

IN THE SUPREME COURT OF OHIO

Barbara Andersen, et al.,	)	CASE NO. 2015-0393
)	
Relators,	)	RESPONDENT'S RESPONSE TO
vs.	)	RELATORS' MOTION FOR
	)	AN ORDER TO STRIKE FROM THE
	)	RECORD AND OVERRULE
The City of Cleveland,	)	RESPONDENT'S RESPONSE TO
	)	RELATORS' MOTION FOR
Respondent.	)	AMENDMENT FOR THE
	)	SUBSTITUTION OF TWO
	)	PHOTOGRAPHS TO REPLACE THE
	)	PHOTOGRAPH PREVIOUSLY
	)	LABELLED "ATTACHMENT II"

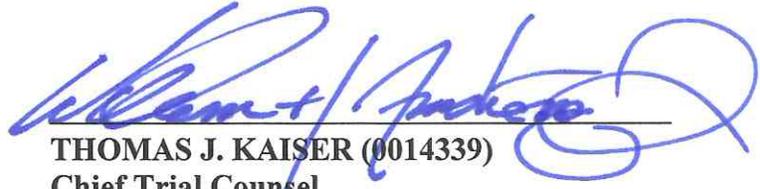
RESPONDENT'S RESPONSE TO RELATORS' MOTION FOR AN ORDER TO STRIKE FROM THE RECORD AND OVERRULE RESPONDENT'S RESPONSE TO RELATORS' MOTION FOR AMENDMENT FOR THE SUBSTITUTION OF TWO PHOTOGRAPHS TO REPLACE THE PHOTOGRAPH PREVIOUSLY LABELLED "ATTACHMENT II".

The City of Cleveland, by and through counsel, responds to Relator's Motion for an Order to Strike From the Record and Overrule Respondent's Response to Relators' Motion for Amendment for the Substitution of Two Photographs to Replace the Photograph Previously Labeled "Attachment II". The grounds for Respondent's Motion are more fully set forth in the attached Memorandum in Support, which is hereby incorporated by reference.

Respectfully submitted,

BARBARA LANGHENRY (0038838)
Director of Law

By:



THOMAS J. KAISER (0014339)
Chief Trial Counsel
WILLIAM H. ARMSTRONG, JR. (0059919)
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Counsel for Respondent
City of Cleveland

CERTIFICATE OF SERVICE

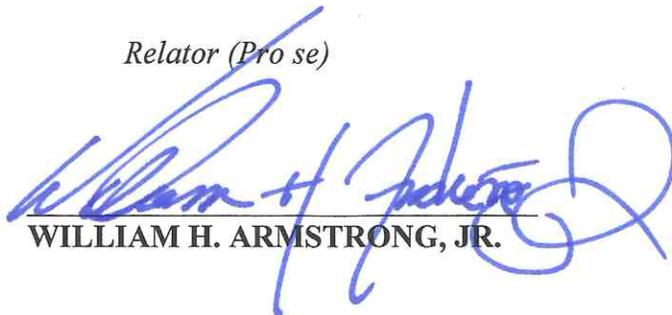
I certify that a true and accurate copy of Respondent's Response to Relator's Motion for an Order to Strike from the Record and Overrule Respondent's Response to Relators' Motion for Amendment for the Substitution of Two Photographs to Replace the Photograph Previously Labeled "Attachment II". was served via U.S. Mail and the Clerk of Court's e-filing system on November 19, 2015 to:

Barbara Andersen
3802 Bosworth Rd.
Cleveland, Ohio 44111

Relator (Pro se)

Michael McCarthy
3802 Bosworth Rd.
Cleveland, Ohio 44111

Relator (Pro se)



WILLIAM H. ARMSTRONG, JR.

MEMORANDUM IN SUPPORT

Relators Barbara Andersen and Michael McCarthy filed on November 9, 2015, a motion entitled: Relator's Motion for an Order to Strike from the Record and Overrule Respondent's Response to Relators' Motion for Amendment for the Substitution of Two Photographs to Replace the Photograph Previously Labeled "Attachment II". Relators state that the pictures are not different than those attached to their original complaint. They do admit, however, that they added the captions.

Upon review of the Relators' Motion and the pictures in both the Motion and the Complaint, the undersigned realizes that he was in error when he believed the pictures were taken from a different perspective. The City withdraws its objection to the inclusion of the pictures on that issue. But the City does not withdraw its objection to the inclusion of the captions, which, in their Motion, the Relators admit to adding. The City renews its arguments that the captions contain new arguments that are submitted as an attempt to supplement their argument.

Furthermore, the bulk of Relators' Motion to Strike is spent attempting to continue the arguments that they attempted in their Motion for Clarification they filed that was really a time-barred Motion for Reconsideration. This Court has already dismissed the Relators' Complaint and they did not file a Motion for Reconsideration. Thus, the time for submitting argument is over. The City respectfully requests that this Honorable Court disregard this additional material.

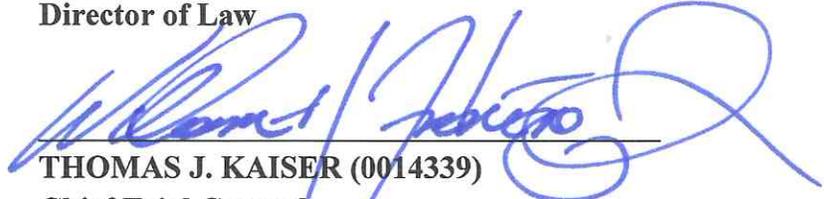
WHEREFORE, the City of Cleveland respectfully requests that this Court not permit the substitution of the photographs with the admittedly new captions as they present further argument and the City requests that this Court disregard the further arguments in Relators'

Motion to Strike as they constitute continued argument on the case that this Court has already dismissed.

Respectfully submitted,

BARBARA A. LANGHENRY (0038838)
Director of Law

By:



THOMAS J. KAISER (0014339)

Chief Trial Counsel

WILLIAM H. ARMSTRONG, JR. (0059919)

Assistant Director of Law

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Counsel for Respondent

City of Cleveland

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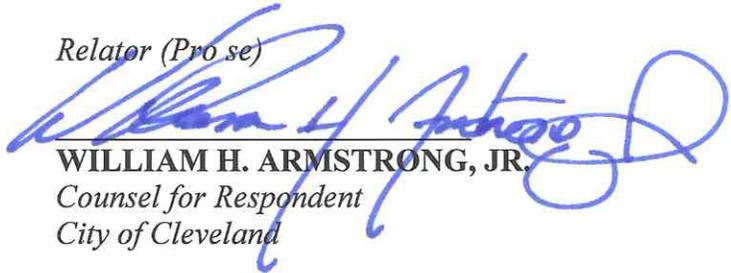
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Michael McCarthy
3802 Bosworth Rd.
Cleveland, Ohio 44111

Relator (Pro se)



WILLIAM H. ARMSTRONG, JR.
*Counsel for Respondent
City of Cleveland*