

ORIGINAL

IN THE SUPREME COURT OF OHIO

PHILLIP B. DODD, et al.,

Case No. 2013-1730

Plaintiffs-Appellants

v.

JOHN CROSKEY, et al.,

Defendants-Appellees

FILED
JUL 14 2014
CLERK OF COURT
SUPREME COURT OF OHIO

**MEMORANDUM IN OPPOSITION TO MOTION TO STRIKE BRIEF OF APPELLEE
HARRIET C. EVANS**

Appellants have moved to strike the Brief of Appellee Harriet C. Evans. This Motion is not well taken and should be denied for the reasons that follow.

By way of background, Appellants represent that they did not timely file their Reply Brief and the Clerk accordingly refused to accept the filing. This Appellee has no way of knowing the circumstances surrounding this filing, as she has yet to receive a service copy of this Reply Brief. In any event, this would seem to have little to do with the merit, or lack of merit, of the Motion to Strike. The Appellants submit the rejection of the tardy filing implies that the Appellees "should be held to the same exacting standard as the Appellants." It is respectfully submitted that the Appellees' Briefs were timely filed, and the same standard has already been applied to all parties, namely that Briefs must be timely filed.

Appellants have suggested to this Court that this Appellee's Brief should be stricken to the extent that it refers to a Second Proposition of Law. It is said that this portion of the Brief does not comply with S.Ct.Prac.R. 16.03(B)(1). That Rule provides:

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The appellee's brief shall comply with the provisions in S.Ct.Prac.R. 16.02(B), answer the appellant's contentions, and *make any other appropriate contentions as reasons for affirmance of the order or judgment from which the appeal is taken.* (emphasis added)

The argument under the Appellee's Second Proposition of Law closes with the following language:

In the event that this Court would accept the Appellants' construction of the statute before the Court, this would provide an additional reason why the Decision of the Court of Appeals should be affirmed. (Merit Brief of Appellee Harriet C. Evans, p. 9)

Given the direction of the Rule and the tenor of the argument presented under this Appellee's Second Proposition of Law, it is abundantly clear that Appellee's Brief is entirely compliant with the Rule. This Honorable Court is respectfully urged to overrule the Motion to Strike.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by First Class U.S. Mail upon the following:

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