX. REL. OHIO CIVIL SERVICE EMPLOYEES ASSOCIATION, ET. AL.,  
Plaintiffs/Appellees

v.

STATE OF OHIO, ET AL.  
Defendants/Appellants

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ON APPEAL FROM THE TENTH APPELLATE DISTRICT,  
FRANKLIN COUNTY, OHIO, CASE NO.: 12 AP 1064

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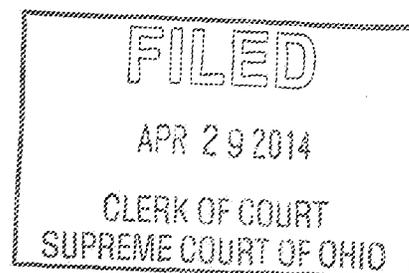
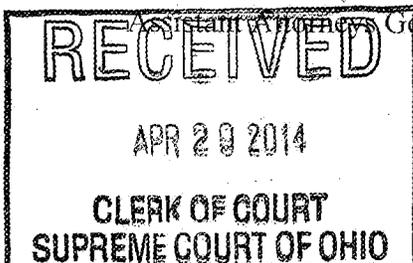
DEFENDANT-APPELLANT/CROSS-APPELLEE, MANAGEMENT & TRAINING  
CORPORATION'S MEMORANDUM IN RESPONSE TO PLAINTIFFS-  
APPELLEES/CROSS-APPELLANTS COMBINED MEMORANDUM IN SUPPORT OF  
JURISDICTION FOR ITS CROSS-APPEAL

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**A. The Tenth District's Holding that Plaintiffs-Appellees' Complaint Failed to Allege Facts Sufficient to Support a Claim for Unconstitutional "Joint Ownership" Well Founded in Constitutional Precedent and Raises No Substantial Question of Constitutional Interpretation.**

As a preliminary matter, Plaintiffs-Appellees'/Cross-Appellants' ("Plaintiffs") arguments regarding a violation of Section 4, Article VIII of the Ohio Constitution do not apply to Defendant-Appellant/Cross-Appellee MTC ("MTC") in any manner. Plaintiffs admit that MTC does not own the North Central Correctional Complex, and does not receive an annual ownership fee ("AOF"). Plaintiffs have not alleged the existence of any independent substantial constitutional question as it relates to their claims against MTC. This Court should deny jurisdiction over Plaintiffs' discretionary appeal as it relates to MTC. This Court should also deny Plaintiffs' discretionary appeal because the Tenth District's decision upholding the dismissal of the pertinent allegations in Plaintiffs' Complaint for failure to state a claim upon which relief may be granted does not raise a substantial Constitutional question. The State's option of paying an AOF in exchange for the exclusive right to benefit from the public service Corrections Corporation of America ("CCA") provides is well within the Constitutional grant of authority to Ohio's General Assembly. Even accepting all of the allegations in the complaint as true and making all reasonable inferences in favor of Plaintiffs, no set of facts in Plaintiffs' complaint, if proven, would entitle them to relief.

Article VIII, Section 4 of the Ohio Constitution states:

The credit of the state shall not, in any manner, be given or loaned to, or in aid of, any individual association or corporation whatever; nor shall the state hereafter become joint owner, or stockholder, in any company or association in this state, or elsewhere, formed for any purpose whatever.

Joint ownership arises from an arrangement between an agency of the state and a private corporation under which property belonging to each is joined for the purpose of a commercial venture and results in a lending of the credit of the state. *See State ex rel. Eichenberger v. Neff*, 42 Ohio App.2d 69,76 330 N.E.2d 454 (Franklin App. 1974). This Court has long defined the term “credit,” as used in the section, as a loan of money to another, the ability to borrow money from another, or one who money is due as a debtor. *State ex rel. Saxbe v. Brand*, 176 Ohio St.44, 46, 197 N.E.2d 328 (1964). Regardless of how the issue is framed, it is well established that the prohibition against the State’s extension of credit to a private company is concerned with placing public dollars at risk in the aid of private enterprise. *Grendell v. Ohio Envtl. Prot. Agency*, 146 Ohio App.3d 1, 7 (9<sup>th</sup> Dist. 2001) (citing *State ex rel. Petroleum Underground Storage Tank Release Comp. Bd. v. Withrow.*, 62 Ohio St.3d 111, 114, 579 N.E.2d 705 (1991)). This definition of “credit” does not encompass a payment of a fee by the State to a private company for use in realizing a public purpose, nor would such a fee implicate the policies behind the prohibition of extending State “credit.”

