IN THE SUPREME COURT OF OHIO

GAMBLE HARTSHORN LLC Plaintiff-Appellee V. PETER C. LEE Defendant-Appellant	Case No. On Appeal From The Franklin County Court of Appeals, Tenth Appellate District Court of Appeals Case No. 17AP000035

MEMORANDUM IN SUPPORT OF JURISDICTION OF APPELLANT PETER C. LEE

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EXPLANATION OF WHY THIS CASE IS A CASE OF PUBLIC OR GREAT GENERAL INTEREST

This case presents the growing use of the "Control Rule" to arbitrarily and absolutely foreclose citizens of Ohio from availing themselves of the remedial provisions for "excusable neglect" of Civ.R. 60(B) and has the unintended consequence of encouraging and rewarding sharp practice at the expense of justice and the reputation of the bar.

The Control Rule, stated by the appellate court in this case as "[u]nusual or special circumstances can justify neglect, but if the party could have controlled or guarded against the happening or event [he or] she later seeks to excuse, the neglect is not excusable."

In spite of its visceral appeal, the Control Rule circumvents a courts' duty to equitably consider all the facts and circumstances of a case in determining "excusable neglect" and, worse, is fatal-in-fact to every movant trying to establish "excusable neglect" to obtain a Civ.R. 60(B) relief from judgment because there are no facts and/or circumstances that can survive its application.

The cases employing the Control Rule, predictably, are catastrophic to movants' Civ.R. 60(B) motions. See *Nick v. Cooper*, 2016-Ohio-5678 (10th Dist., denial of motion for relief for debtor affirmed using Control Rule); See *Flagstar Bank v. Hairston*, 2013-Ohio-1151 (10th Dist., denial of motion for relief for debtor affirmed using Control Rule); See *Bank of Am., N.A. v. Malone*, 2012-Ohio-3585 (10th Dist., denial of motion for relief for homeowner affirmed using Control Rule); See *Porter v. Frutta Del Mondo*, 2008-Ohio-3567 (10th Dist., denial of motion for relief for company affirmed using Control Rule); See *John Soliday Fin. Group, LLC v. Moncreace*, 2011-Ohio-1471 (7th Dist., granting of motion for relief for borrower reversed using Control Rule); See *Maggiore v. Barensfeld*, 2012-Ohio-2909 (5th Dist., denial of motion for

relief for debtor affirmed using Control Rule). The list of such cases can more than fill this memorandum and all result in the denial of relief from judgment. This is because for every Civ.R. 60(B) motion subjected to the Control Rule, as argued *infra*, the facts and circumstances simply had no effect.

Consequently, use of the Control Rule contravenes this Honorable Court's holdings that it is a basic tenet of Ohio jurisprudence that cases should be decided on their merits, that the Ohio Rules of Civil Procedure are to be construed and applied to effect just results by eliminating delay, unnecessary expense and all other impediments to the expeditious administration of justice and liberal construction rather than technical interpretation is to be emphasized and that Civ.R. 60(B) is a remedial rule to be liberally construed so that the ends of justice may be served.

Moreover, because the Control Rule is utterly unconcerned with any equitable consideration of the non-movant's conduct, it encourages and rewards sharp practice and legal opportunism. Sadly and inevitably, upon the slightest negligence by movants, attorneys will seize this boon and under the banner of "zealous representation" do untold damage to the bar's reputation with Ohio citizens.

This Honorable Court should accept jurisdiction for three important reasons. First, the Control Rule manifests injustice by absolutely foreclosing all Ohio movants' ability to establish "excusable neglect" within the ambit of Civ.R. 60(B) utterly without regard to the underlying fact and circumstances of their cases. Second, the Control Rule contravenes the law that the court must of necessity conduct an equitable inquiry into all the facts and circumstances to determine "excusable neglect" for purposes of Civ.R. 60(B) as announced by this Honorable Court. Third, the Control Rule encourages sharp practice and other unethical, disfavored

behavior because such behavior has no bearing on the Control Rule outcome. This third reason inevitably portends to damage the bar's reputation. For these reasons, justice and integrity of the bar require that this Honorable Court accept jurisdiction in this case and overrule the use of the Control Rule.

