

ORIGINAL

IN THE SUPREME COURT OF OHIO

THE STATE OF OHIO EX REL. )  
COMMITTEE FOR CHARTER )  
AMENDMENT PETITION TO LIMIT )  
THE USE OF PHOTO-MONITORING )  
DEVICES IN THE CITY OF MAPLE )  
HEIGHTS, OHIO, et al. )  
)  
Relators, )  
)  
vs. )  
)  
CITY OF MAPLE HEIGHTS, OHIO, et al. )  
)  
Respondents. )

Case No. 2014-1478  
  
  
  
  
  
Expedited Election Case,  
S.Ct.Prac.R. 12.08

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**STATEMENT OF INTEREST OF AMICUS CURIAE  
CUYAHOGA COUNTY BOARD OF ELECTIONS**

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TIMOTHY J. MCGINTY (0024626)  
Prosecuting Attorney of Cuyahoga County, Ohio  
BRENDAN R. DOYLE \* (0078505)  
Assistant Prosecuting Attorney  
\* *Counsel of Record*  
The Justice Center, Courts Tower, 8<sup>th</sup> Floor  
1200 Ontario Street  
Cleveland, Ohio 44113  
Tel: (216) 443-7795/Fax: (216) 443-7602  
[bdoyle@prosecutor.cuyahogacounty.us](mailto:bdoyle@prosecutor.cuyahogacounty.us)

*Counsel for Cuyahoga County Board of Elections*

**RECEIVED**  
SEP 17 2014  
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**FILED**  
SEP 17 2014  
CLERK OF COURT  
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## **MEMORANDUM IN SUPPORT**

The Cuyahoga County Board of Elections (hereinafter "CCBOE"), by and through undersigned counsel, hereby submits this Statement of Interest in the Case of *State ex rel. Committee for Charter Amendment Petition to Limit the Use of Photo-Monitoring Devices in the City of Maple Heights, Ohio, et al. v. City of Maple Heights, et al.*, Case No. 2014-1478.

## **PROCEDURAL HISTORY**

On August 25, 2014, Relators, Committee for Charter Amendment Petition and Celestine Wilburn (hereinafter "Relators"), filed a Complaint for Writ of Mandamus and Award of Attorney Fees against Respondents, Alex F. Adams, Edwina Agee, William Christopher Brown, Anthony Cefaratti, Ronald C. Jackson, Antoinette Jones, Richard D. Trojanski, and the City of Maple Heights, Ohio (hereinafter "Respondents"). On September 8, 2014, Respondents filed their Answer to the Complaint. Relators filed their merit brief on September 11, 2014, along with supplemental evidence. On September 15, 2014, Respondents filed their merit brief with evidence.

## **STATEMENT OF CUYAHOGA COUNTY BOARD OF ELECTIONS**

The purpose of this filing is not to join in the arguments of either Relators or Respondents. Rather, because the decision of this Honorable Court may impact the responsibilities of the CCBOE relative to the November 4, 2014, General Election (the "2014 General Election"), the purpose of this filing is to inform the Court of timeline and deadlines under which the CCBOE is currently operating in order to prepare for the 2014 General Election. The CCBOE will comply with the final decision of this Court and provides this information as a service to the Court.

The CCBOE is actively preparing for the 2014 General Election and, as part of that preparation, has created a schedule to be followed to ensure that voters in Cuyahoga County timely receive accurate absentee and election-day ballots. See Affidavit of Cuyahoga County Board of

Elections Director Pat McDonald, attached as Exhibit A. On September 8, 2014, the CCBOE voted to certify the remaining candidates and issues for the 2014 General Election. *Id.* The timeline and deadlines for the CCBOE going forward are:

- On September 20, 2014, the CCBOE will mail absentee ballots to uniformed and overseas voters pursuant to the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA).
- On September 24, 2014, the CCBOE will print absentee and election-day ballots with the candidate names and issues certified by the CCBOE.
- On September 30, 2014, the CCBOE will mail absentee ballots to voters who have submitted to the CCBOE absentee ballot applications. On that date, the CCBOE will also commence in-house voting at its headquarters.
- On October 6, 2014, the CCBOE will begin testing the optical scan ballots with the ballot tabulation machines that will be used on November 4, 2014.

*Id.*

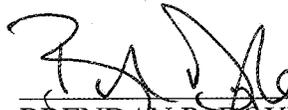
With regard to the City of Maple Heights, should this Court order after September 30, 2014, the issue in question be placed on the ballot, the CCBOE will cancel all ballots voted either absentee or in-house for the City of Maple Heights and promptly issue new ballots by mail to the voters with a letter explaining the reason for the cancellation of their ballots and provide instructions for re-voting. *Id.* This procedure is in accordance with CCBOE policy and election best practices. *Id.* As of September 16, 2014, there have been five hundred and fifty-seven (557) vote-by-mail applications returned to the CCBOE by residents of Maple Heights and one (1) vote-by-mail application through UOCAVA returned to the CCBOE. *Id.*

Finally, in order to effectively, efficiently, and accurately manage the early voting and election day voting, absentee and election-day ballots cannot be changed after testing on the ballot tabulation machines, which is scheduled for October 6, 2014. This is because the CCBOE cannot create and proof new ballot files, print new ballots, test new ballots, test the tabulation equipment, pack the tabulation equipment into bags, and deliver the tabulation equipment to the polling locations in that shortened time period. Consequently, any order of this Honorable Court issued after October 6, 2014, that would result in a change to absentee and election-day ballots would result in the CCBOE being unable to hold the election on November 4, 2014.