The circumstances alleged in Plaintiffs’ Complaint and the contract documents incorporated by reference are not the circumstances Art. VIII, Sec. 4 was intended to prohibit, do not demonstrate any risk to public funds, and thus do not raise any substantial Constitutional question. Plaintiffs do not even argue the existence of such a risk. Rather, Plaintiffs’ entire argument relies on an inaccurate recitation of the facts and mischaracterization of the AOF as a “subsidy” as defined under Michigan law. The evidence does not support this.

Plaintiffs Complaint and incorporated documents irrefutably demonstrate that, as a result of the transaction, CCA is responsible for all costs associated with managing and operating the facility (including necessary renovation and maintenance) regardless of the inmate population

and corresponding income to the facility. As a private company, CCA would naturally be permitted and incentivized to open its facility to neighboring states in order to fill vacancies, maximize their revenue, and ensure profitability of the facility. However, the AOF provision of the RFP permits the State, at its option, to pay CCA an annual fee that will assist with the cost of maintaining the premises but prohibit CCA from accepting inmates other than those placed by the ODRC. In other words, the State receives the benefit from CCA of having a private institution into which it is assured it can place its inmates at its discretion, without bearing the encumbering cost associated with full management and operation of the land and facility. These payments are subject to cancellation or re-negotiation every biennium as the current General Assembly cannot commit a future General Assembly to an expenditure. If exercised, however, the fees to CCA are fixed and determined by the General Assembly and there is no risk of loss to the public because the public receives a valuable service in return for the fee rendered. Accordingly, there is no issue related to putting public funds at risk and no substantial Constitutional question under Article VIII, Section 4 for this Court to decide.

**B. The Tenth District’s Recognition that the State Employment Relations Board (“SERB”) Has Jurisdiction to Interpret The Definition of a “Public Employee” and the Rights to Which Such Employees are Entitled Pursuant to the Plain Language of R.C. §4117 Does Not Raise an Issue of Public or Great General Importance.**

The Tenth District properly applied the plain statutory language of R.C. §4117 and controlling Ohio Supreme Court precedent in upholding the trial court’s dismissal of Plaintiff’s alternative claim for relief. The fact SERB has exclusive jurisdiction over determining who qualifies as a “public employee” is not a matter of first impression or public and great general importance. In fact, the issue was expressly decided by this Court more than twenty (20) years ago. *See FCLEA v. Fraternal Order of Police*, 59 Ohio St.3d 167, 170, 572 N.E.2d 87 (1990)

(“the question of who is the ‘public employer’ [and, thus, a public employee] must be determined under R.C. 4117” and is within the exclusive jurisdiction of SERB).

Plaintiffs’ Memorandum fails to provide any explanation regarding how the Tenth District’s application of R.C. §4117, controlling precedent, and recognition of SERB’s statutory authority to interpret and enforce R.C. §4117.01 *et seq.* raises an issue of public or great general importance. The absence of such a statement is not an accident. The Tenth District’s recognition of SERB’s statutory authority, like the Supreme Court’s before it, serves the greater public good.

Prior to the enactment of R.C. §4117, Ohio courts were inundated with litigation and controversy, resulting in four hundred twenty-eight (428) public employee work stoppages between 1973 and 1980. *State ex rel. Dayton Fraternal Order of Police Lodge No. 44 v. State Employment Relations Bd.*, 22 Ohio St. 3d 1, 5, 488 N.E.2d 181, 184-185 (1986). The statute’s enactment, the creation of SERB and the comprehensive framework was intended to set forth firm legal guidelines that minimize the possibility of public-sector labor disputes and provides for the orderly resolution of any disputes that occur. *Id.* SERB’s jurisdiction in this regard, and the strong public policy supporting it has been recognized by this Court, the appellate courts and is reflected in the statutory language itself. *See FCLEA supra*; *See also Cleveland Police Patrolmen's Ass'n v. White*, 109 Ohio App. 3d 329, 337, 672 N.E.2d 195, 200, (Cuyahoga App., 1996) (recognizing that the question of who a public employer is arises under R.C. §4117 and, therefore, must be decided by SERB); R.C. §4117.02(O) (governing how the SERB should handle substantial controversies with respect to SERB’s interpretation of R.C. §4117.01 *et seq.*); §4117.12(A) (providing that unfair labor practices are “remediable by [SERB]” but not providing for the filing of an original complaint in common pleas court).

