

12-124

DANIEL M. HERRIGAN  
2011 OCT 21 PM 1:34

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., 8<sup>th</sup> Floor  
Akron, Ohio 44308

and

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

Applicants

CASE NO.: 2011

0095

JUDGE

APPLICATION TO AUTHORIZE  
EMPLOYMENT OF LEGAL  
COUNSEL UNDER R.C. 305.14

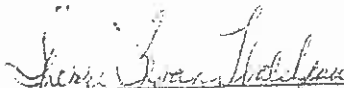
Now come the Applicants County of Summit Executive Russell M. Pry and County of Summit Prosecutor Sherri Bevan Walsh ("Applicants"), and respectfully submits this joint Application to Authorize Employment of Outside Legal Counsel in accordance with R.C. 305.14. The rationale for this Application is detailed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

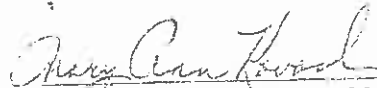
Approved:

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, 6<sup>th</sup> Floor  
Akron, OH 44308  
(330) 643-2800  
(330) 643-8708 - Facsimile  
kovach@prosecutor.summitoh.net  
Attorney for Applicants

DANIEL M. MORRISON

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MEMORANDUM IN SUPPORT

SUMMIT COUNTY  
CLERK OF COURTS

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 10<sup>th</sup> 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.

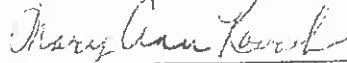
R.C. 305.14(A) states that "[t]he court of common pleas, upon the application of the prosecuting attorney and the board of county commissioners, may authorize the board to employ legal counsel to assist the prosecuting attorney, the board, or any other county officer in any matter of public business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

Assistant Prosecuting Attorney  
53 University Avenue, 6<sup>th</sup> Floor  
Akron, OH 44308  
(330) 643-2800  
(330) 643-8708 – Facsimile  
gaffney@prosecutor.summitoh.net  
Attorney for Summit County

SHERRI BEVAN WALSH

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IN THE COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO

COUNTY OF SUMMIT EXECUTIVE ) CASE NO.: 2011 . 0095  
RUSSELL M. PRY )  
175 S. Main St., 8<sup>th</sup> Floor ) JUDGE  
Akron, Ohio 44308 )  
)  
)  
and )  
)  
COUNTY OF SUMMIT PROSECUTOR ) JUDGMENT ENTRY  
SHERRI BEVAN WALSH )  
53 University Ave., 6<sup>th</sup> 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 10<sup>th</sup> 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.

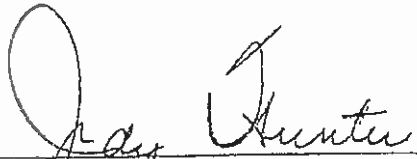
  
\_\_\_\_\_  
JUDY HUNTER  
ADMINISTRATIVE JUDGE

EXHIBIT A