Respectfully submitted,

TIMOTHY J. MCGINTY, Prosecuting Attorney  
of Cuyahoga County

By:



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BRENDAN R. DOYLE \* (0078505)

Assistant Prosecuting Attorney

\* *Counsel of Record*

The Justice Center, Courts Tower, 8<sup>th</sup> Floor

1200 Ontario Street

Cleveland, Ohio 44113

Tel: (216) 443-7795/Fax: (216) 443-7602

[bdoyle@prosecutor.cuyahogacounty.us](mailto:bdoyle@prosecutor.cuyahogacounty.us)

*Counsel for Cuyahoga County Board of Elections*

**PROOF OF SERVICE**

Pursuant to S.Ct.Prac.R. 10.9(C), a true copy of the foregoing Answer of Respondents was served this 17<sup>th</sup> day of September 2014 by e-mail upon:

CURT C. HARTMAN  
The Law firm of Curt C. Hartman  
7394 Ridgpoint Drive, Suite 8  
Cincinnati, Ohio 45230

HARTMANLAWFIRM@FUSE.NET

CHRISTOPHER P. FINNEY  
Finney Law Firm LLC  
4270 Ivy Pointe Blvd., Suite 225  
Cincinnati, Ohio 45245

CHRIS@FINNEYLAWFIRM.COM

*Counsel for Relators*

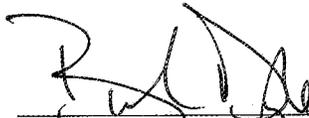
JAMES A. CLIMER  
JEFFREY T. KAY  
FRANK H. SCIALDONE  
Mazanec, Raskin & Ryder Co., L.P.A.  
100 Franklin's Row  
34305 Solon Road  
Cleveland, Ohio 44139

JCLIMER@MRRLAW.COM  
JKAY@MRRLAW.COM  
FSCIALDONE@MRRLAW.COM

JOHN J. MONTELLO  
303 Columbus  
Bedford, Ohio 44146

JMONTELLO@BEDFORDLAWYERS.COM

*Counsel for Respondents*



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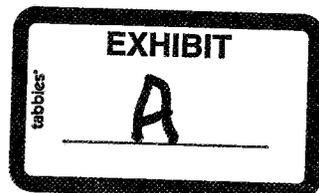
BRENDAN R. DOYLE \*  
Assistant Prosecuting Attorney  
\* *Counsel of Record*

STATE OF OHIO            )  
                                  ) SS.  
CUYAHOGACOUNTY        )

AFFIDAVIT

Now comes the Affiant, Pat McDonald, being first duly sworn according to law and states:

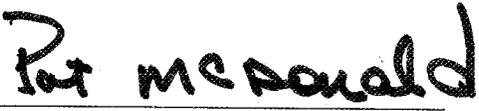
1. I have personal knowledge of the facts set forth below and make this affidavit in my official capacity as the Director of the Cuyahoga County Board of Elections (“CCBOE”).
2. I have served as Director of the CCBOE since January of 2013.
3. CCBOE is working under a stringent election schedule to ensure that voters in Cuyahoga County timely receive accurate absentee ballots and election-day ballots.
4. On September 8, 2014, the CCBOE voted to certify the remaining candidates and issues for the November 4, 2014, General Election.
5. On September 20, 2014, the CCBOE will mail absentee ballots to uniformed and overseas voters pursuant to the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA).
6. On September 24, 2014, the CCBOE will print absentee and election-day ballots with the candidate names and issues certified by the CCBOE.
7. On September 30, 2014, the CCBOE will mail absentee ballots to voters who have submitted to the CCBOE absentee ballot applications. On that date, the CCBOE will also commence in-house voting at its headquarters.
8. On any date after September 30, 2014, should it be ordered that a new municipal issue be placed on the ballot, the CCBOE will cancel all ballots voted either absentee or in-house for that municipality and issue new ballots by mail to the voters with a letter explaining



the reason for the cancellation of their ballots and provide instructions for re-voting. This procedure is in accordance with CCBOE policy and election best practices.

9. As of September 16, 2014, there have been five hundred and fifty-seven (557) vote-by-mail applications returned to the CCBOE by residents of Maple Heights and one (1) vote-by-mail application through UOCAVA returned to the CCBOE.
10. On October 6, 2014, the CCBOE will begin testing the optical scan ballots with the ballot tabulation machines that will be used on November 4, 2014.
11. In order to effectively, efficiently, and accurately manage the early voting and election day voting, ballots cannot be changed after testing on the ballot tabulation machines on October 6, 2014.

AFFIANT FURTHER SAYETH NAUGHT

  
Pat McDonald

Sworn to and subscribed in my presence this 16<sup>th</sup> day of September, 2014.

  
Notary Public



PATRICK DIVALLIA  
Notary Public, State of Ohio  
My Commission Expires  
8-11-2016