

15-058

DANIEL M. HERRIGAN
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SUMMIT COUNTY
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

COUNTY OF SUMMIT EXECUTIVE
RUSSELL M. PRY
175 S. Main St., 8th Floor
Akron, Ohio 44308

and

COUNTY OF SUMMIT PROSECUTOR
SHERRI BEVAN WALSH
53 University Ave., 6th Floor
Akron, Ohio 44308

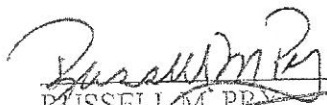
Applicants

CASE NO.: 2011 0095
JUDGE
APPLICATION TO AUTHORIZE
EMPLOYMENT OF LEGAL
COUNSEL UNDER R.C. 305.14


Now come the Applicants County of Summit Executive Russell M. Pry and County of Summit Prosecutor Sherrri Bevan Walsh ("Applicants"), and respectfully submits this joint Application to Authorize Employment of Outside Legal Counsel in accordance with R.C. 305.14. The rationale for this Application is detailed fully in the Memorandum in Support below:

Approved:

Respectfully submitted,


RUSSELL M. PRY
Executive, County Of Summit

SHERRI BEVAN WALSH
Prosecuting Attorney


SHERRI BEVAN WALSH
Prosecuting Attorney,
County of Summit


MARY ANN KOVACH (0005349)
Assistant Prosecuting Attorney
53 University Avenue, 6th Floor
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Attorney for Applicants

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MEMORANDUM IN SUPPORT

SUMMIT COUNTY
CLERK OF COURTS

It is the desire of the County of Summit to preserve and defend its interests at stake in the matter currently pending in the Franklin Court of Common Pleas, captioned *Ohio Public Employees Retirement System v. Akron General Medical Center, et al.*, Case No. 07 CVH 11-15705 ("the litigation"). The issues of law and fact in said matter involve a determination of whether individuals employed by the former Edwin Shaw Hospital for Rehabilitation ("ESHR") now working for the Akron General Medical Center ("AGMC") are carry-over public employees entitled to benefits through the Ohio Public Employees Retirement System ("OPERS") and whether the County of Summit is required to pay employer contributions to OPERS on their behalf. The Franklin County Court of Common Pleas recently issued a decision adverse to the County of Summit and the County intends to file an appeal in the 10th District Court of Appeals. The Applicants believe that the County must seek a reversal of the Court of Common Pleas order, which will cause the County to be required to pay in the near future a large amount of money to OPERS and subject the County to liability for future employer contributions while said individuals remain employed by AGMC. The Applicants have found that it is in the best interest of the County of Summit to employ outside legal counsel with specific expertise in handling cases involving OPERS, in order to seek reversal of the Court's order imposing significant liability on the County to OPERS.

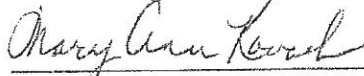
R.C. 305.14(A) states that "[t]he court of common pleas, upon the application of the prosecuting attorney and the board of county commissioners, may authorize the board to employ legal counsel to assist the prosecuting attorney, the board, or any other county officer in any matter of public business coming before such board or officer, and in the prosecution or defense

of any action or proceeding in which such board or officer is a party or has an interest, in its official capacity.”

In accordance with R.C. 305.14(A), the Applicants respectfully request that this Court grant the Application, and authorize the County Executive, in accordance with County procedures for employing professional services, to employ outside legal counsel to defend the County of Summit’s interests in the litigation, in an amount estimated to be \$25,000.00.

Respectfully submitted,

SHERRI BEVAN WALSH
Prosecuting Attorney



MARY ANN KOVACH (0005349)

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Attorney for Summit County

DAVID M. HERRICK

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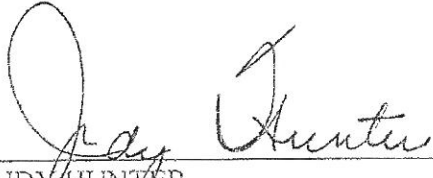
SUMMIT COUNTY
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

COUNTY OF SUMMIT EXECUTIVE) CASE NO.: 2011 . 0095
RUSSELL M. PRY)
175 S. Main St., 8th Floor) JUDGE
Akron, Ohio 44308)
)
and)
)
COUNTY OF SUMMIT PROSECUTOR) JUDGMENT ENTRY
SHERRI BEVAN WALSH)
53 University Ave., 6th Floor)
Akron, Ohio 44308)
)
)
Applicants)

Upon consideration of the Application filed in the above captioned matter, this Court hereby authorizes the County of Summit Executive, in accordance with County procedures for engaging professional services, to employ outside legal counsel Fisher & Phillips, LLP, to advocate for the County in *Ohio Public Employees Retirement System v. Akron General Medical Center, et al.*, Case No. 07 CVH 11-15705, currently pending in the Franklin County Court of Common Pleas, in accordance with R.C. 305.14. Outside counsel will handle all matters related to an appeal to the 10th District Court of Appeals. This Court retains the jurisdiction, upon further motion by Applicants, to revise, expand, or terminate the authorization granted herein.

IT IS SO ORDERED.



JUDY HUNTER
ADMINISTRATIVE JUDGE

EXHIBIT A