

IN THE COURT OF COMMON PLEAS
COUNTY OF SUMMIT

- - -

CITY OF AKRON, et al.,)	CASE NO. CV 2015-07-3666
)	
Plaintiffs,)	
)	
vs.)	TRANSCRIPT OF PROCEEDINGS
)	
STATE OF OHIO, et al.,)	
)	
Defendants.)	VOLUME 1 OF 1

- - -

BE IT REMEMBERED that upon the hearing of the above-entitled matter in the Court of Common Pleas, Summit County, Ohio, before the Honorable Paul J. Gallagher, Judge Presiding, and commencing on Friday, July 31, 2015, the following proceedings were had, being a Transcript of Proceedings: (TRO)

- - -

Margaret Wellemeyer, RDR, CRR, CRC
Official Court Reporter
Summit County Courthouse
209 South High Street
Akron, OH 44308

APPEARANCES:

JOHN CHRISTOPHER REECE, Attorney at Law,
STEPHEN FALLIS, Attorney at Law,
On behalf of Plaintiff City
of Akron.

SARAH K. RATHKE, Attorney at Law,
On behalf of Plaintiff
American Traffic
Solutions, Inc.

HALLI WATSON, Attorney at Law,
JORDAN S. BERMAN, Attorney at Law,
On behalf of the Defendants.

- - -

<u>PLAINTIFF'S WITS:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Richard Decatur	5	16	17	--

1 MORNING SESSION, FRIDAY, JULY 31, 2015

2 P R O C E E D I N G S

3 - - -

4 THE COURT: Please be seated.

5 All right. This is Case No. CV

6 2015-07-3666, captioned the City of Akron and

7 American Traffic Solutions, Inc., versus the

8 State of Ohio and Michael DeWine.

9 Representing the City of Akron is

10 Attorney John Reece and Stephen Fallis.

11 Anybody else for the city?

12 MR. REECE: No, sir.

13 THE COURT: And for the -- for
14 American Traffic Solutions Inc., you'll have to
15 tell me your name again, I'm sorry.

16 MS. RATHKE: Sarah Rathke.

17 THE COURT: How do you spell
18 that?

19 MS. RATHKE: R-A-T-H-K-E.

20 THE COURT: Thank you.

21 And representing the State of Ohio are

22 Attorneys Halli Watson and Jordan Berman.

23 Anybody else for the State?

24 MS. WATSON: No, Your Honor.

25 THE COURT: Are there any other

1 parties, any other lawyers involved in this
2 today?

3 MR. REECE: No, Your Honor, not
4 for the plaintiffs.

5 THE COURT: Okay. We're here for
6 a hearing on a preliminary injunction and we
7 did move -- we did meet in chambers and I
8 indicated that I felt that the city established
9 the various problems that are needed to be
10 established for a preliminary injunction except
11 for the issue of whether there would be
12 irreparable harm if the injunction is not
13 granted, so I've asked the -- I've asked the
14 city and the parties to focus your arguments on
15 that topic.

16 Of course, I'm not going to muzzle you so
17 if there are things you need to put on the
18 record, I'll permit that.

19 In any event, who does the city call?

20 MR. REECE: The city calls
21 Lieutenant Richard Decatur.

22 THE COURT: Raise your right
23 hand.

24 - - -

25

1 RICHARD WILLIAM DECATUR
2 a witness herein, called on behalf of the
3 Plaintiffs, being first duly sworn as
4 provided by law, was examined and testified
5 as follows:

6 - - -
7 THE WITNESS: I do.
8 THE COURT: Please have a seat up
9 there.
10 Let's get you a microphone. Hold on one
11 second.
12 All right. You may proceed.
13 MR. REECE: Thank you, Your
14 Honor.

15 - - -
16 DIRECT EXAMINATION

17 BY MR. REECE:
18 Q. Could you state your name for the record,
19 please?
20 A. My name is Richard William Decatur.
21 Q. Mr. Decatur, where are you employed?
22 A. With the Akron Police Department.
23 Q. How long have you been employed by the Akron
24 Police Department?
25 A. For 26 years.

