

IN THE SUPREME COURT OF OHIO

THE STATE OF OHIO, ex. Rel.  
THE ALLEN COUNTY CHILDREN  
SERVICES BOARD

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CASE NO. 16-0723

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Relator,

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vs.

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RELATOR'S RESPONSE  
TO THE RESPONDENTS'  
MOTION FOR  
RECONSIDERATION

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THE COMMON PLEAS COURT  
OF MERCER COUNTY, OHIO  
PROBATE DIVISION, ET AL.

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Respondents.

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**RELATOR'S RESPONSE TO THE RESPONDENTS' MOTION FOR  
RECONSIDERATION**

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**ATTORNEY FOR RESPONDENT**

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Now comes Relator, by and through the undersigned assistant prosecuting attorney, and hereby responds to the respondents' motion for reconsideration as follows.

**SUPREME COURT PRACTICE RULE 18.02**

Respondents timely filed a motion for reconsideration as authorized by S.Ct.Prac.R. 18.02 on June 13, 2016. In this motion for reconsideration, the respondents allege that this Court should reconsider its decision of June 1, 2016, granting the relator a peremptory writ of prohibition for the following five reasons: (1) the writ deprived the natural mother of due process of law; (2) the writ deprived the minor child of due process of law and equal protection; (3) the writ is inconsistent with the philosophy that the state has an interest in facilitating adoptions; (4) the writ violated the separation of powers doctrine; and (5) dismissal of the writ would allow the normal process of litigation to proceed. Notably, S.Ct.Prac.R. 18.02(B) *expressly* states that “[a] motion for reconsideration shall not constitute a reargument of the case[.]” Despite this rule, Respondents' motion for reconsideration is a reargument of the case. There are no additional facts brought to light in the motion for reconsideration, no assertions that this Court failed to consider and/or overlooked particular outcome-determinative facts that were contained in the filings in this case, and no additional information that would warrant this Court reconsidering its previous ruling. Thus, the relator will attempt to address the arguments raised in the motion for reconsideration in as brief a manner as possible, but will rely largely upon the original pleadings, memorandum in support, and the arguments previously provided on May 24, 2016, in the relator's response to the respondents' motion to dismiss.

## PROCEDURAL HISTORY<sup>1</sup>

### *1. Allen County Common Pleas Court, Juvenile Division*

The Relator currently has temporary custody of the minor child through Allen County Juvenile Court Case No. 2014 JG 31779, *In the Matter of M.S.* The Allen County Juvenile Court exercised jurisdiction over the minor child when M.S. was placed in the Shelter Care of the Relator on August 8, 2014. A Complaint was filed alleging M.S. to be dependent and abused on August 11, 2014, and the Allen County Juvenile Court found M.S. to be a dependent and abused child by entry on October 8, 2014. On November 4, 2014, the minor child was placed in the temporary custody of the Allen County Children Services Board through the dispositional entry. By entry dated September 16, 2015, that order of temporary custody was extended for an additional six months period, consistent with the court's exclusive jurisdiction and has not been modified. The former foster caregivers and petitioners for adoption, Brian and Kelly Anderson, filed a motion to intervene as parties in the proceeding and a motion for legal custody on November 13, 2015. The Andersons objected to the magistrate's decision on February 29, 2016, which denied their Motion to Intervene. On April 1, 2016, the Hon. Glenn Derryberry, the duly elected judge of the Common Pleas Court of Allen County, Ohio, Juvenile Division, adopted a portion of the Magistrate's Decision denying the Motion to Intervene and reiterated this finding in his April 26, 2016 order regarding the Anderson's Renewed Motion to be Made Parties filed on April 8, 2016.

Currently, there are three separate legal custody motions pending at the Allen County Juvenile Court regarding the minor child. The Allen County Children Services Board filed a

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<sup>1</sup> The relevant procedural facts and documentary exhibits in support thereof have previously been provided to this Court in the Complaint, Relator's Memorandum in Support of the Writ of Prohibition, the Answer of Respondents, the respondents' Motion to Dismiss, and the Relator's Response to the Respondents' Motion to Dismiss. Thus, Relator requests that they be incorporated by reference herein, and the exhibits will not be duplicated with this filing.

motion on January 4, 2016, for the minor child to be placed in the legal custody of her maternal aunt, Patricia Framak, and for termination of all Court-ordered services by the Allen County Children Services Board. The minor child's mother, Mary Spurlock, filed a motion on January 28, 2016, for the minor child to be placed in the legal custody of Brian and Kelly Anderson, in addition to the legal custody motion previously filed by Brian Anderson and Kelly Anderson, which is also pending. Currently, there is a hearing on all pending motions scheduled for July 13-14, 2016.