STATEMENT OF THE CASE AND FACTS

Defendant-Appellant, Peter C. Lee ("Mr. Lee") is a 77 year old retired Chinese-American immigrant who understands very little English, does not own a computer or know how to use the internet, and lives alone in Clayton in Miami County, Ohio. Mr. Lee has no knowledge of the law, and was not represented by counsel in the trial court before judgment was granted against him.

Mr. Lee hired Plaintiff-Appellee law firm more than ten years ago to represent him with regards to the sale of his house in Delaware County, Ohio. The buyer, a real estate broker, complained of defects with the house and refused to pay on a promissory note to Mr. Lee for $54,000.

During that representation, Plaintiff-Appellee's invoices to Mr. Lee ballooned exponentially to some $53,596.57, effectively consuming Mr. Lee's entire potential recovery. Consequently, in 2009, Mr. Lee terminated Plaintiff-Appellee in favor of another attorney who, for a $10,000 flat-fee, easily and completely vindicated Mr. Lee at trial upon the principal of Caveat Emptor.

Many years later, on March 17, 2015, Plaintiff-Appellee filed this suit in the Franklin County Court of Common Pleas alleging Mr. Lee owed Plaintiff-Appellee $53,596.57 for legal work they allegedly performed on behalf of Mr. Lee. Plaintiff-Appellee's stated causes of action

were breach of contract, unjust enrichment and *quantum meruit*. No contract was attached to the complaint as required by rule.

On March 27, 2015, Mr. Lee was served with the complaint via certified mail and on April 23, 2015, Mr. Lee, with the help of an interpreter, drafted and mailed a response (hereinafter, "answer and motion") generally denying all Plaintiff-Appellee's allegations and moved the trial court for a continuance to allow Mr. Lee time to hire an attorney. Mr. Lee's filing lacked a certificate of service, but was, in fact, served upon Plaintiff-Appellee electronically via the trial court's compulsory electronic system.

Mr. Lee's answer and motion was docketed on April 28, 2015 and though the docket reflects that Mr. Lee had appeared and answered *pro se*, the docket nowhere reflects his incorporated motion for a continuance to hire legal counsel. Moreover, Mr. Lee never received any ruling or any other communication from the trial court regarding his motion.

The trial court completely disregarded Mr. Lee's motion for a continuance to hire an attorney. Mr. Lee respectfully notes the trial court and appellate court refused to characterize this filing as a "answer and motion" and took umbrage at Mr. Lee doing so, but the substance of the filing read, "I, Peter Lee picked up summons sent by the certified mail at post office on 3-27-2015. I denied all the allegations against me. I request the continuance to allow me to hire an attorney to assist me in this proceedings."

However, soon after filing his answer and motion, Mr. Lee received from the court a scheduling order that Mr. Lee thought identified a pre-trial hearing date of August 4, 2015. Mr. Lee thought his motion was to be addressed at that hearing.

On June 18, 2015, knowing Mr. Lee's answer and motion was defective and had been completely disregarded by the trial court, that Mr. Lee had no legal counsel, knowing Mr. Lee

had difficulty communicating in English, and knowing that Mr. Lee had no benefit of discovery whatsoever, Plaintiff-Appellee law firm took the opportunity to file a motion for Summary Judgment. This tactic implicates a sharp practice, technically feasible but equitably and ethically contemptuous and it reflects poorly upon the bar.

By operation of Civ.R. 56(D) and Civ.R. 6(a), Mr. Lee had until July 18, 2015 to respond to the motion for summary judgment. Mr. Lee neglected to respond to Plaintiff-Appellee's motion for summary judgment because he thought the trial Court had set the August 4, 2015 hearing to address his motion to continue to hire legal counsel. On July 21, 2015, just *three days* after Mr. Lee's response deadline and just two weeks before the first pre-trial conference, the trial court granted summary judgment for $62,152.94 with interest to Plaintiff-Appellee.

At about the same time and unaware of any looming decision, in mid-to-late July, 2015, Mr. Lee solicited the attorney he had hired to replace Plaintiff-Appellee in 2009 to represent him in the instant case but that attorney could not represent Mr. Lee.

Mr. Lee, again with the help of an interpreter, drafted another motion for a continuance and extension of time to file, poorly termed "motion for continuance of disclosure of witnesses and extension of time to respond to motion for summary judgment and for time to obtain an attorney" with the trial court on July 30, 2015, requesting a continuance of the August 4, 2015 hearing and stay of all proceedings for sixty (60) days to hire an attorney.