1 Q. What is your current position with the Akron
2 Police Department?

3 A. I am the commander of the Traffic Bureau.

4 Q. How long have you been the commander of the
5 Traffic Bureau?

6 A. For eight years.

7 Q. In your position and responsibilities as
8 commander of the Traffic Bureau, have you been
9 involved in the operation of the City of
10 Akron's automated photo speed enforcement
11 program?

12 A. Yes, I have.

13 Q. So you are familiar with the program?

14 A. Yes.

15 Q. What is your role in the program in a general
16 sense? Why is -- why is the commander of the
17 Traffic Bureau involved in that program?

18 A. I oversee the location of where the six mobile
19 cameras are deployed each day. I am in charge
20 of making sure an officer reviews each of the
21 citations to make sure they are correct and
22 legally just, and I'm also in charge of the
23 hearings. Whenever a person contests a -- a
24 citation, speed-zone citation, we have a
25 hearing and that person has a chance to argue

1 their points.

2 Q. For purposes of some informational background
3 for the court's sake, for the judge's sake
4 here, can you explain the details of Akron's --
5 we'll call it the photo speed program, the
6 short version of it. Can you explain to the
7 judge basically how Akron runs its photo speed
8 program?

9 A. Okay. We have 68 school zones in Akron.
10 Currently I have two traffic officers working
11 during the day shift when kids walk to and from
12 school, and I have three in the afternoon when
13 they walk home from school.

14 Because we only have two officers in the
15 day and three in the afternoon, we don't have
16 enough officers to cover the 68 school zones to
17 enforce speed. So what we decided to do was to
18 use the speed cameras to enforce the speed in
19 school zones.

20 We have six different cameras. The
21 cameras are mobile. They're inside of a van.
22 A van driver, a technician from American
23 Traffic Solutions, brings the cameras to any
24 one of the 68 different school zones based on
25 where I tell them to put the cameras and the

1 cameras are set up. They run from a certain
2 time at the beginning of the school day,
3 certain time at the end of the school day, and
4 that's based upon what school programs are
5 going on that particular day. Some schools may
6 start a little bit earlier, some start a little
7 bit later. The cameras only run during the
8 restricted hours, when the kids are traveling
9 to and from school. They do not run on the
10 weekends, holidays, or any day that school is
11 not in session.

12 Q. How long has Akron operated its photo speed
13 system in school zones? When did it begin?

14 A. It's close to ten years now.

15 Q. Can you describe or -- for the judge what
16 precipitated Akron instituting the program?

17 A. Well, back in 2006, ten-year-old Tony Swain was
18 walking to school with his four-year-old --
19 six-year-old sister. As they were crossing a
20 street inside of the marked crosswalk with a
21 crossing guard with her stop sign held high to
22 stop drivers while they were crossing, a driver
23 sped through that particular crosswalk and Tony
24 Swain in a heroic act pushed his sister out of
25 the way, saved her life, but the driver ended

1 up striking Tony Swain and killing him.

2 At that point our mayor at the time
3 decided that we needed to better enforce speed
4 in and around our schools. He decided that one
5 of the best ways to do so was to use the speed
6 cameras to cause drivers or get drivers to slow
7 down to a safe speed.

8 Q. Over the ten years that the City of Akron has
9 operated the program, have you achieved -- has
10 the Traffic Bureau and the City of Akron
11 achieved those goals the mayor had to slow
12 people down?

13 A. Yes.

14 Q. Do you have any statistics or any information
15 you can provide the court of how the program
16 has -- the effect the program has had on
17 speeding in school zones?

18 A. Last time I calculated our violator rate we
19 were down around two percent with accidents, so
20 out of every hundred cars that goes through a
21 school zone, only two are above the restricted
22 hours -- speed limit.

23 Q. And in your experience as the commander of the
24 Traffic Bureau, is that two percent figure,
25 does that represent a decline from what we can

1 guess was the percentage prior to the program?

