

ORIGINAL

IN THE SUPREME COURT OF OHIO

Hope Academy Broadway Campus, et al.,	:	
	:	Case No. 2013-2050
Appellants,	:	
	:	On Appeal from the Franklin County
v.	:	Court of Appeals, Tenth Appellate
	:	District
White Hat Management, LLC, et al.,	:	
	:	
Appellees.	:	

**APPELLANTS'<sup>1</sup> MEMORANDUM OPPOSING MOTION TO SUPPLEMENT RECORD**

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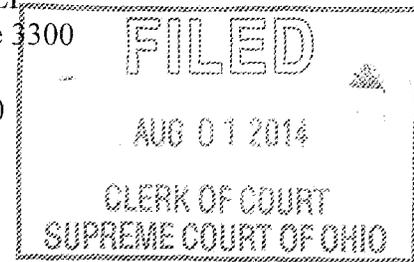
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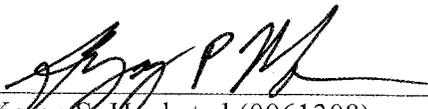


<sup>1</sup> Appellants include Hope Academy Broadway Campus (in receivership); Hope Academy Cathedral Campus (in receivership); Hope Academy Lincoln Park Campus, n/k/a Lincoln Prep; Hope Academy Chapelside Campus, n/k/a Green Inspiration Academy; Hope Academy University Campus, n/k/a Middlebury; Hope Academy Brown Street Campus, n/k/a Colonial Prep; Life Skills Center of Cleveland, n/k/a Invictus; Life Skills Center of Akron, n/k/a Towpath; Hope Academy West Campus, n/k/a West Prep; and Life Skills Center Lake Erie, n/k/a Lake Erie International.

## Memorandum

The Court should deny White Hat's<sup>2</sup> motion to supplement the record because White Hat has provided no justification for placing additional evidentiary material before this Court, which was not before the Tenth District Court of Appeals. White Hat asks the Court to consider an affidavit that was executed July 28, 2014. S.Ct.Prac.R. 15.08 provides that a supplemental record may be certified and transmitted to the Court, but the rule applies only to existing parts of the record that were not transmitted to the Court in the first instance. The rule does not contemplate adding new evidentiary material to the record. White Hat has not explained why the Court should circumvent the longstanding rule that "[a] reviewing court cannot add matter to the record before it, which was not a part of the trial court's proceedings, and then decide the appeal on the basis of the new matter." *State v. Ishmail*, 54 Ohio St.2d 402, 377 N.E.2d 500 (1978), paragraph one of the syllabus. White Hat's motion to supplement the record, therefore, should be denied.

Respectfully submitted,



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<sup>2</sup> "White Hat" refers to Appellees White Hat Management, LLC; WHLS of Ohio, LLC; HA Broadway, LLC; HA Chapelside, LLC; HA Lincoln Park, LLC; HA Cathedral, LLC; HA High Street, LLC; HA Brown Street, LLC; LS Cleveland, LLC; LS Akron, LLC; HA West, LLC; and LS Lake Eric, LLC

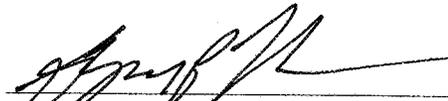
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### **Proof of Service**

It is hereby certified that a copy of the foregoing was served via U.S. mail this 1st day of August 2014, on:

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