On July 30, 2015, Mr. Lee drove from Clayton, Ohio to the Franklin County Court of Common Pleas to personally file his second motion for continuance and extension of time to hire an attorney.

Upon filing his motion for continuance and extension of time, the clerk informed Mr. Lee for the first time that the case had been terminated in favor of Plaintiff-Appellee and that there would be no hearing on August 4, 2015.

Soon thereafter, Mr. Lee was referred to his current counsel and filed a timely Civ.R. 60(B) motion for relief from judgment on August 28, 2015, just twenty six (26) days after judgment had been granted. Mr. Lee's timely Civ.R. 60(B) motion was supported with evidentiary materials including several exhibits of which two were affidavits alleging meritorious defenses and sufficient operative facts to warrant granting of his Civ.R. 60(B) motion.

The trial court referred Mr. Lee's motion to a magistrate for a hearing and, on February 9, 2016 the magistrate denied Mr. Lee's Civ.R. 60(B) motion using the Control Rule.

On February 23, 2016, Mr. Lee timely objected to the magistrate's decision and on December 16, 2016 the trial court approved and adopted the magistrate's decision denying Mr. Lee's Civ.R. 60(B) motion for relief of judgment. The trial court used the Control Rule and eschewed any equitable considerations.

On January 12, 2017, Mr. Lee timely filed an appeal to Court of Appeals, Tenth Appellate District, seeking to reverse and/or remand the trial court's decision to deny his motion for relief from judgment through employment of the Control Rule.

On March 15, 2018, the Court of Appeals, Tenth Appellate District, affirmed the trial court's decision to deny Mr. Lee's time Civ.R. 60(B) motion, reiterating the Court's subscription to the "Control Rule" and stating Mr. Lee did not thereby demonstrate "excusable neglect."

ARGUMENT IN SUPPORT OF PROPOSITIONS OF LAW

PROPOSITION OF LAW NO I: A trial court abuses its discretion by failing to find "excusable neglect" within the ambit of Civ.R. 60(B) when Defendant-Appellant filed a request with the trial court for a continuance to hire an attorney, the trial court granted judgment for failure to respond just three days after Defendant-Appellant's response deadline, the amount of the judgment was $62,152.94, Defendant-Appellant, *pro se*, had no experience and understanding with respect to litigation matters and Defendant-Appellant's former attorneys, Plaintiff-Appellee filed for summary judgment in circumstances implicating sharp practice.

It is "a basic tenet of Ohio jurisprudence that cases should be decided on their merits." *Perotti v. Ferguson* (1983), 7 Ohio St.3d 1, 3.

Accordingly, courts generally refuse to place form over substance. See *Mills v. Mills* (September 21, 1990), Montgomery County App. No. 12100, unreported; and fn. 1 of *State v. Bailey* (November 2, 1989), Cuyahoga App. No. 56167, unreported. *State v. Jackson*, 1995 Ohio App. LEXIS 2608 (8th, 1995) (refusing to strike a pleading labeled as a motion). Moreover, this Honorable Court has long acknowledged that a court of equity will never tolerate sharp practice and trial courts disfavor such opportunism. *Goodin v. Cincinnati & Whitewater Canal Co.*, 18 Ohio St. 169, 182-183 (1868); See *Cleveland Mun. Sch. Dist. v. Farson*, 2008-Ohio-912, *P15 (Though a motion for a default judgment "was technically viable" given that an answer was not properly filed, "the facts and circumstances of the case showed the motion for a default judgment to be opportunism of a kind that has been repeatedly disfavored by the courts.")

Consistent with this guidance, the Ohio Rules of Civil Procedure, promulgated by this Honorable Court pursuant to Ohio Const. art. IV, § 5(B), are to be "construed and applied to effect just results by eliminating delay, unnecessary expense and all other impediments to the expeditious administration of justice and liberal construction rather than technical interpretation is to be emphasized." *State ex rel. Ohio Acad. of Trial Lawyers v. Sheward*, 86 Ohio St. 3d 451 at

478; Civ.R. 1(B); *Schwering v. TRW Vehicle Safety Sys.*, 132 Ohio St.3d 129, 2012-Ohio-1481, ¶21, 970 N.E.2d 865.

