

ORIGINAL

IN THE SUPREME COURT OF OHIO

CASE NO. 2014-1087

IN THE MATTER OF:

MICHAEL BRICE KELLER,  
KELLER LAW OFFICE LLC

VS

STATE OF OHIO,  
GOVERNOR JOHN KASICH,  
ATTY GEN. MICHAEL DEWINE

REQUEST FOR ORAL HEARING

---

Michael Brice Keller hereby requests that the Supreme Court conduct an Oral Hearing on all issues. Memorandum in Support is attached.

Respectfully Submitted,



**Michael "Brice" Keller**

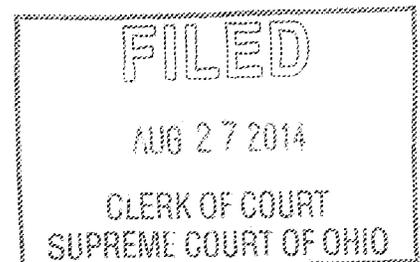
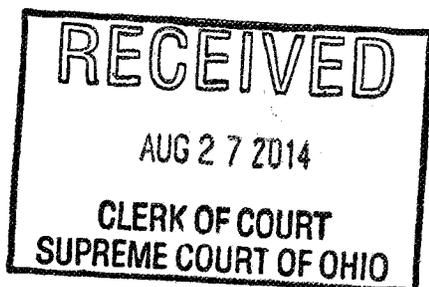
Attorney # 90210

Keller Law Office LLC

5336 Tucson Dr, Dayton, OH 45417

937-5400-LAW

Brice@BriceKellerLaw.com



## **MEMORANDUM IN SUPPORT**

### **I. INTRODUCTION**

I, Michael Brice Keller am a licensed and practicing criminal defense attorney in the State of Ohio. I have reported that there is a problem in the Criminal Process in this State whereby such problem persists without remedy at law at present time. I have brought such information to the Court holding equitable power over said system. This Court has inherent power to appoint as it so chooses to determine whether any wrongdoing, malfeasance, or mismanagement is present. The Governor, Attorney General, and other local prosecutors are all subject to this Court when they engage in the Practice of Law before the Criminal Courts.

### **II. STATEMENT OF FACTS**

Michael Brice Keller is a Licensed and practicing attorney in the State of Ohio. Keller Law Office LLC is an Ohio Limited Liability Company. Both relator parties are citizens of the state of Ohio and are subject to the rights, duties and causes of action afforded to same. The imposition of such trial taxes has affected clients of Keller Law Office LLC and Michael Brice Keller individually.

Keller Law Office LLC is a private practice that gains revenue by providing legal defense services to those being prosecuted by the State. In matters where the State has impartially, arbitrarily or otherwise imposed an unfair burden on such clients' individual access to justice, such a claim may be made individually or collectively as a class. Additionally, trial taxes stifle legal development, specifically in the establishment of defenses and legal innovation. This injury is a collective one and is not able to be recognized in the individual but must be brought in a collective action, whereby, Keller Law Office LLC or other like party would present information on behalf of the citizenry.

Michael Brice Keller, individually is one such aggrieved individual whereby, he has informed the Governor's Office and Members of the Legislative branch of necessary reforms concerning Medical Marijuana and unjust/impartial enforcement of Marijuana Laws Generally.

Michael Brice Keller is a Disabled veteran and is being denied the right to personal use of Marijuana for treatment of PTSD (under legally permissible conditions). The establishment of a medical marijuana defense is artificially being prevented by strategic and selective enforcement. The persisting and ever-present threat of selective and harsh punishment contributes to strengthening of the Marijuana Black Market and endangering the public, which is increasingly in favor of

Marijuana Reform. Where the government uses fear and unfair bargaining power to secure a plea bargain where no jury force was likely to exist, such is possibly an abuse of power. Michael Brice Keller is among a class of people who have unfair bargaining power to protect themselves proactively from such oppressive tactics. While the deprivation of individual liberty establishes the basis for appeal in most cases, a collective deprivation of liberty is subject to the rule, discretion and power of the Supreme Court for Redress.

### **III. ARGUMENT**

#### **A. Marijuana Enforcement without a Medical Marijuana Defense to Possession and/or Cultivation is Unconstitutional and Artificially Delayed by the Trial Tax.**

Marijuana has known medical value and yet remains illegal in Ohio. With regard to veterans suffering from PTSD, Children with Dravet Syndrome, Persons with HIV/AIDS, and a host of other medical conditions, these groups represent classes of people each with a Constitutional claim related to access to medicine. Harsh stigmatization and prosecution standards make a direct appeal remedy impractical if not impossible. The first step in establishing a medical marijuana defense is artificially delayed at present but could be

remedied through recognition of a collective private action against overzealous prosecution.

**B. Prosecutorial action and its effect on civil disobedience.**

At present there are substantial injuries to the public due to Marijuana Prohibition that if left unattended have continuing costs and but for the harsh enforcement of same would possibly have been remedied previously. Specifically, individuals are at a significant disadvantage unique to marijuana in regards to civil disobedience precisely as a result of selective enforcement, while the question only remains as to whether this is intentional or unintentional, the former would prompt inquiry as to whom was intended to benefit, hence the need for a collective action/representation.

