

IN THE SUPREME COURT OF OHIO

<b>State of Ohio, ex rel.</b>	)	Case No.
<b>Michael C. O'Malley, Cuyahoga County</b>	)	
<b>Prosecuting Attorney,</b>	)	Original Action in Prohibition and
The Justice Center, Courts Tower	)	Procedendo
1200 Ontario Street, Ninth Floor	)	
Cleveland, Ohio 44113,	)	
	)	
Relator,	)	
	)	
vs.	)	
	)	
<b>Michael J. Russo, Judge, Cuyahoga</b>	)	
<b>County Court of Common Pleas</b>	)	
The Justice Center, Courts Tower	)	
1200 Ontario Street, Courtroom 17-C	)	
Cleveland, Ohio 44113,	)	
	)	
Respondent.	)	

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**COMPLAINT FOR WRITS OF PROHIBITION AND/OR PROCEDENDO**

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<b>Michael J. Russo, Judge, Cuyahoga</b>	)	<b><u>COMPLAINT FOR WRITS OF</u></b>
<b>County Court of Common Pleas</b>	)	<b><u>PROHIBITION AND/OR</u></b>
The Justice Center, Courts Tower	)	<b><u>PROCEDENDO</u></b>
1200 Ontario Street, Courtroom 17-C	)	
Cleveland, Ohio 44113,	)	
	)	
Respondent.	)	

**INTRODUCTION AND JURISDICTION**

1. This is an original action in prohibition and procedendo that seeks to (a) prohibit respondent the Honorable Michael J. Russo, Judge, Cuyahoga County Court of Common Pleas, from defying the judgment and mandate rendered by the Supreme Court of Ohio in *D'Ambrosio v. State*, 139 Ohio St.3d 1416, 2014-Ohio-2487, 10 N.E.3d 736, and/or (b) compel Judge Russo to comply with the judgment and mandate rendered by the Supreme Court of Ohio in that case. This case is necessitated by the conduct of Respondent in continuing to preside over a matter that was fully and finally determined by the 2014 judgment of the Supreme Court of Ohio – a judgment Judge Russo now derides as “not relevant.”

2. The Supreme Court of Ohio has original jurisdiction pursuant to Article IV, Section 2(B)(1) of the Ohio Constitution.

## **PARTIES**

3. Relator Michael C. O’Malley (hereafter “Relator”) is the duly elected Prosecuting Attorney for Cuyahoga County, Ohio.
4. Pursuant to Ohio Revised Code Section 309.08(A), the prosecuting attorney is authorized generally to prosecute, on behalf of the state, all complaints, suits, and controversies in which the state is a party and to prosecute, in the Supreme Court of Ohio, cases arising in the prosecuting attorney’s county.
5. Pursuant to Article X, Section 1 of the Ohio Constitution and Ohio Revised Code Section 309.01 *et seq.*, the prosecuting attorney is a “county officer” within the meaning of Oho Revised Code Section 309.09(A).
6. Pursuant to Ohio Revised Code Section 309.09(A), the prosecuting attorney is authorized to prosecute and defend all suits and actions that any county officer directs or to which it is a party.
7. Respondent the Honorable Michael J. Russo, Judge, Cuyahoga County Court of Common Pleas (hereafter “Respondent”), is a duly elected Judge of the Court of Common Pleas for Cuyahoga County, Ohio.
8. Pursuant to Article IV, Section 4 of the Ohio Constitution, the court of common pleas generally has original jurisdiction over all justiciable matters.
9. Pursuant to Ohio Revised Code Section 2305.02, the court of common pleas in the county where an underlying criminal action was initiated has exclusive, original jurisdiction to hear and determine a civil action or proceeding that is commenced by an individual who seeks a determination by that court that the individual was a “wrongfully imprisoned individual” pursuant to Ohio Revised Code Section 2743.48(A).

## FACTS

### COMMON PLEAS COURT CASE NO. CV-12-775307 – “D’AMBROSIO I”

#### The Respondent’s Wrongful Imprisonment Declaration

10. On February 7, 2012, Respondent was randomly assigned to hear the civil action styled, Joe D’Ambrosio v. State of Ohio (hereafter “*D’Ambrosio I*”), Cuyahoga County Court of Common Pleas Case No. CV-12-775307, in which plaintiff Joe D’Ambrosio sought a determination by the Cuyahoga County Court of Common Pleas that he was a “wrongfully imprisoned individual” pursuant to Ohio Revised Code Section 2743.48(A).

11. D’Ambrosio’s complaint alleged at paragraph 9 that he was a “wrongfully imprisoned individual” because subsequent to sentencing and during or subsequent to imprisonment, an error in procedure resulted in his release. A true and accurate copy of the *D’Ambrosio I* complaint is attached hereto as Exhibit 1 to the Affidavit of Charles E. Hannan.

12. D’Ambrosio’s complaint additionally alleged at paragraph 11 that he did not commit any of the offenses of which he was previously convicted, including any lesser included offenses.

13. The Office of the Cuyahoga County Prosecuting Attorney, under the direction of one of Respondent’s predecessor Prosecuting Attorneys, defended and represented the State of Ohio in *D’Ambrosio I* and specifically denied that D’Ambrosio was a “wrongfully imprisoned individual” under either theory advanced by D’Ambrosio, i.e., that D’Ambrosio was not a “wrongfully imprisoned individual” because subsequent to sentencing and during or subsequent to imprisonment, an error in procedure resulted in his release and that D’Ambrosio was not a “wrongfully imprisoned individual” because he did not commit any of the offenses of which he was previously convicted, including any lesser included offenses.