On April 1, 2016, the Allen County Juvenile Court issued an entry, finding that the Allen County Children Services Board has the right to the physical care and control of the minor child, Madeline Anne Spurlock (hereinafter referred to as "M.S."), and is entitled to determine where and with whom the child shall live. In so doing, that court noted that it was simply reiterating the effect of its previous temporary custody orders. Further, it was ordered that the child was not to be relocated from the placement made by the Allen County Children Services Board under the statutory authority with which it is vested pending further order of the Allen County Juvenile Court.

*2. Mercer County Common Pleas Court, Probate Division*

On March 28, 2016, the biological mother of M.S., Mary Angela Spurlock, made application in the Mercer County Probate Court for the placement of her daughter, M.S., for the purpose of adoption. On March 31, 2016, Respondent, the Hon. Mary Pat Zitter, approved the placement of the minor child with the petitioners and ordered that Allen County Children Services release the infant to the attorney for the adoptive parents, Susan Garner Eisenman. Relator was not a party to the Application of Placement of M.S. and had no knowledge that said hearing was being held on that date.

On April 5, 2016, after being properly served, Relator filed a Motion to Stay Judgment and Further Proceedings in the Mercer County Probate Court in the *Matter of the Placement of M.S.*, requesting that the execution of the judgment filed March 31, 2016 be stayed and any further proceedings in this matter stayed pending the outcome of *In the Matter of M.S.*, 2014 JG 31799, Allen County Court of Common Pleas, Juvenile Division. On April 11, 2016, a show cause order was issued by the Mercer County Probate Court against Relator for failure to follow the March 31, 2016 order of the Mercer County Probate Court. On April 27, 2016, Respondent, the Hon. James Rapp, concluded that Relator must abide by the March 31, 2016 order of the Mercer County Probate Court, ordered that Relator's Motion to Stay filed April 5, 2016 is overruled, ordered that the April 8, 2016 motion of the Andersons alleging the Relator to be in contempt of that court's Order of March 31, 2016, be set for hearing, and granted the Andersons' motion to set the petition for adoption for final hearing.

Relator filed a notice of appeal with the Third District Court of Appeals of the April 27, 2016 judgment of the Mercer County Probate Court, which appeal was dismissed sua sponte by that court on May 16, 2016, based upon that court's determination that the order appealed was not a final, appealable order. Subsequently, on May 19, 2016, the Mercer County Probate Court issued a notice of hearing on the Andersons' motion for contempt/show cause order, setting a new hearing date for the motion for contempt on June 2, 2016 at 9:00 a.m., an hour before the previously scheduled adoption petition hearing.

### 3. *Supreme Court of Ohio*

This original action was instituted in this Court on May 10, 2016. The respondents filed their answer and motion to dismiss this action on May 20, 2016. On May 24, 2016, Relator filed its response to the motion to dismiss, and on June 1, 2016, this Court granted a peremptory writ

to prohibit the Mercer County Common Pleas Court from exercising jurisdiction in Case Number 2016 5005. In addition, on May 16, 2016, the Andersons instituted an original action for a writ of prohibition against the Honorable Judge Glenn H. Derryberry, duly elected judge of the Common Pleas Court of Allen County, Ohio, Juvenile Division. This case was assigned Case Number 2016-0763. Judge Derryberry filed his answer and motion to dismiss Case No. 2016-0763 on May 18, 2016. The Andersons filed their response to the motion to dismiss on May 23, 2016, and on June 1, 2016, this Court dismissed Case No. 2016-0763. Both Respondents in the case sub judice and the Andersons in Case No. 2016-0763 filed motions for reconsideration in their respective cases on June 13, 2016.

### **STATEMENT OF FACTS**

The relevant facts and documentary exhibits in support thereof have previously been provided to this Court in the Complaint, Relator's Memorandum in Support of the Writ of Prohibition, the Answer of Respondents, the respondents' Motion to Dismiss, and the relator's Response to Respondents' Motion to Dismiss. Therefore, Relator requests that they be incorporated by reference herein, and a statement of the facts and exhibits in support will not be duplicated with this filing.