Civ.R. 60(B) provides, in pertinent part, that:

> "On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order or proceeding for the following reasons: (1) mistake, inadvertence, surprise or excusable neglect; *** or (5) any other reason justifying relief from the judgment. The motion shall be made within a reasonable time, and for reasons (1), (2) and (3) not more than one year after the judgment, order or proceeding was entered or taken."

Civ.R. 60(B)(emphasis added).

"A movant, pursuant to Civ.R. 60(B) must demonstrate that: (1) the party has a meritorious defense or claim to present if relief is granted; (2) the party is entitled to relief under one of the grounds stated in Civ.R. 60(B)(1) through (5); and (3) the motion is made within a reasonable time . . ." *GTE Automatic Elec.*, ¶2 of the syllabus.

This Honorable Court made clear "Ohio R. Civ. P. 60([B]) is a remedial rule to be liberally construed so that the ends of justice may be served." *Kay v. Marc Glassman, Inc.* (1996), 70 Ohio St. 3d 18, 19.

The instant case does not concern the timeliness of Mr. Lee's Civ.R. 60(B) motion nor his alleged meritorious defense, only whether "excusable neglect" was shown.

According to this Honorable Court, within the ambit of Civ.R. 60(B), "excusable neglect" is an elusive concept which has been difficult to define and to apply. *Kay* at *20. Nevertheless, this Honorable Court has defined "excusable neglect" in the negative and has stated that the inaction of a defendant is not "excusable neglect" if it can be labeled as a "complete disregard for the judicial system." *GTE AutomaticElec. v. ARC Industries, Inc.* (1976), 47 Ohio St. 2d146, 153, 1 Ohio Op. 3d 86, 90; *Rose Chevrolet, Inc. v. Adams* (1988), 36 Ohio St. 3d 17, 21 at fn.4.

A Civ.R. 60(B) finding of "excusable neglect" necessarily requires, in the first instance, a finding of neglect. *Colley v. Bazell*, 64 Ohio St. 2d 243, 248-249 (1980). This Honorable Court emphasized, that thereafter, the determination of whether such neglect is excusable "must of necessity take into consideration all the surrounding facts and circumstances." Id.; *Rose Chevrolet v. Adams*, 36 Ohio St. 3d 17, 21 (1988).

In *Colley*, this Honorable Court detailed how the equitable considerations applied in determining if there was "excusable neglect". See *Colley*. These considerations included, but were not limited to actions taken by the movant to engage in the suit, even if such actions didn't reach the courthouse, the lapse of time between the deadline for the filing and the granting of the judgment for not responding, the amount of the judgment, and, though not decisive, the experience and understanding of the defendant with respect to litigation matters. See *Colley*.

Analyzing the instant case in light of *Colley*, the trial court abused its discretion in failing to find "excusable neglect."

In *Colley*, the attorney defendant did absolutely nothing within the judicial system, whereas Mr. Lee actually filed an answer and a request for continuance to hire legal counsel. Even though Mr. Lee's filing was technically defective, it was docketed and served upon Plaintiff-Appellee.

Additionally, while technical defects may have rendered Mr. Lee's answer and motion a nullity at law, the defects do not remove Mr. Lee's attempted engagement of the judicial system from the equitable considerations in *Colley*. Mr. Lee's action demonstrates that, where the attorney in *Colley* did nothing in the trial court, Mr. Lee actually participated or attempted through action to participate in the judicial system regarding this case. Clearly, Mr. Lee did not show "complete disregard" for the court.

In *Colley*, the trial court granted default judgment six (6) days after the filing deadline. In reversing the appellate court's affirmation of the trial court's decision, this Honorable Court stated, "[w]e note that the default judgment was granted within a week of the defendant's failure to file a timely answer or a responsive pleading. Under these circumstances, the inaction of the defendant had not ripened to the point where it could be labeled as a 'complete disregard for the judicial system' as condemned in *GTE Automatic Electric*, supra, at page 153." *Colley* at 248 (emphasis added).

In the instant case, the trial court granted judgment just three (3) days after the deadline for Mr. Lee's response. Thus, Mr. Lee's failure to respond to Plaintiff-Appellee's motion for summary judgment had not ripened to the point where it could be labeled as a "complete disregard for the judicial system" and was "excusable neglect" as a matter of law.