2 A. Yes. I would say that it does, although I
3 don't have the records prior to my joining the
4 Traffic Bureau, but two percent is an excellent
5 rate.

6 Q. What happens -- what does the city do with the
7 funds that are collected from the city's
8 automated photo speed enforcement program?

9 A. The funds go into a safety fund and it's used
10 to pay for the adult crossing guards, officers
11 that are in the school, traffic safety
12 programs, or educational programs for students,
13 things like painting a crosswalk, adding
14 additional safety signs in school zones and in
15 the crosswalk areas.

16 Q. Aside from ticketing a particular person that
17 drives through a school zone at an excessive
18 speed and that person learns their lesson, in
19 your experience with the program has there been
20 or can you explain for the judge the idea that
21 there's been an overall heightened
22 awareness by all drivers that the city is
23 operating this?

24 MS. WATSON: Objection, Your
25 Honor. I don't think that this witness has

1 personal knowledge to be able to talk about
2 what opposing counsel has asked.

3 THE COURT: Are you able to
4 answer that question or not? Or is that really
5 outside --

6 THE WITNESS: I can answer it not
7 based on statistics, but I can answer it based
8 on my personal experience.

9 THE COURT: I'm going to let him
10 do that.

11 You may answer.

12 A. On my way to and from school -- to and from
13 work, I travel through several different school
14 zones. And I know that before we had the
15 cameras cars would speed by me as I'm driving
16 20 miles an hour in a speed zone -- in a school
17 zone. Since we've had the cameras, I almost
18 never see a car pass me when I'm driving
19 through a school zone. Everybody drives at 20
20 miles per hour limit because everybody's afraid
21 to get a speeding -- speed-camera ticket.

22 BY MR. REECE:

23 Q. Do you have an opinion or information on what
24 the public's perception of the program has been
25 over the ten years it's operated?

1 MS. WATSON: Objection, Your
2 Honor. I don't think --

3 THE COURT: I'll sustain that.

4 BY MR. REECE:

5 Q. Have you had communications with the general
6 public about their perception of this program?
7 Have you had those communications throughout
8 the years?

9 A. Yes, I have.

10 Q. And what types of information has the public
11 provided you as far as -- that you can discern
12 their perception of the program?

13 MS. WATSON: Objection, Your
14 Honor. Opposing counsel is asking this witness
15 to testify as to what other people have told
16 him. Hearsay.

17 THE COURT: Sustained.

18 BY MR. REECE:

19 Q. Does the program, Lieutenant, have the support
20 of the police department?

21 A. Yes, it does.

22 Q. In what regard?

23 A. Well, in general, you know, most of our police
24 officers have children who attend Akron Public
25 Schools. They realize that we don't have the

1 manpower to --

2 MS. WATSON: Objection, Your
3 Honor. It's objected testimony to other
4 people's opinions of this program. To the
5 extent that this witness would like to talk
6 about his own personal experience, that's fine.
7 I don't think he can offer --

8 COURT REPORTER: You're dropping your
9 voice. You need to keep your voice up.

10 MS. WATSON: Sorry.

11 THE COURT: Sustained.

12 BY MR. REECE:

13 Q. In your ten years' experience with the program
14 or your experience with the program as a
15 lieutenant and commander of the Traffic Bureau,
16 has the program had an effect on the deployment
17 and use of police resources in the Akron Police
18 Department?

19 A. Yes.

20 Q. And what effect has the program had on the
21 decision with regard to the use of police
22 resources?

23 A. Well, instead of pulling officers from their
24 regular detail to enforce traffic in school
25 zones, we can use those officers in other

1 areas, drug enforcement, answering calls for
2 service, et cetera.

3 Q. If the -- if a decision was made by presumably
4 the mayor of the City of Akron to suspend the
5 program, what effect would that have on your
6 decisions with regard to deployment of police
7 officers from the Traffic Bureau?

8 MS. WATSON: Objection, Your
9 Honor, calls for speculation.

10 THE COURT: He's the one that
11 makes the decisions, so, it is speculative, but
12 he should be able to answer what would happen
13 if that program wasn't available.