### **ARGUMENT**

#### *I. Due Process – Biological Mother*

In their first argument, the respondents state that the writ of prohibition deprived the biological mother of due process of law. More specifically, Respondents argue that the granting of this writ essentially resulted in a de facto permanent custody hearing in the juvenile court because it bars the biological mother from exercising her residual parental right to consent to adoption. This is NOT the effect of the granting of the writ of prohibition.

Both this Court and the United States Supreme Court have held that “[t]he fundamental requirement of due process is the opportunity to be heard ‘at a meaningful time and in a meaningful manner.’” *In re Adoption of Zschach*, 75 Ohio St.3d 648, quoting *Matthews v. Eldrige*, (1976), 424 U.S. 319, 333, 96 S.Ct. 893, 902 (internal quotations omitted). As previously discussed in other filings, M.S. was adjudged abused and dependent by the Allen County Juvenile Court. This adjudication was not appealed. The juvenile court held a dispositional hearing and awarded temporary custody of M.S. to Relator. This disposition was not appealed. The next action scheduled to be heard by the juvenile court is a termination of the temporary custody order and a dispositional hearing as to the long-term fate of the child, specifically who will be the legal custodian and have all rights attendant thereto. All of these actions have been in accordance with the law governing abused, neglected, and dependent children, including the biological mother’s right to legal representation, to be present during the proceedings, and to be heard on these matters. None of these actions have divested the biological mother of her residual parental rights, including the right to *consent* to adoption. What these actions have done is to *lawfully* divest the biological mother of the parental right to determine where and with whom M.S. resides.

The biological mother has always and continues to have the right to *consent* to adoption. R.C. 2151.011(B)(49). This residual parental right prevents anyone or any court from permitting M.S. to be placed for adoption purposes or to actually be adopted *unless and until* the biological mother consents, absent an applicable exception. What this residual right does not allow is for the non-custodial parent to determine where and with whom the child resides. The deprivation of this right is a direct result of the biological mother’s actions and/or inactions, which were the subject of hearings and will be the subject of future hearings on disposition of

this child, all of which are in accordance with law and subject to appeal. However, the fact that the right to determine where and with whom M.S. resides belongs to someone other than the parent, does not deprive the parent of a fundamental right without due process. Her consent to adopt is still necessary for an adoption of M.S. to occur. The difference is that she is not the sole determiner of M.S.'s *placement*. Due to the custodial status of M.S., M.S.'s legal custodian must also agree to M.S.'s *placement* in the home of an adoption petitioner for adoption purposes in order for an adoption to proceed, as it is the right of the custodian to determine where and with whom the child will reside. See R.C. 2151.011(B)(21), (56). If a legal custodian allows a child over whom the custodian has custody to be placed in a home with potential adoptive parents (a right the custodian would have) for adoption purposes and the parent(s) whose consent is necessary also agrees to this and consents to adoption, then an adoption may proceed as long as all other adoption requirements are also met.

In short, the right to consent to adopt and the right to determine where and with whom a child resides are separate and distinct rights. Further, the right of a parent to consent to an adoption does not encompass the right to determine where and with whom the child resides when the child has been adjudicated abused, neglected, and/or dependent and the parent(s) do not have legal custody of the child as a result of this adjudication. Therefore, the granting of this writ neither deprived the biological mother of M.S. of due process of law nor does it prohibit her from consenting to an adoption of M.S., and the motion for reconsideration should be overruled as to this argument.

## *II. Due Process and Equal Protection – M.S., the minor child*

Respondents argue as their second reason for reconsideration that prohibiting the Mercer County, Ohio, Common Pleas Court, Probate Division, from exercising jurisdiction in

Case No. 2016 5005 deprives M.S. of due process in the same manner as the biological mother and deprives M.S. of the equal protection of law. In support of the latter argument, Respondents assert that the granting of the writ effectively creates two different classes of children for adoption purposes: (1) any child ever adjudicated abused, neglected, or dependent and who was placed in someone's legal custody and (2) those who have not. Respondents further argue that those in the first class can never be adopted, in part because of the juvenile court's continuing jurisdiction, and that granting this writ permits Relator to block the jurisdiction of probate court in an adoption even after Relator's legal involvement with M.S. ends.

As previously stated in relation to the biological mother's due process, all actions by the Allen County Juvenile Court affecting M.S. have been conducted in accordance with law and no appeals, with the exception of those previously outlined, have been filed. Thus, M.S. has not been deprived of the due process of law.

