

ORIGINAL

IN THE SUPREME COURT OF OHIO

JOHN HAIGHT, et al.

Plaintiffs/Appellees,

vs.

THE CHEAP ESCAPE COMPANY, et al.

Defendants/Appellants.

* SUPREME COURT CASE NO.:
2014-1241

* On appeal from the Montgomery
County Court of Appeals, Second
Appellate District

* Court of Appeals Case No. 25983

TR. CT. NO. 2012 CV 00946

APPELLEE, MARK KOSIR'S MOTION TO REALIGN

Appellee, Mark Kosir, hereby moves the Court to realign the parties so that he is an Appellant in this matter because he is a party with interests adverse to John Haight and Christopher Pence. A supporting Memorandum is attached.

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RECEIVED
OCT 30 2014
CLERK OF COURT
SUPREME COURT OF OHIO

FILED
OCT 30 2014
CLERK OF COURT
SUPREME COURT OF OHIO

MEMORANDUM IN SUPPORT

Although Mark Kosir has been named an Appellee in this case, it is evident from the Memorandum in Support of Jurisdiction that his interests are adverse to John Haight and Christopher Pence. It is appropriate for this Court to arrange the parties according to their sides in the dispute and ultimate interests.

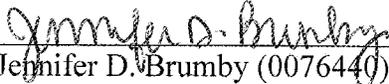
For the purposes of this appeal, Mark Kosir's interests are closely aligned with Joan and Robert Minchak. On February 19, 2013, Plaintiff Appellees filed their motion for a declaratory judgment regarding the applicability and constitutionality of the definition of "employee" pursuant to O.R.C. 4111.14(B)(1). On July 19, 2013, Plaintiffs amended their complaint to include Mark Kosir as an additional defendant. Plaintiffs alleged that Mark Kosir was also an "employer" pursuant to R.C. 411.14. On October 3, 2013, the trial court entered its Decision, Order and Entry of Plaintiffs' Motion for Declaratory Judgment Regarding the Applicability and Constitutionality of O.R.C. 4111.14(B)(1). The court ruled O.R.C. 4111.14(B)(1) constitutional and applicable to actions brought pursuant to Article II, Section 34a, of the Ohio Constitution.

On June 6, 2014, the Second District Court of Appeals substantially altered Ohio's existing minimum wage law by striking down Ohio's Minimum Wage Act, specifically, R.C. 4111.14(B)(1), a statute duly enacted by the Ohio General Assembly, as unconstitutional. The court of appeals reversed the decision of the trial court in holding the statute invalid based on its finding that a "clear conflict" exists between the definition of an employee in R.C. 4111.14(B)(1), and the definition of an employee in Article II, Section 34a of the Ohio Constitution.

On July 21, 2014, Appellants Joan and Robert Minchak filed their Notice of Appeal and Memorandum in Support of Jurisdiction. On August 7, 2014, Mark Kosir filed his response and incorporated by reference, as if fully re-written, Appellants' Memorandum in Support of

Jurisdiction. For these reasons, Mark Kosir respectfully requests that this Court recognize that he should be realigned with the Appellants in this case.

Respectfully submitted,


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been forwarded this 29th day of October, 2014 by U.S. Mail, postage pre-paid upon the following:

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