Plaintiffs' alternative argument that R.C. §9.06(K) vests jurisdiction in the Court of Common Pleas to interpret who qualifies as a "public employee under R.C. §4117 is untenable on its face and provides no basis upon which this Court can find an issue of public and great general importance. Nothing in the language of R.C. §9.06(K) gives the Franklin County Court of Common Pleas jurisdiction over public-labor disputes or interpretation of Ohio's comprehensive public-labor framework. This section is expressly limited to claims that R.C. §9.06 or section 753.10 of H.B. No. 153 violate the Ohio Constitution. Plaintiffs' alternative claim for declaratory relief does not implicate the Ohio Constitution in any way. Accordingly, R.C. §9.06(K) does not apply.

Simply stated, the Tenth District's application of R.C. §4117 and this Court's precedent in *FCLEA* was appropriate. This is not a matter of first impression and Plaintiffs have identified no issue of public or great general importance to support a decision by this Court to accept jurisdiction over Plaintiffs' claim. Accordingly, this Court should deny Plaintiffs' discretionary appeal.

#### **PLAINTIFFS-APPELLEES'/CROSS-APPELLANTS' PROPOSITIONS OF LAW**

##### **A. It is a Valid Act of the Legislative Body to Employ a Private Company to Perform a Public Service and to Pay a Fee for the Exclusive Right to Benefit from that Public Service.**

Article VIII of the Ohio Constitution is designed to bar joint *ownership* between the State and private entities, not to preclude all relationships or partnerships between government and private enterprise. *See C.I.V.I.C. Group, v. Warren* (2000), 88 Ohio St.3d 37, 40 (explaining that sections 4 and 6 of Article VIII "forbid the union of public and private capital or credit"). Rather, joint ownership in violation of Article VIII, Section 4 occurs when there is "commingling of public and private property in a single enterprise," *State ex rel. McElroy v.*

*Baron* (1959), 169 Ohio St. 439, 444, or where ownership of public property is not kept “‘separate and distinct’ from privately owned property.” *Grendell*, 146 Ohio App.3d at 10 (citations omitted).

Thus, it is well established that the Ohio Constitution forbids putting public money at risk through the investment into a private business, but it does not forbid the State from hiring a private company to perform a public service. *Grendell v. Ohio Env'tl. Prot. Agency*, 146 Ohio App.3d 1 at \*12 (9<sup>th</sup> Dist. 2001) citing *Taylor v. Ross Cty. Commrs.* 23 Ohio St. 22, 78 (1872). *Grendell* held that legislation authorizing the state to contract with a private corporation to build and operate a vehicle emissions testing and inspection program did not violate Article VIII, Section 4, even if the State received a percentage of the company's earnings. *Id.* 146 Ohio App.3d at 12. So long as each maintains separate and distinctive roles as to ownership of property and control over day-to-day operations, no joint venture in violation of Article VIII exists. *Id.* at 11. *See also McElroy*, 169 Ohio St. at 444 (lease of State property to private company did not violate Article VIII where property remained under State control and lessee must conform to public purpose of lease).

In the present action, nothing in Plaintiffs' complaint demonstrates that the challenged provisions resulted in the sort of partnerships or unions that would create unconstitutional joint ownership of the prison property. As recognized by the Tenth District, the statute requires the facilities to be privatized “as an entire tract by quit-claim deed” and the State does not possess “equal authority or right to direct and govern the movements and conduct” of CCA or vice versa. *Opinion*, Jan 16, 2014, *MTC's Memo in Supp. Of Juris*, A-2 at ¶38. Plaintiffs have again failed to identify any authority supporting the contention that the right to repurchase the property in any way violates the Ohio Constitution.