Relator agrees that after the July 13-14 hearing on Relator's motion to terminate the order of temporary custody and to issue a final dispositional order of legal custody, the Allen County Juvenile Court, pursuant to R.C. 2151.415(E), retains continuing jurisdiction over M.S. Relator does not agree with Respondents' interpretation that this permits the juvenile court and/or Relator to block the jurisdiction of a probate court in an adoption of M.S. or of any other previously adjudicated abused, neglected, and/or dependent child. In fact, R.C. 2151.415(E) explicitly limits this continuing jurisdiction if the child is adopted and a final decree of adoption is issued. Moreover, children who are adjudicated in these ways are often adopted after permanent custody is granted to an agency, and these adoptions, despite the continuing jurisdiction of the juvenile court, occur in the exclusive jurisdiction of the appropriate probate court.

Retaining continuing jurisdiction after an action is *closed* is not the same as *making* the original determination of the long-term fate of the child, including who will ultimately have the right to determine where and with whom the child shall reside. Again, the Allen County Juvenile Court had already begun the process of deciding the long-term fate of M.S. when Respondents elected to exercise jurisdiction over M.S. in violation of the “bedrock proposition that once a court of competent jurisdiction has begun the process of deciding the long-term fate of a child, all other courts are to refrain from exercising jurisdiction over that matter.” See *In re Asente*, 90 Ohio St.3d 91, 92, 2000-Ohio-32.

Once the long-term fate of M.S. has been determined, i.e. once temporary custody is terminated and who has legal custody of M.S. is decided, adoption of M.S. is not necessarily precluded. This is true for M.S. and any other child who may be similarly situated to her now or in the future. A legal custodian may exercise his/her right to determine where and with whom a child resides by permitting the child to be placed for adoption purposes with the adoption petitioners. Then, if the biological parent with residual parental rights consents to adoption and to placement with the potential adoptive parents, the adoption may be granted, provided the appropriate probate court finds the same to be in the child’s best interest and all other requirements are met. Relator and/or other children services agencies cannot block an adoption under those circumstances nor would Relator. A legal custodian is free to exercise his/her rights in that regard. However, a probate court must refrain from exercising jurisdiction in an adoption proceeding until the long-term fate of a child has been decided by a court of competent jurisdiction when such court is *presently and actively* exercising that jurisdiction. Thus, while children in abuse/neglect/dependency situations cannot be adopted in quite the same way as

children who have not been in those situations, this is due to the actions of the biological parents of these children not because the law does not provide them with equal protections.

### *III. Legislative and Judicial Philosophy*

In Respondents' third argument, they maintain that by granting the writ, this Court "ends decades of legislative support in favor of adoption as the best means to provide a child with a stable and permanent home." (Mtn. for Recon., 6/13/16, p.16.) In support, Respondents rely on this Court's decision in *In re Adoption of Zschach* (1996), 75 Ohio St.3d 648. In that case, this Court held, "[i]n cases where adoption is necessary, this [the best interests of the child] is best accomplished by providing the child with a permanent and stable home, see *In re Adoption of Ridenour* (1991), 61 Ohio St. 3d 319, 328, 574 N.E.2d 1055, 1063, and ensuring that the adoption process is completed in an expeditious manner. See *In re Adoption of Baby Girl Hudnall* (1991), 71 Ohio App. 3d 376, 380, 594 N.E.2d 45, 48." *In re Adoption of Zschach*, 75 Ohio St.3d at 653.

While Relator and the State certainly have an interest in providing children with a permanent and stable home, adoption is not the only means of accomplishing this goal nor has the legislature expressed any philosophy that adoption is the *best* means to provide children with a stable and permanent home. Moreover, as noted by this Court, ensuring that the adoption process is completed in an expeditious manner only arises when adoption is *necessary*.

In this case, adoption is not necessary to provide M.S. with a permanent and stable home. The juvenile court is currently in the process of determining her long-term fate, including considering whether to give legal custody to her biological aunt, who also has custody of M.S.'s half-brother, or to the Andersons. A grant of legal custody of a child pursuant to R.C. 2151.353, 2151.415, or 2151.417 "is intended to be permanent in nature." R.C. 2151.42(B). Further, "[a]

court shall not modify or terminate an order granting legal custody of a child unless it finds, based on facts that have arisen since the order was issued or that were unknown to the court at that time, that a change has occurred in the circumstances of the child or the person who was granted legal custody, and that modification or termination of the order is necessary to serve the best interest of the child.” Id.