14 A. If we didn't have that program, I would have to
15 try to reassign people to run radar in the
16 school zones to try and keep people to drive at
17 a safe speed. Unfortunately, in the City of
18 Akron, we average over 7200 accidents per year.
19 Our traffic officers are the first officers
20 that are pulled to investigate accidents. So
21 if I assign an officer to run radar in the
22 school and an accident goes out, they'll pull
23 that officer to go investigate that accident.
24 So we wouldn't have any consistent traffic
25 enforcement or radar enforcement in school

1 zones because officers would constantly be
2 pulled to investigate accidents.

3 BY MR. REECE:

4 Q. Lieutenant, if that same decision was made by
5 presumably the mayor to suspend the program,
6 the photo speed program, setting aside the
7 decision with regard to police resources, what
8 effect would that have on the safety in school
9 zones?

10 MS. WATSON: Objection, Your
11 Honor. I don't know that this witness has --
12 there's been a foundation for this witness to
13 be able to generally opine about the safety.

14 THE COURT: Overruled.

15 A. If we eliminated the program, it's my belief
16 that speeding would, again, rise to an unsafe
17 level and, you know, there would be a chance to
18 have another tragedy like we did with Tony
19 Swain.

20 MR. REECE: Thank you,
21 Lieutenant. Nothing further at this time.

22 THE COURT: Cross-examination.

23 - - -

24

25

1 CROSS-EXAMINATION

2 BY MS. WATSON:

3 Q. Good afternoon. Shall I address you as
4 Commander Decatur?

5 A. Lieutenant.

6 Q. Lieutenant Decatur?

7 A. Yes.

8 Q. I believe it was your testimony that Akron's
9 photo speed program is not operational except
10 when school is in session?

11 A. Correct.

12 Q. Is school currently in session?

13 A. No.

14 Q. When will school be in session again?

15 A. August 27th.

16 Q. And you provided some testimony as to how the
17 money that is collected through the photo speed
18 program is used. And that is all dictated by
19 Akron ordinance; correct?

20 A. Correct.

21 Q. And Akron can change its ordinance at any time;
22 correct?

23 A. That would be a question you'd have to ask
24 someone in our city legislature.

25 Q. So you don't know?

1 A. Yes.

2 Q. And it's your personal belief that if this
3 program were to be terminated, that speeding
4 would raise to an unsafe level?

5 A. Correct.

6 Q. Do you have any personal experience with
7 this -- this system being terminated in the
8 past?

9 A. No.

10 Q. So you have no personal experience upon which
11 to base that belief?

12 A. Other than my experience prior to the system
13 being in place, that's the only experience that
14 I have with --

15 Q. So you have no experience with a system like
16 this being in place and then being
17 discontinued?

18 A. Correct.

19 MS. WATSON: That's all I have,
20 Your Honor.

21 THE COURT: Any redirect?

22 - - -

23 REDIRECT EXAMINATION

24 BY MR. REECE:

25 Q. Lieutenant Decatur, if school starts on August

1 27th, is there some sort of timetable or
2 deadline for which you as the commander of the
3 Traffic Bureau have to make a decision with
4 regard to whether or not the city's going to
5 operate this system for the upcoming school
6 year?

7 MS. WATSON: Objection, Your
8 Honor. There's been no foundation laid that
9 this witness is the one who would be
10 responsible for making that decision.

11 THE COURT: That's what he's
12 asking.

13 Weren't you asking whether he is the one
14 responsible for making the decision?

15 MR. REECE: I can ask that, as
16 the prelude to it.

17 BY MR. REECE:

18 Q. Are you the person or are you the individual
19 who needs to make or is part of a decision-
20 making process with regard to deploying the
21 system for the upcoming school year? Are you
22 involved in that?

23 A. Yes. I set the schedule for where the cameras
24 are going to be deployed.

25 Q. And going back to my original question, is

1 there some sort of timetable or deadline that
2 you have to meet or you have in mind with
3 regard to the upcoming school year of when you
4 would have to decide whether to deploy the
5 system?