Similarly, nothing in the language of H.B. No. 153 as incorporated into Plaintiffs' Complaint creates a statutory obligation for the State to "subsidize" or otherwise lend "credit" to CCA or any other purchaser of a prison under Section 753.10. Rather, the State's Request for proposal, outlining the nature of the compensation states the following:

PER DIEM SAVINGS AND, IF APPLICABLE, ANNUAL OWNERSHIP FEE. \* \* \* the State **may** pay the Contractor an Annual Ownership Fee (AOF) for costs \* \* \* associated with the ownership(s) of the Lake Erie Correctional Complex \* \* \* and the use of any one or more of those complexes to house ODRC inmates subject to the Ohio General Assembly appropriating funds for such AOF. This AOF will result in an AOF portion of the Contract being executed and in effect for an initial term expiring June 30, 2032. This AOF is **subject to re-negotiation** \* \* \* if the state terminates the O&M portion of the O&M, purchase, and, if applicable AOF Contract, the AOF will be re-negotiated, contingent upon such ownership. **If such use and such AOF are terminated, then the owner of the correctional complex may use the complex to house out-of-state inmates consistent with the requirements of ORC Section 9.07.**

(emphasis added). In short, the State has an option, not an obligation, to pay an annual ownership fee. In exchange for the fee, CCA provides a public service by guaranteeing that the ODRC will have the exclusive ability to place inmates in LECF, even if the facility has vacancies which could otherwise be used to house out-of-state inmates and maximize profitability for CCA. This arrangement is entirely consistent with the plain language of Article VIII, Section 4 of the Ohio Constitution, its underlying public policy, and this Court's controlling precedent.

The trial court and the Tenth District properly rejected Plaintiffs' arguments below. Even accepting all allegations in Plaintiffs' Complaint and incorporated documents as true, and making all reasonable inferences in Plaintiffs' favor, proper application of established law shows that Plaintiffs Complaint failed to state a claim upon which relief could be granted. Plaintiffs' Memorandum incorrectly refers to the AOF as a "subsidy" defined as "a direct financial aid

furnished by a government, as to a private commercial enterprise, an individual, or another government, or any grant or contribution of money.” *Pl’s Memo. in Supp. Of Juris.* at p. 21 (citing *State Defender Union Employees v. Legal Aid & Defender Ass’n of Detroit*, 230 Mich. App. 426,432, 584 N.W.2d 359 (1998)). Plaintiffs’ use of this term is couched, not only in their application of Michigan law to an Ohio case, but also in their incomplete and therefore inaccurate recitation of the facts surrounding the terms, purpose, and function of the AOF in the States Request for Proposal and contract with CCA.

Plaintiffs incorrectly represent that the “Annual Ownership Fee of \$3,800,000.00 must be paid for 21 years” and further that such payments are “not for services.” As noted above, this is simply not the case. The payment of the AOF is optional and is given in exchange for the exclusive ability to benefit from CCA’s services. The fact that this money “defray[s] CCA’s ownership costs” which would otherwise be “defrayed” by keeping LECF at maximum capacity with the housing of out-of-state inmates is immaterial to Article VIII, Section 4 analysis. Also immaterial is Plaintiffs’ concern that CCA – a for-profit company – might have the ability to earn money over the next two decades by improving the land it purchased and providing services exclusively to the State of Ohio. There is nothing facially unconstitutional about a private corporation earning a profit over the course of 20 years, nor is there anything facially unconstitutional about the State exercising its choice to pay money to such a company in exchange for the exclusive right to use its services for the good of the public. This arrangement does not “invest” or “comingle” public funds in private enterprise nor does it serve to subsidize commerce or industry.

Plaintiffs’ reliance on *State ex rel. Tomino v. Brown*, 47 Ohio St.3d 119, 122, 549 N.E.2d 505 (1989) is interesting as this case only serves to further support the constitutionality of the

arrangement between the State and CCA. Even assuming *arguendo* that the AOF could be considered a “subsidy” under Plaintiffs’ suggested definition, the Court in *State ex. rel Tomino* held that “Sections 4 and 6 of Article VIII have not been applied to programs undertaken for the public welfare.” *State ex rel. Tomino*, 47 Ohio St.3d at 121 (lending of city’s credit through sale of subsidized public housing was for a “public welfare purpose, and not a business purpose” and thus not prohibited by Article VIII). *See also McElroy*, 169 Ohio St. at 444 (leasing of land by Toledo Port Authority to private companies for the purpose “of meeting the public need and demand for enlarged shipping facilities” did not violate Article VIII). The State’s Contract with CCA pursuant to R.C. 9.06 and Section 753.10 of H.B. 153 serves the public welfare by providing for the continued rehabilitation and correction of state offenders in a fiscally practicable manner within existing budget constraints. The General Assembly’s policy determination of public purpose “will not be overruled by the courts except in instances where such determination is manifestly arbitrary and unreasonable.” *McElroy*, 169 Ohio St. at 444. Plaintiffs’ arguments fall severely short of meeting such a standard