There are significant known consequences of Marijuana Prohibition that if determined to be unjust would constitute violations of the public trust.

1. The cost of enforcing Marijuana Prohibition in fiscal terms.
2. Racial disparity in prosecutions and sentencing.
3. Teen use correlation (specifically that a black market increases youth access).
4. Denial of a legal and regulated medical market.

5. Criminal labeling and stigmatization without scientific proof of societal harm.

6. Criminal labeling and stigmatization without scientific proof of Individual harm.

**B. Basis for Action in Mandamus and Prociendo.**

Mandamus and Prociendo are both extraordinary remedies for which "Duty" under *State ex rel Van Curren v. Adult Parole Auth.*, 45 Ohio St.2d 298., is a matter for this court to decide as an issue on the merits, not summarially. Furthermore, the power of whether the Court has the power to issue a writ of prociendo remains in the discretion of the Supreme Court. Keller Law Office LLC and Michael Brice Keller consent to the imposition of the three part test as contended by the Attorney General in Motion to Dismiss and provides response below. *State ex rel Ervin v. Barker*, 136 Ohio St.3d 160, 2013-Ohio-3171; *State ex rel. Sawicki v. Court of Ct. Com. Pl. of Lucas Cty.* 126 Ohio St.3d 198, 2010-Ohio-3299. Keller Law Office and Michael Brice Keller contend that this issue is not one that could have been raised on direct appeal.

**1. Clear legal right to the requested relief.**

Michael Brice Keller and Keller Law Office may have a clear legal right to the relief sought. This issue is one of merit and not summary judgment. Nonetheless, the inverse and summary argument is that

no one has rights against such actors would constitute an impartial advantage the Elected officials in their practice of the criminal law. Michael Brice Keller as an individual attorney, subject to an oath of office before the court and a citizen a right to pursue claims may have a clear legal right to hold those in elected office accountable. Keller Law Office LLC may further have a right brought in the court for its various clients, past and future, whether named or unnamed.

## **2. Clear Legal duty to perform requested relief.**

The State of Ohio, Governor, and Attorney General are subject to the courts of this state and must follow the rules of practice, local rules of the courts and enforce judgments. The Respondents would and do have a clear legal duty to perform some if not all of the requested relief. Public disclosures, complying with legal requests, court subpoenas and similar actions are inherent duties of the offices they hold. To summarily adjudge that the relief requested is outside of these Office Holders' duties is to release all accountability. Conversely, the merits and issues of this case are to determine what those duties are whether or not the particular complainant is entitled to relief or not.

## **3. No adequate remedy at law.**

There is no adequate remedy at law other than to make such request of the Supreme Court. The practice of Law is a self-regulated

profession to which we are each, including prosecutors, subject to the rules of ethics and the Judgments of the Supreme Court.

### **C. Possible Theories and Issues of Factual Dispute.**

The trial tax is an important issue whereby the state has an inordinate advantage monetarily and such stifles legal development. The recidivism, private prisons, and a broken probation labyrinth serve to both disguise and supercharge this unfair, stifled bargaining position. While the Attorney General argues that the state is not responsible to carry out any particular action, this is irreconcilable with the idea that these offices exist solely to represent the interests of people and are by definition accountable to them and to this court.

## **IV. CONCLUSION**

Michael Brice Keller and Keller Law Office LLC are prepared to present evidence, through witness testimony at a hearing to determine whether this trial tax has stifled or is stifling legal development and burdening the populous with an undue influence in plea bargaining to the detriment of criminal defendants and the population at large.

STATE OF OHIO  
COUNTY OF MONTGOMERY, SS:

MICHAEL BRICE KELLER, being first duly cautioned and sworn, represents that he understands and affirms the information contained in this document. He further under oath presents the foregoing in response to discovery requests in an action to which he is a party and that the statements herein are truthful as applied to the facts as they are or he reasonably believes.

  
MICHAEL BRICE KELLER

Sworn to before me and subscribed in my presence by Michael Brice Keller on this, the 25<sup>th</sup> Day of AUGUST, 2014.

  
Notary Public  
My Commission Expires:



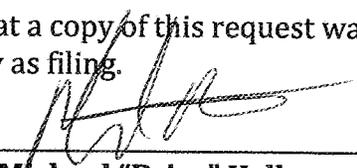
Michael Brice Keller  
Attorney At Law  
Notary Public, State of Ohio  
My Commission has no expiration date  
Sec. 147.03 R.C.

Reviewed and approved as to form by:

  
**Michael "Brice" Keller**  
Attorney # 90210  
Keller Law Office LLC  
5336 Tucson Dr, Dayton, OH 45417  
937-5400-LAW  
Brice@BriceKellerLaw.com

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a copy of this request was served upon counsel for the Defendants on the same day as filing.



---

**Michael "Brice" Keller**  
**Attorney at Law**