6 A. I would need about a week prior to the start of
7 school to get the schedule to American Traffic
8 Solutions so they could have their technicians
9 ready.

10 Q. Okay.

11 MR. REECE: Nothing further,
12 Judge. Thank you.

13 THE COURT: Recross?

14 MS. WATSON: No, Your Honor.

15 THE COURT: You may step down,
16 Lieutenant. Thank you.

17 THE WITNESS: Thank you.

18 (The witness was excused.)

19 THE COURT: Anything else?

20 MR. REECE: Judge, we have the
21 city treasurer. Can we approach side bar?

22 THE COURT: There's no jury here,
23 so just go ahead.

24 MR. REECE: Off the record.

25 I'm prepared to give some testimony,

1 offer some testimony from the city with regard
2 to the irreparable harm for purposes of what we
3 lost from the local government fund; but
4 speaking with the court in chambers, I kind of
5 got the feeling the court has a grasp on the
6 financial end of this, but we can offer that
7 testimony if the court is so inclined to hear
8 it.

9 THE COURT: I don't think it's
10 needed.

11 MR. REECE: With that insight,
12 Judge, we don't have any further -- we do not
13 have any further witnesses.

14 THE COURT: Do you want to call
15 anybody?

16 MS. WATSON: I have no witnesses,
17 Your Honor.

18 THE COURT: All right. Do you
19 want to be heard at all?

20 MR. REECE: Just briefly, Your
21 Honor.

22 Your Honor, on the point of irreparable
23 harm -- and we've heard some testimony here
24 today from Lieutenant Decatur -- I think what
25 we can piece together or cobble together like a

1 puzzle, is if the program is suspended, if the
2 City of Akron is effectively forced to follow
3 these unconstitutional provisions of Senate
4 Bill 342, it is in all essence going to force
5 the mayor for the City of Akron to suspend the
6 program.

7 That's what you can gather from
8 Lieutenant Decatur's testimony. There's not
9 enough other officers to cover the school
10 zones. What's the effect of that, I guess, is
11 what I'm saying. Lieutenant Decatur testified
12 that 68 school zones will now be effectively
13 without any speed control. Sure, he can pull
14 one officer and put him in one of the 68 school
15 zones; but when you rotate these cameras, these
16 six cameras around to the 68 school zones, you
17 have great coverage of all 68 school zones. If
18 this -- if the city is forced to suspend this
19 program, I submit to the court that there will
20 be effectively no coverage, no speed
21 enforcement in the 68 school zones in the City
22 of Akron.

23 The second irreparable harm from a safety
24 point that will occur is there is going -- this
25 is what I was touching on with Lieutenant

1 Decatur's testimony. This has a deterrent
2 effect on the person who actually drives
3 through and gets a citation and pays it and
4 they've learned their lesson. But there is an
5 overall heightened awareness in the City of
6 Akron because this program is in effect that
7 slows people down, not just because they got a
8 hundred dollar citation and learned their
9 lesson. It's because they know the system's in
10 place. That's people like me. I've never
11 gotten a citation and many, many people have
12 not and the reason they don't get the citation
13 is they know the system is in place. It has an
14 overall deterrent effect from a heightened
15 awareness standpoint in the City of Akron.
16 That will be lost. That is irreparable harm to
17 the City of Akron and the citizens of the City
18 of Akron.

19 The two percent figure that Lieutenant
20 Decatur testified to, over the years the
21 program has worked. It has slowed the
22 violation rate down to two percent in a school
23 zone. Sure, Lieutenant Decatur didn't have the
24 statistics that it went from 50 to 10 percent
25 or 2 percent but I think what we can take away

1 from his testimony is it is now 2 percent and
2 if the -- if the system is suspended, we can
3 only surmise that people, knowing the system is
4 not in place, I know no system's in place, I
5 know I'm not going to slow down, I can predict
6 the 2 percent, the 2 percent violation rate
7 will rise.