A decision regarding M.S.’s legal custody and the termination of Relator’s temporary custody will provide her with a stable and permanent home. Moreover, a decision regarding who will have legal custody of M.S. is critical to any potential adoption proceeding due to the right of a legal custodian to object to the adoption and to have that objection sustained as long as the legal custodian’s consent to adoption is not being withheld unreasonably. See R.C. 3107.07(H). Therefore, granting the writ was consistent with “every statute, every court opinion, and every learned treatise on this matter . . . that once a court of competent jurisdiction has begun the process of deciding the long-term fate of a child, all other courts are to refrain from exercising jurisdiction over that matter.” See *In re Asente*, 90 Ohio St.3d at 92. In addition, the granting of the writ is not inconsistent with the legislative or judicial philosophy that the state has an interest in facilitating adoptions and having the adoption proceedings completed expeditiously, as the adoption proceeding in Mercer County, Ohio, is in direct contravention of the Allen County’s juvenile court’s original, *exclusive* jurisdiction, which was being actively exercised at the time that the adoption petition was filed.

#### *IV. Separation of Powers*

Respondents’ fourth argument alleges that the granting of the writ effectively “is to legislate from the bench” by re-writing the juvenile and probate court jurisdictional statutes.

Although the separation of powers is not explicitly provided for in the Ohio Constitution, in *Thompson*, this Court provided the following analysis of this doctrine:

**The separation-of-powers doctrine implicitly arises from our tripartite democratic form of government and recognizes that the executive, legislative, and judicial branches of our government have their own unique powers and duties that are separate and apart from the others. See *Zanesville v. Zanesville Tel. & Telegraph Co.* (1900), 63 Ohio St. 442, 59 N.E. 109, paragraph one of the syllabus. The purpose of the separation-of-powers doctrine is to create a system of checks and balances so that each branch maintains its integrity and independence. *State v. Hochhausler* (1996), 76 Ohio St. 3d 455, 463, 668 N.E.2d 457, 466, citing *S. Euclid v. Jemison* (1986), 28 Ohio St. 3d 157, 159, 28 Ohio B. Rep. 250, 252, 503 N.E.2d 136, 138.**

Under our Constitution, the General Assembly is vested with the power to make laws. Section 1, Article II, Ohio Constitution. Its lawmaking power is limited only by the state and federal Constitutions. *Angell v. Toledo* (1950), 153 Ohio St. 179, 181, 41 Ohio Op. 217, 218, 91 N.E.2d 250, 251. The Ohio Constitution prevents the General Assembly from exercising “any judicial power, not herein expressly conferred.” Section 32, Article II, Ohio Constitution.

Conversely, courts “possess all powers necessary to secure and safeguard the free and untrammelled exercise of their judicial functions and cannot be directed, controlled or impeded therein by other branches of the government.” *State ex rel. Johnston v. Taulbee* (1981), 66 Ohio St. 2d 417, 20 Ohio Op. 3d 361, 423 N.E.2d 80, paragraph two of the syllabus, approving and following *State ex rel. Foster v. Lucas Cty. Bd. of Comm’rs.* (1968), 16 Ohio St. 2d 89, 45 Ohio Op. 2d 442, 242 N.E.2d 884, paragraph two of the syllabus. “It is indisputable that it is a judicial function to hear and determine a controversy between adverse parties, to ascertain the facts, and, applying the law to the facts, to render a final judgment.” *Fairview v. Giffee* (1905), 73 Ohio St. 183, 190, 76 N.E. 865, 867.

*State v. Thompson*, 92 Ohio St.3d 584, 586 (2001).

Granting the writ in this case was a valid exercise of this Court’s judicial power. This Court heard and determined a controversy between adverse parties, it ascertained the facts, and applied the law to those facts. More specifically, this Court was called upon to determine, based upon the statutes at issue, and prior case precedent, whether Respondents’ patently and unambiguously lacked jurisdiction over the matter. As previously stated, the granting of the writ

was consistent with “every statute, every court opinion, and every learned treatise on this matter . . . that once a court of competent jurisdiction has begun the process of deciding the long-term fate of a child, all other courts are to refrain from exercising jurisdiction over that matter.” See *In re Asente*, 90 Ohio St.3d at 92. This Court did not “legislate from the bench.” To the contrary, this Court applied long-standing law to this matter and appropriately determined that a writ prohibiting the respondents from exercising jurisdiction should be granted.