Plaintiffs’ reliance on *State ex rel. Eichenberger v. Neff*, 42 Ohio App.2d 69, 74, 330 N.E.2d 454 (1974), and *C.I.V.I.C. Grp. V. Warren*, 88 Ohio St.3d 37, 40, 723 N.E.2d 106 (2000) in support of their position is likewise misplaced. Unlike *Neff*, this case does not involve the leasing of public lands to a private enterprise. *See id.* at 71. Unlike *C.I.V.I.C. Group*, this case does not involve the selling of public bonds or promissory notes that will put the public credit in issue. *See C.I.V.I.C. Group*, 88 Ohio St.3d at 37.

Likewise, Plaintiffs’ attempts to distinguish *Taylor v. Ross Cty. Commrs.*, 23 Ohio St. 22, 78 (1872), and *Grendell, supra* are flawed. Plaintiffs’ efforts in this regard rely entirely on the inaccurate assertion that the AOF has no impact on CCA’s provision of services: “contracting

with a corporation to perform a service ‘is a different thing from investing public money in the enterprises of others, or from aiding them with money or credit.’” *Pls’ Memo. in Supp. Juris.* at p.21. As discussed above, Plaintiffs’ Complaint and incorporated documents establish that this is not so. The AOF is a discretionary fee paid in exchange for the exclusive right to benefit from CCA’s services. It is not a subsidy nor is it an “investment” that will place any public funds at risk. Accordingly, the Tenth District properly upheld the trial court’s dismissal of Plaintiffs’ Article VIII, Section 4 claims.

**B. It is Well Established That SERB has Exclusive Jurisdiction to Determine Who is a “Public Employer” and “Public Employee” Pursuant to R.C. 4117 – the Statute that Created SERB and the Comprehensive Framework for Addressing Such Issues**

It is well established that “when a statute which creates a new right, prescribes the remedy for its violation, the remedy is exclusive.” *FCLEA v. Fraternal Order of Police*, 59 Ohio St.3d 167, 169, 572 N.E.2d 87 (1990) (citing *Zanesville v. Fannan*, 53 Ohio St. 605, 42 N.E. 703 (1895)). In such situations, “the courts may not intervene and create an additional remedy.” *Fletcher v. Coney Island, Inc.*, 165 Ohio St.150, 154, 134 N.E.2d. 371 (1956).

Before R.C. §4117 was created, Ohio did not have a legal framework for governing public-sector labor relations. *See FCLEA*, 59 Ohio St.3d at 169. The result was “an abundance of litigation and controversy and, in fact, there were four hundred twenty-eight public employee work stoppages in Ohio between the years 1973 and 1980.” *State ex rel. Dayton Fraternal Order of Police Lodge No. 44 v. State Employment Relations Bd.*, 22 Ohio St. 3d 1, 5, 488 N.E.2d 181, 184-185, (1986). Thus, “the pre-Act system, if it can be called a system, was an ineffective and costly way to manage public-sector labor relations.” *Id.*

The Ohio General Assembly passed R.C. §4117, thereby establishing a comprehensive framework for addressing such issues, including the determination of the definition for a “public

employee” and “public employer.” See R.C. §4117.01. Because R.C. §4117 created a new series of rights and set forth remedies and procedures to be applied regarding those rights, the courts may not intervene and exercise jurisdiction over same. *FCLEA*, 59 Ohio St.3d at 170. Hence, “the question of who is the ‘public employer’ [and public employee] must be determined under R.C. 4117” and is within the exclusive jurisdiction of SERB. *Id.* See also *Cleveland Police Patrolmen's Ass'n v. White*, 109 Ohio App. 3d 329, 337, 672 N.E.2d 195, 200, (Cuyahoga App., 1996) (recognizing that the question of who a public employer is arises under R.C. 4117 and, therefore, must be decided by SERB); R.C. §4117.02(O) (governing how the State Employment Relations Board should handle substantial controversies with respect to SERB’s interpretation of R.C. §4117.01 *et seq.*). “Courts must afford due deference to [SERB’s] interpretation of R.C. Chapter 4117.” *Lorain City School Dist. Bd. of Educ. v. State Employment Relations Bd.*, 40 Ohio St. 3d 257, 259, 533 N.E.2d 264, 265 (1988).

