

ORIGINAL

IN THE SUPREME COURT OF OHIO

CARLEAN DATES, :
 Relator, : Case No. 2015-0238
 v. : Original Action in
 OHIO FIRST DISTRICT COURT OF : Mandamus
 APPEALS et al., :
 Respondents. :

**RESPONSE OF RESPONDENT DAVID A. WALLACE
 TO PETITIONER CARLEAN DATES' MOTION TO STRIKE RESPONDENT
 DAVID A. WALLACE'S MOTION TO DISMISS**

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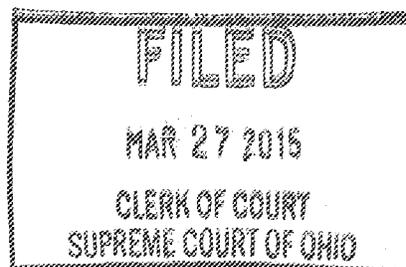
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 David A. Wallace*



The sole basis for Petitioner Carlean Dates' Motion to Strike is that she allegedly did not receive Respondent David A. Wallace's Motion to Dismiss until March 16, 2015. Ms. Dates' Motion is without merit and should be denied.

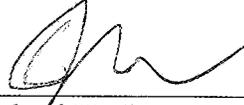
In compliance with the Supreme Court of Ohio Rules of Practice, Mr. Wallace, by and through his counsel, served Ms. Dates with his Motion to Dismiss by depositing the Motion to Dismiss with the United States mail on March 6th (the day it was filed). Mr. Wallace also included with the motion to dismiss a certificate of service in compliance with the Ohio Supreme Court's Rules which accurately stated that the Motion to Dismiss had been mailed to Ms. Dates on March 6, 2015. *See* S.Ct.Prac.R. 3.11(C)(1) and (D)(1)(a) ("The certificate of service shall state the date and manner of service and identify the names of the persons served and shall be signed by the party or the amicus curiae who files the document"). Mr. Wallace notes that the Ohio Supreme Court Rules of Practice specifically provide that "[s]ervice by mail is effected by depositing the copy with the United States Postal Service for mailing." *See* S.Ct.Prac.R. 3.11(C)(1).

As set forth in the certificate of service, Mr. Wallace, by and through his counsel, fully complied with the Ohio Supreme Court's service rules in mailing a copy of his Motion to Dismiss to Ms. Dates at the address she provided in this case. Importantly, Ms. Dates does not claim that her service copy of the Motion to Dismiss was improperly addressed and, indeed, she concedes she in fact did receive the Motion to Dismiss.

As such, Mr. Wallace fully complied with the applicable Ohio Supreme Court Rules of Practice for serving the Motion to Dismiss. There is thus no basis whatsoever for striking the Motion to Dismiss in these circumstances. Moreover, Ms. Dates has not responded to Mr. Wallace's Motion to Dismiss or requested additional time in which to do so. The Motion to

Dismiss is therefore unopposed. Accordingly, Mr. Wallace respectfully requests the Court grant his Motion to Dismiss and dismiss Ms. Dates' Complaint for Writ of Mandamus against him with prejudice.

Respectfully submitted,



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David A. Wallace

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Response of Respondent David A. Wallace to Petitioner Carlean Dates' Motion to Strike David A. Wallace's Motion to Dismiss has been served upon the following, via U.S. Mail, postage prepaid, this 27th day of March, 2015:

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