#### *V. Normal Process of Litigation*

Lastly, Respondents argue that reconsidering the writ would permit the probate court to proceed to determine M.S.’s best interest sooner rather than later and that the appellate process provides an adequate remedy. Relator fully addressed this concern in its Response to the Respondents’ Motion to Dismiss on pages 15-18 and will not re-argue it here other than to reiterate the fact that the irreparable harm that can and, most likely, will occur to M.S. while the adults at the trial court level, intermediate appellate level, and possibly the highest appellate level settle their jurisdictional disputes should the writ not continue has no adequate remedy at law.

#### *VI. “Custody” Action*

The procedural posture of this case is significantly different from the procedural postures of those cases now and originally cited by Respondents (and the relators and amicus curiae, American Academy of Adoption Attorneys, in Ohio Supreme Court Case No. 2016-0763). Those parties repeatedly claim that this is a custody matter and that it is not a parenting issue for which the jurisdictional “priority” rule should apply. However, what they fail to acknowledge is that this matter is not simply a custody issue. This is not a case where the parties obtained a divorce, custody was determined, and now an adoption is taking place. This is also not a case where visitation of grandparents or other family members is at issue. In addition, this

is not a case where permanent custody of the child has been granted to a children services agency and that agency is now pursuing an adoption for the child, which the juvenile court is somehow blocking. In all of those cases, the long-term fate of the child had *previously* been determined.

Rather, in the case sub judice, the duly elected judge of the Common Pleas Court of Allen County, Ohio, Juvenile Division, is *actively in the process of determining* the long-term fate of this child, who was adjudicated abused and dependent. Included in this decision is this child's legal custody and all the rights that come with that, most importantly in this case, the right to determine where and with whom the child resides. See R.C. 2151.011(B)(21). Furthermore, as previously noted, R.C. 3107.07 specifically states that consent is not necessary from a legal custodian who *does not timely object or* who is *unreasonably* withholding consent. R.C. 3107.07(H). Thus, this determination is vital to any adoption proceeding of M.S., unlike the children at issue in the cases relied upon by Respondents in this case (and the relators and amicus curiae, American Academy of Adoption Attorneys, in Ohio Supreme Court Case No. 2016-0763), whose long-term fates were already decided when adoption proceedings were begun.

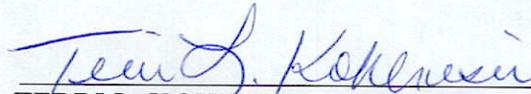
As previously noted in Relator's Response to the Respondents' Motion to Dismiss, the ramifications of permitting the probate court to exercise jurisdiction based on a consent to placement of the child for adoption purposes, when that child has been adjudicated abused and dependent due to the actions of this same person, who has consequently lost the right to determine where and with whom the child resides, are significant state-wide. What the biological mother and the Andersons have attempted to do, with the assistance of the respondents, is to engage in what is tantamount to forum shopping because they have received decisions contrary to their desires and are attempting to circumvent the exclusive jurisdiction of

the juvenile court before this child's long-term fate has been decided by that court. The effect that reconsidering the issuance of the peremptory writ of prohibition in this matter would have is to cause great havoc for children services agencies, juvenile courts, and, most importantly, the children they serve and aim to protect. This would allow a biological parent who has failed to adequately care for his/her children and who does not like the decisions of the public children services agency and the juvenile court to collude with others to adopt the very same children who the parents have abused, neglected, or caused to be dependent. Such action would make all efforts and strides made by the agency, court, and the child pointless and would undermine the detailed processes established by the General Assembly in Title 2151.01, et seq.

#### **CONCLUSION**

For all of these reasons, the writ should remain in effect and the motion for reconsideration should be overruled.

Respectfully submitted,



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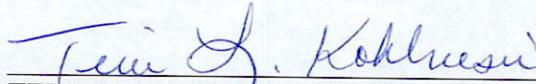
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**ATTORNEY FOR RELATOR**

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Relator's Response to Respondents' Motion to Reconsider has been served upon the attorney for Respondents, Matthew K. Fox, 119 N Walnut Street, Celina, Ohio 45822 by regular U.S. mail this 22<sup>nd</sup> day of June, 2016.



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