In *Colley*, the judgment amount was $75,000. This Honorable Court quoted *Tozer v. Charles A. Krause Milling Co.* (C.A. 3, 1951), 189 F. 2D 242, 245, "What is excusable neglect and what is inexcusable neglect can hardly be determined in a vacuum. *** Matters involving large sums should not be determined by default judgments if it can reasonably be avoided." *Colley* at 248-249 including footnote 5, (emphasis by the Supreme Court of Ohio).

In the instant case, the judgment was for $62,152.94. The amount of judgment in both cases are large sums of money of the same order and this only militates in favor of finding of "excusable neglect" in the instant case.

The trial court and the appellate court in this case expressed that Mr. Lee's *pro se* status was effectively meaningless, stating that *pro se* litigants are held to the same standard as members of the bar. This statement is generally correct but specifically erroneous. This Honorable Court explicitly stated that regarding specific application of Civ.R. 60(B), "excusable

neglect" inquiries included consideration of the experience and understanding of the [movant] with respect to litigation matters. *Colley* at 249.

In *Colley*, the defendant was an attorney and, herein, Mr. Lee is a 77 year Chinese-American immigrant who is retired, has little English skill, does not know how to operate a computer or access the internet, has no knowledge of the law, and was not represented by counsel in the trial court below before judgment was granted against him. Though not decisive, this consideration can only favor finding "excusable neglect."

Another circumstance to consider at equity must be whether the non-movant engaged in sharp practice because legal opportunism is disfavored in Ohio. *Goodin* at 182-183*; Farson* at *P15.

Here, Plaintiff-Appellee law firm knew: a) Mr. Lee had filed his motion to continue to hire legal counsel, b) knew the trial court had completely disregarded Mr. Lee's motion, c) that Mr. Lee, their former client, had a very limited ability to understand English, d) that Mr. Lee did not have personal experience litigating matters, and that e) no attorney had made an appearance on behalf of Mr. Lee, when Plaintiff-Appellee law firm took advantage of the ensuing silence of the trial court to file a motion for summary judgment with extraordinary alacrity that started a deadline, buried in the civil rules and nowhere evident on the motion, that would terminate the case weeks before the first scheduled pre-trial conference where Mr. Lee could have orally made his motion for continuance to hire an attorney without risk of failing to comply with the technical defects of his written answer and motion that had silently set Mr. Lee adrift in this case.

This tactic worked spectacularly for the Plaintiff-Appellee law firm; $62,152.94 against an elderly and confused former client with no trial on the merits, no discovery, not even a single pre-trial hearing, and procedurally unassailable because of the Control Rule, admitting no

equitable consideration of sharp practice, simply forecloses Mr. Lee's ability to obtain Civ.R. 60(B) relief. This atrocity simply cannot be the law of Ohio but, if it is, the Control Rule has impugned and effectively overruled the right and lofty basic tenets, equitable principles, and other ideals of justice announced by this Honorable Court.

Like all the other facts and circumstances of this case, the disfavored cunning of Plaintiff-Appellee law firm should also weigh in favor of finding "excusable neglect."

Thus, pursuant to *Colley*, the trial court abused its discretion when it fail to consider all the facts and circumstances in this case and instead found no "excusable neglect."

PROPOSITION OF LAW NO II: A trial court abuses its discretion when it applies an impossible test, the "Control Rule", in finding that Defendant-Appellant's neglect was not "excusable neglect" within the ambit of Civ.R. 60(B).

A. The Control Rule Is Not The Law Of Ohio

Post-*Kay*, the Control Rule emerged in *Vanest*, when the Appeals Court of Ohio, Fourth Appellate District, undertook to synthesize several rules to greatly simplify determinations of "excusable neglect" even though this Honorable Court had stated such was "difficult to define and to apply" *Kay* at *20; *Vanest v. Pillsbury Co.*, 124 Ohio App. 3D 525 (1997, 4th Dist.). The Fourth Appellate District synthesized the Control Rule thusly: "*** a majority of the cases finding excusable neglect also have found unusual or special circumstances that justified the neglect of the party or attorney *** however, despite the presence of special or unusual circumstances, *** cases generally suggest that if the party or his attorney could have controlled or guarded against the happening of the special or unusual circumstance, the neglect is not excusable." *Vanest* at 536.