In the present action, under the heading “R.C. §4117.01(C)”, Plaintiffs’ Complaint requested the court for declaratory judgment that Plaintiffs were “public employees” as defined in R.C. 4117.01(C). Plaintiffs assert Defendants have treated Plaintiffs as if they are not public employees and thus have violated their rights and robbed them of the rights and benefits to which they are entitled pursuant to R.C. §4117.01 *et seq.* and the applicable collective bargaining agreement. On its face, the definition of who is a “public employee” and the rights to which they are entitled require an interpretation of R.C. §4117.01 *et seq.* and the applicable contract between the employees and state agency. Accordingly, Plaintiffs’ alternative claims fall within the exclusive jurisdiction of SERB. See R.C. 4117.01 *et seq.*

In an attempt to escape SERB’s exclusive jurisdiction, Plaintiffs argue that triggering this jurisdiction was avoided by Plaintiffs’ decision not to file anything with SERB and omitting

statutory language from their Complaint. However, Plaintiffs' re-filed Complaint specifically identifies R.C. §4117.01(C) and §4117.22, requesting the Court to apply a liberal construction of the statute to recognize and declare that, despite Defendants' contentions, Plaintiffs are and have been public employees as defined by the statute. Moreover, even if Plaintiffs had omitted the statutory language, it is well-established that, in construing the claims presented in a complaint, the Court is not confined to the explicit language but, rather, will construe the language liberally to determine the implications of the drafter. *See Mitchell v. Lawson Milk Co.*, 40 Ohio St. 3d 190, 192, 532 N.E.2d 753, 756 (1988); *see also York v. Ohio State Highway Patrol*, 60 Ohio St. 3d 143, 573 N.E.2d 1063 (1991). Thus, Plaintiffs' request to be declared "public employees" and be granted privileges consistent with an applicable collective bargaining agreement must be read as invoking SERB's jurisdiction under R.C. §4117 regardless of Plaintiffs' contentions to the contrary.

Plaintiffs incorrectly argue that their Complaint does not allege conduct that may fairly be construed as activity within SERB's statutory jurisdiction and/or should be subject to the court's jurisdiction under R.C. 9.06(K). The relevant issues raised regarding Plaintiffs' alternative claim are not the allegations related to violations of the Ohio Constitution. Rather, Plaintiffs' Complaint explicitly alleges that the State of Ohio, acting through Defendants, retains ultimate control over the subject prisons; that the State has improperly deprived Plaintiffs of the wages, benefits, pensions and other rights to which they are entitled as public employees under R.C. §4117.01 *et seq.* and the applicable collective bargaining agreement. Each of these issues are within the exclusive realm of R.C. §4117.01 *et seq.* and properly brought before SERB pursuant to the protocol adopted therein. SERB's determination of these issues does not impact

Plaintiffs' Constitutional claims, nor do Plaintiff's Constitutional claims rely on SERBS determination in this regard.

Plaintiffs' final attempt to circumvent SERB presents an incredibly confusing and incongruous argument that warps the very definition of the requested remedy. Specifically, Plaintiffs argue that MTC is "by definition" a private employer and Plaintiffs working for MTC are private employees, such that SERB does not have jurisdiction over them. Simultaneously Plaintiffs request the Court to issue declaratory judgment that MTC is a "public employer" and that Plaintiffs are "public employees."

Declaratory judgment is governed by R.C. 2721.01 *et seq.* The Statute states in pertinent part "courts of record may declare rights, status, and other legal relations whether or not further relief is or could be claimed." Thus, the purpose and impact of a declaratory judgment is to affirm existing rights, duties and obligations. It is a judicial recognition and declaration of fact, not a transformative decree.

