

**IN THE SUPREME COURT OF OHIO**

State of Ohio, ex rel. :  
Stephanie Y. Clough, :  
 :  
Relator, : Case No. 14-1122  
 :  
v. :  
 : (Original Action in Mandamus)  
Franklin County Children Services, et al, :  
 :  
Respondents. :  
 :

**MOTION OF RESPONDENTS**  
**FRANKLIN COUNTY CHILDREN SERVICES, EXECUTIVE**  
**DIRECTOR CHARLES M. SPINNING AND ANNE O’LEARY TO CLARIFY THE MAY**  
**28, 2015 REPORT OF SPECIAL MASTER**

Now come Respondents Franklin County Children Services (“FCCS”), Executive Director Charles M. Spinning, and Anne O’Leary, Chief Legal Counsel for FCCS, and hereby respectfully move the Court to consider their clarification of the May 28, 2015 Report of Special Master.

Respectfully submitted,

**RON O’BRIEN**  
**PROSECUTING ATTORNEY**  
**FRANKLIN COUNTY, OHIO**

*s/Nick A. Soulas, Jr.*  
Nick A. Soulas, Jr. 0062166  
First Assistant, Civil Division  
Amy L. Hiers 0065028  
Assistant Prosecuting Attorney  
373 South High Street, 13<sup>th</sup> Floor  
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Counsel for Respondents

## MEMORANDUM IN SUPPORT

On April 24, 2015, the Court appointed Retired Judge Kenneth Spicer to serve as a Special Master in this case to review the underlying Franklin County Children Services' records. On May 28, 2015, Special Master Spicer filed his report. The pages of the report are not numbered. Respondents respectfully submit that some of the notations in the report regarding the investigatory records at issue in this case need to be clarified, as follows:

On the third page (not including the cover page) of the report, Special Master Spicer notes in the first full paragraph that the "Family Assessment Detail" ends with a signature page but that no signatures are affixed. However, electronic signatures of the caseworker who authored the assessment and the supervisor who reviewed it are contained on the signature page. This document is created electronically, not in hard copy format, and therefore, electronic signatures rather than handwritten signatures are used. (Affidavit of Anne C. O'Leary, attached, ¶ 3.)

In the second paragraph of the same page, Special Master Spicer notes that pages twenty (20) through twenty-four (24) were described as "Agency Safety Plan Screening." These pages are actually described as "Agency Safety Plan Summary."

In the third paragraph of the same page, Special Master Spicer notes that, "[s]ome information was also included in this portion of the file from the Children's Advocacy Center (CAC), which had participated in the investigation of the allegations via interviews and certain physical exams." While some information from the CAC was included in the investigatory records, CAC did not participate in the investigation of the allegations with FCCS. Relator initiated contact with the CAC and then the CAC notified FCCS of what the CAC planned to do

and provided FCCS with the results of its July 9, 2009 assessment. (Affidavit of Anne C. O’Leary, attached, ¶ 4.)

In the last paragraph of the same page, Special Master Spicer notes that there is “a letter dated July 13, 2014 referencing a recommendation of counseling for the parents.” The letter is actually dated July 13, 2009, and the content description is inaccurate, *i.e.*, the letter does not reference a recommendation of counseling for the parents.

Finally, Respondents would note that Special Master Spicer was not provided with any records submitted by Relator after the investigation. The only records Relator has sought through this action are investigatory records, and thus, those are the only records that were provided to Special Master Spicer to review.

Respectfully submitted,

**RON O’BRIEN  
PROSECUTING ATTORNEY  
FRANKLIN COUNTY, OHIO**

*s/Nick A. Soulas, Jr.*

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Counsel for Respondents

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing “Motion of Respondents Franklin County Children Services, Executive Director Charles M. Spinning, and Anne O’Leary to Clarify the May 28, 2015 Report of Special Master,” was served by First Class U.S. Mail, postage prepaid, to Stephanie Y. Clough, 8060 Wright Road, Broadview Heights, Ohio 44147, Relator *pro se*, on this 8<sup>th</sup> day of June, 2015.

*s/ Nick A. Soulas, Jr.*  
Nick A. Soulas, Jr. 0062166  
First Assistant Prosecuting Attorney  
Civil Division

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**AFFIDAVIT OF ANNE C. O’LEARY**

STATE OF OHIO,  
COUNTY OF FRANKLIN, SS:

I, Anne C. O’Leary, being duly cautioned and **SWORN**, hereby state the following:

- 1.) I am more than 18 years of age, I have personal knowledge of all of the facts contained in this Affidavit, and I am competent to testify to the matters contained herein.
- 2.) I am the Chief Legal Counsel for Franklin County Children Services (“FCCS”). I have served in that capacity for 11 years. My duties include advising the executive director, the board of trustees, and agency employees on legal matters related to the duties and responsibilities of a public children services agency.
- 3.) The “Family Assessment Detail” contains the electronic signatures of the caseworker who authored the assessment and the supervisor who reviewed it on the signature page. This document is created electronically, not in hard copy format, and therefore, electronic signatures rather than handwritten signatures are used.

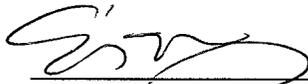
4.) While some information from the CAC was included in the investigatory records, CAC did not participate in the investigation of the allegations with FCCS. Relator initiated contact with the CAC and then the CAC notified FCCS of what the CAC planned to do and provided FCCS with the results of its July 9, 2009 assessment.

**FURTHER AFFIANT SAITH NAUGHT.**



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**Anne C. O'Leary**

**SWORN** to before me and subscribed in my presence this 8<sup>th</sup> day of June, 2015.



\_\_\_\_\_  
NOTARY PUBLIC



**ERIN MORGAN**  
NOTARY PUBLIC, STATE OF OHIO  
MY COMMISSION EXPIRES 5/4/2020