While the Control Rule has spread into other Appellate Districts, including the Tenth Appellate District in the instant case, this Honorable Court has never adopted the Control Rule as the law of Ohio.

B. The Control Rule Completely Forecloses A Movant's Right To Avail Themselves of the Remedial Provisions Of Civ.R. 60(B) Regarding "Excusable Neglect"

While the Control Rule is viscerally attractive, the logic is ultimately fallacious and its use arbitrarily, capriciously, and unconscionably, is fatal-in-fact to all movants seeking to establish "excusable neglect" to avail themselves of the remedial provisions of Civ.R. 60(B), regardless of the facts or circumstances.

A Civ.R. 60(B) finding of "excusable neglect" necessarily requires, in the first instance, a finding of neglect and neglect necessarily entails control by the movant who must fall below the standard, otherwise there is no neglect. In the first situation, the Control Rule prevents all findings of "excusable neglect" and, in the second situation, the lack of neglect prevents all findings of "excusable neglect". Thus, the Control Rule absolutely forecloses a movant from availing himself of the remedial provisions of Civ.R. 60(B) for "excusable neglect" without regard to *any* facts or circumstances.

Civ.R. 60(B)(1) is identical to Fed.R.Civ.P. 60(b)(1) and guidance from the United States Supreme Court in *Pioneer Invest. Servs. Co. v. Brunswick Assoc. Ltd. Partnership* (1993), 507 U.S. 380, 395, on an identical issue of federal law is particularly persuasive. *Farson* at *P14 (including footnote).

The United States Supreme Court found that "[f]or purposes of Rule 60(b), 'excusable neglect' is understood to encompass situations in which the failure to comply with a filing deadline is attributable to negligence. Because of the language and structure of Rule 60(b), a

party's failure to file on time for reasons beyond his or her control is not considered to constitute 'neglect.'" *Pioneer* at 394 (emphasis added).

It is clear that "excusable neglect" under Rule 6(b) is not limited strictly to omissions caused by circumstances beyond the control of the movant." *Pioneer* at 392 (emphasis added).

"The same is true of Rule 60(b)(1), which permits courts to reopen judgments for reasons of 'mistake, inadvertence, surprise, or excusable neglect,' ***." *Pioneer* at 393.

Consequently, application of the Control Rule, especially because the surrounding facts and circumstances can't alter the outcome, is an abuse of discretion *ab initio*, forcing a movant to first demonstrate no neglect on his part to avail himself of relief that applies only if he is negligent and then only if his neglect is "excusable."

C. The Control Rule Encourages and Rewards Sharp Practice and Disfavored Opportunism

Because the Control Rule is utterly unconcerned with any equitable consideration of the non-movant's conduct, it encourages and rewards sharp practice and legal opportunism. Sadly and inevitably, upon the slightest negligence by movants, attorneys will seize this boon and, pursuant to their duty of "zealous representation," do untold damage to justice and the bar's reputation with Ohio citizens. *A fortiori*, the Control Rule places well-meaning counsel in the untenable position of pursuing sharp practice as "zealous representation" rather than face malpractice claims for failing to exploit every legal opportunity, especially when the Control Rule ensures that the prevailing party shall never thereafter be subjected to a trial on the merits.

Thus, this Court must overrule the use of the Control Rule and find that a Court's use of the Control Rule in determining neglect is not "excusable neglect" is an abuse of discretion.

CONCLUSION

For the forgoing reasons, this case involves matters of public and great general interest. This Appellant respectfully requests this Honorable Court grant jurisdiction and overrule the use of Control Rule in determinations of "excusable neglect" within the ambit of Civ.R. 60(B), prevent the use of disfavored legal opportunism, restore the remedial properties of Civ.R. 60(B), avoid risk to the bar's reputation, and allow this case to proceed on the merits.

Respectfully submitted,

/s Wilburn L. Baker

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the forgoing MEMORANDUM IN SUPPORT OF JURISDICTION OF APPELLANT PETER C. LEE has been delivered via regular U.S. Mail, postage paid, upon John L. Chaney of Gamble Hartshorn LLC, Attorney for Appellee, Gamble Hartshorn LLC, at One East Livingston Avenue, Columbus, Ohio 43215-5700, this day, Thursday, April 26, 2018.

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APPENDIX