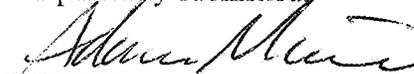
Accordingly, Plaintiffs' argument lacks merit on its face. Either Plaintiffs' status as "public employees" under R.C. §4117.01 has persisted despite the Operation & Management contract with MTC such that Plaintiffs' requested relief must be sought through SERB; or Plaintiffs are "private employees" such that they are not entitled to declaratory judgment. In either circumstance, the trial court lacks jurisdiction to determine the resolution of such allegations and Plaintiffs' Complaint was properly dismissed in this regard.

### **CONCLUSION**

For the foregoing reasons, Plaintiffs-Appellees/Cross-Appellants have failed to identify a substantial Constitutional question or a matter of public and great general interest. Accordingly,

Appellant MTC respectfully requests this Court deny Plaintiffs-Appellees/Cross-Appellants Discretionary Appeals.

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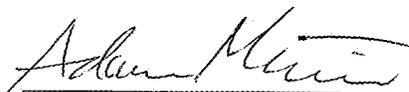
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Management & Training Corporation

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing Memorandum in Support of Jurisdiction of Defendant-Appellant Management & Training Corporation was served via U.S. mail upon the following this 28<sup>th</sup> day of April, 2014:

<p>Michael Dewine (0009181) Attorney General of Ohio</p> <p>Eric E. Murphy (0083284) State Solicitor and Counsel of Record <a href="mailto:Eric.murphy@ohioattorneygeneral.gov">Eric.murphy@ohioattorneygeneral.gov</a></p> <p>Richard Coglianesse, Esq. (0066830) Erin Butcher-Lyden (0087278) William J. Cole (0067778) Assistant Attorneys General</p> <p>Megan M. Dillhoff (0090227) Deputy Solicitor Constitutional Offices Section 30 East Broad St. 16<sup>th</sup> Floor Columbus, OH 43215 <a href="mailto:Richard.Coglianesse@ohioattorneygeneral.gov">Richard.Coglianesse@ohioattorneygeneral.gov</a> <a href="mailto:Erin.Butcher-Lyden@ohioattorneygeneral.gov">Erin.Butcher-Lyden@ohioattorneygeneral.gov</a> <a href="mailto:William.Cole@ohioattorneygeneral.gov">William.Cole@ohioattorneygeneral.gov</a> P: 614-466-8980 F: 614-446-5087</p> <p><i>Attorneys for Defendants-Appellants: State of Ohio, Governor John R. Kasich, Attorney General Mike DeWine, Secretary of State Jon Husted, Auditor of State David Yost, Ohio Department of Rehabilitation and Correction and Director, Gary C. Mohr, Ohio Department of Administrative Services and Director, Robert Blair, Treasurer Josh Mandel, and the Office of Budget and Management and Director Timothy S. Keen.</i></p>	<p>James E. Melle (0009493) 167 Rustic Place Columbus, Ohio 43214-2030 <a href="mailto:Jimmelle43@msn.com">Jimmelle43@msn.com</a> 614-271-6180 Attorney for Appellees</p> <p>Charles R. Saxbe (0021952) James D. Abrams (0075968) Celia M. Kilgard (0085207) Taft, Stettinius &amp; Hollister, LLP 65 E. State St., Suite 1000 Columbus, OH 43215-3413 P: 614-221-2838 F: 614-221-2007 <a href="mailto:Rsaxbe@taftlae.com">Rsaxbe@taftlae.com</a> <a href="mailto:Jabrams@taftlaw.com">Jabrams@taftlaw.com</a> <a href="mailto:Ckilgard@taftlaw.com">Ckilgard@taftlaw.com</a></p> <p><i>Attorneys for Corrections Corporation of America and CCA Western Properties, Inc.</i></p> <p>Nicholas A. Iarocci, Esq. (0001937) Ashtabula County Prosecuting Attorney 25 West Jefferson Street Jefferson, OH 44047 P: 440-576-3662 F: 440-576-3600 <a href="mailto:TLSartini@ashtabulacounty.us">TLSartini@ashtabulacounty.us</a></p> <p><i>Attorney for Dawn M. Cragon, Roger A. Corlett and Judith A. Barta</i></p>
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