8 The other irreparable harm is if the City
9 of Akron or Lieutenant Decatur is forced to
10 make a decision to reassign police officers
11 because the mayor of the City of Akron still
12 wants people to slow down in school zones,
13 they're going to have to pull officers from
14 doing other things, from taking traffic
15 accidents reports or burglary reports or
16 whatever they do, and they're going to have to
17 reassign officers to these school zones.
18 That's going to be -- that's going to cause
19 irreparable harm to the other situations and
20 other things that those officers are paying
21 attention to.

22 So what you can cobble together is
23 there's four or five or six different things
24 that when you put them together you're left
25 with the inescapable conclusion that the

1 decision to suspend this system will cause
2 irreparable harm to the idea we're enforcing
3 speed limits in school zones.

4 That's the city's position with regard to
5 that prong of the TRO or injunction analysis,
6 Judge. Thank you.

7 THE COURT: Thank you.

8 Miss Watson.

9 MS. WATSON: Your Honor, this case
10 is about money. The challenged budget bill
11 provisions don't -- don't prohibit the City of
12 Akron from operating their photo enforcement
13 system. All it does is reduce local government
14 fund distribution to account for the revenue
15 that they've received from operating that
16 system. The City of Akron has absolutely no
17 right to receive money from the state, and the
18 state has an absolute right to dole out this
19 money in whatever fashion it deems appropriate.

20 What the ultimate relief that the city
21 seeks here is to continue to receive the local
22 government fund distributions they want without
23 deduction for their traffic camera revenue. So
24 that is really what this case is about.

25 And the case law is abundantly clear that

1 monetary damages do not constitute irreparable
2 harm.

3 There's been a lot of argument made that
4 discontinuing this program, which the
5 challenged law does not require, would have
6 some type of harmful effect on public safety.
7 But there's really no evidence of that.
8 Lieutenant Decatur testified that it was his
9 personal belief that that would happen, but he
10 had nothing to base that on. People will
11 continue to drive just as they have for, I
12 believe, it was the past ten years that this
13 law has been effect -- in effect.

14 THE COURT: You really believe
15 that? You believe that the cameras don't slow
16 people down?

17 MS. WATSON: I question the extent
18 to which the average citizen is paying
19 attention to these types of legal battles and
20 is aware when these cameras are turned off and
21 when they're turned back on.

22 And, finally, again, I would note that
23 this case is about money. The State believes
24 that there's no irreparable damage here and
25 there's no reason to grant a temporary

1 restraining order.

2 But, to the extent that any -- in -- and
3 the order the city is asking for is really
4 quite extraordinary. What they want is to be
5 able to receive money the General Assembly has
6 said they are not entitled to before they've
7 litigated the merits of their case. Once they
8 get that money, should the state win, what's
9 the state to do? There's no guarantee that the
10 state will get that money back.

11 So they really want to enjoy the use of
12 that money pending the -- pending a full
13 resolution of that case while prejudicing the
14 State's ability to get that money back should
15 it ultimately be determined that they're not
16 entitled to it -- excuse me, that they're not
17 entitled to it.

18 Again, we believe that no temporary
19 restraining order should be issued here. But
20 to the extent that one is granted, the state
21 should not -- excuse me, the city should not be
22 afforded access to this money while their
23 entitlement to it is disputed. The court could
24 simply order that this money not be distributed
25 pending litigation in this case.

1 The city notes in its pleadings that
2 under the statute the local government fund
3 payments that they would have otherwise
4 received had they fully complied with the
5 traffic bill are being distributed to other
6 local authorities who do fully comply or do not
7 have these systems.

8 To the extent to which that makes that
9 money unrecoverable to them I think is
10 certainly questionable, but to address that
11 concern this court could simply say don't
12 distribute that money and it can be there at
13 the conclusion of this case should they prevail
14 on the merits.

15 Again, Your Honor, I would note that we
16 have filed a motion to dismiss. We don't
17 believe that the proper parties are present.
18 We believe that is a jurisdictional defect and
19 we believe the naming of the proper parties
20 would require that this case be venued in
21 Franklin County. We also believe that there
22 are significant standing issues. And we also
23 believe that all six constitutional challenges
24 they have raised are without merit.

25 And that all -- while I understand the

1 court has asked that the hearing be limited to
2 the issue of irreparable harm, to be entitled
3 to a temporary restraining order, plaintiffs do
4 need to show a substantial likelihood of
5 success.

6 And we -- the state apologizes that we
7 were not able to get our motion to dismiss to
8 you earlier, but I would note that this case
9 was filed in -- extremely late in the game. It
10 was noted back -- plaintiffs -- attachment B to
11 their motion for temporary restraining order
12 included a newspaper article dated April 16
13 where the challenged legislation was discussed.
14 It was noted that it was likely that it would
15 be passed. And in that newspaper article the
16 city vowed to fight it. That was back on April
17 16th.

18 This law was -- this -- the challenged
19 provisions were signed into law on June 29th.
20 And it clearly set a July 31st deadline for
21 them to file their first report. So it -- it
22 could not have been any surprise that this law
23 was going to come into effect or that these --
24 that July 31st was the deadline. But the
25 city -- the plaintiffs didn't do anything to

1 try and block these bills until it filed its
2 complaint on July 22nd, just nine days before
3 the deadline they were trying to enjoin, and
4 didn't serve the state until the following day.

5 And I believe that the state has been
6 prejudiced by this late timing.

7 THE COURT: That doesn't sound
8 slow to me. It sounds like things are moving
9 at a reasonable rate. It takes them time to
10 prepare the complaint and get their ducks in a
11 row.

12 MS. WATSON: And, Your Honor,
13 while I can understand that, they afforded
14 themselves 22 days to put this together while
15 affording the state and this court just 9 days
16 to decide the issue.

17 So I think that goes to the issue of
18 laches, undue delay, and a temporary
19 restraining order like the one requested here
20 can be denied on that basis as well.

21 So, Your Honor, in conclusion, the State
22 respectfully requests that you deny the request
23 for temporary restraining order.

24 Thank you.

25 THE COURT: Well, as you know

1 from my comments in chambers, my initial
2 reaction was that this was as you indicate,
3 just about money and, therefore, the city
4 wouldn't be irreparably harmed if the
5 restraining order wasn't granted. But based on
6 the testimony, it's clear to me that there's
7 more than money at issue here. There's an
8 issue of the safety of school children in the
9 City of Akron, and -- and if something
10 tragically happens to children going to and
11 from school, that's certainly irreparable harm.
12 So based on that I'm going to grant the state's
13 motion for a preliminary injunction and enforce
14 the -- excuse me, I'm going to prohibit the
15 enforcement of the sections of the Revised Code
16 that are at issue here.

17 The state did prepare a proposed order,
18 so rather than reciting the specific sections,
19 I'm just going to use their order, and you'll
20 have a copy of it so you can see which sections
21 we're talking about.

22 And that's the order of the court.

23 I'm sorry, did I say, "state"? The
24 city's request for preliminary injunction I'm
25 granting.

1 MR. REECE: Thank you, Your
2 Honor.

3 MR. FALLIS: Thank you, Your
4 Honor.

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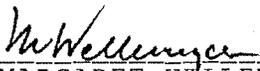
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C E R T I F I C A T E

CITY OF AKRON, et al., v STATE OF OHIO, et al.
CASE NO. CV 2015-07-3666
TRO, JULY 31, 2015

I, MARGARET WELLEMAYER, RDR, CRR, CRC,
do hereby certify that I reported in stenotypy
the proceedings had in the foregoing-entitled
matter, and do further certify that the
foregoing Transcript of Proceedings consisting
of 31 pages is a true and accurate record to
the best of my skill and ability.

I further certify that I am not a
relative, counsel, or attorney of either
party, or otherwise interested in the event
of this action.


MARGARET WELLEMAYER, RDR, CRR, CRC

Dated: January 11, 2016
Akron, Ohio