14. D'Ambrosio elected, with Respondent's authorization, to litigate initially whether D'Ambrosio was a "wrongfully imprisoned individual" because subsequent to sentencing and during or subsequent to imprisonment, an error in procedure resulted in his release.

15. On January 11, 2013, Respondent rendered final judgment in *D'Ambrosio I* by declaring that D'Ambrosio was a "wrongfully imprisoned individual" because subsequent to sentencing and during or subsequent to imprisonment, an error in procedure resulted in his release. A true and accurate copy of the final judgment rendered in *D'Ambrosio I* complaint is attached hereto as Exhibit 2 to the Affidavit of Charles E. Hannan.

16. The judgment of the trial court in *D'Ambrosio I* was a final and appealable judgment that fully adjudicated D'Ambrosio's singular claim for wrongful imprisonment under R.C. 2743.48 and did not certify under Ohio Civil Rule 54(B) that any unadjudicated claims remained pending for determination.

**The Court of Appeals Affirms Respondent's Wrongful Imprisonment  
Declaration Based on the 8th District's Mansaray Ruling**

17. On February 8, 2013, the State of Ohio filed its notice of appeal from the final judgment rendered in *D'Ambrosio I*, with that appeal docketed in the Ohio Court of Appeals for the Eighth Judicial District as Case No. CA-13-99520.

18. October 10, 2013, the Court of Appeals affirmed the *D'Ambrosio I* judgment in *D'Ambrosio v. State*, 8th Dist. No. 99520, 2013-Ohio-4472.

19. In rendering its judgment in *D'Ambrosio v. State*, the Court of Appeals relied principally on that court's July 26, 2012 decision in *Mansaray v. State*, 8th Dist. No. 98171, 2012-Ohio-3376, where, reversing the trial court's judgment to the contrary and remanding for further proceedings, the Court of Appeals held that Mansaray was a "wrongfully imprisoned individual"

because subsequent to sentencing and during or subsequent to imprisonment, an error in procedure resulted in his release.

20. The judgment of the Court of Appeals in *D'Ambrosio v. State* did not remand the case to the trial court for any further proceedings.

21. On November 25, 2013, the State of Ohio filed in the Supreme Court of Ohio its notice of appeal from the judgment rendered by the Court of Appeals in *D'Ambrosio v. State*, 8th Dist. No. 99520, 2013-Ohio-4472, accompanied by a memorandum in support of jurisdiction, in the discretionary appeal docketed as Ohio Supreme Court Case No. 2013-1864.

**The Supreme Court of Ohio reverses without remand  
the 8th District's Judgment in *Mansaray v. State***

22. Between the dates on which Respondent rendered final judgment in *D'Ambrosio I* on January 11, 2013 and the State of Ohio filed its notice of appeal from the final judgment rendered in *D'Ambrosio I* on February 8, 2013, the Supreme Court of Ohio agreed on January 23, 2013 to accept the discretionary appeal docketed as *Yanko Mansaray v. State of Ohio*, Ohio Supreme Court Case No. 2012-1727.

23. On March 5, 2014, the Supreme Court of Ohio issued its decision in *Mansaray v. State*, 138 Ohio St.3d 277, 2014-Ohio-750, 6 N.E.3d 35, reversing the judgment of the Eighth District Court of Appeals that Mansaray was a “wrongfully imprisoned individual” because subsequent to sentencing and during or subsequent to imprisonment, an error in procedure resulted in his release.

24. The judgment of the Supreme Court of Ohio in *Mansaray v. State* reads as follows:

This cause, here on appeal from the Court of Appeals for Cuyahoga County, was considered in the manner prescribed by law. On consideration thereof, the judgment of the court of appeals is reversed, consistent with the opinion rendered herein.

It is further ordered that mandates be sent to and filed with the clerks of the Court of Appeals for Cuyahoga County and the Court of Common Pleas for Cuyahoga County.

A true and accurate copy of the judgment of the Supreme Court of Ohio in *Mansaray v. State* is attached hereto as Exhibit 3 to the Affidavit of Charles E. Hannan.

25. The judgment of the Supreme Court of Ohio in *Mansaray v. State* did not remand the case for any further proceedings.

**The Supreme Court of Ohio reverses without remand  
the 8th District's Judgment in D'Ambrosio v. State**

26. In the State of Ohio's *D'Ambrosio I* discretionary appeal docketed as Ohio Supreme Court Case No. 2013-1864, D'Ambrosio did not file any memorandum in response to the State's notice of appeal and memorandum in support of jurisdiction.

27. On June 11, 2014, the Supreme Court of Ohio released its merit decision without opinion in *D'Ambrosio v. State*, 139 Ohio St.3d 1416, 2014-Ohio-2487, 10 N.E.3d 736, and entered the following disposition approved by five (5) Justices: "Upon consideration of the jurisdictional memoranda filed in the case, the court accepts the appeal, and the decision of the court of appeals is reversed on the authority of *Mansaray v. State*, 138 Ohio St.3d 277, 2014-Ohio-0750."

28. The companion judgment entry issued by the Supreme Court of Ohio reads as follows:

Upon consideration of the jurisdictional memoranda filed in the case, the court accepts the appeal, and the decision of the court of appeals is reversed on the authority of *Mansaray v. State*, 138 Ohio St.3d 277, 2014-Ohio-750.

It is further ordered that a mandate be sent to and filed with the clerk of the Court of Appeals for Cuyahoga County.

A true and accurate copy of the judgment of the Supreme Court of Ohio in *D'Ambrosio v. State* is attached hereto as Exhibit 4 to the Affidavit of Charles E. Hannan.

29. The judgment of the Supreme Court of Ohio in *D'Ambrosio v. State* did not remand the case for any further proceedings

30. According to the Case Announcements, Justice French concurred in reversing the judgment of the Court of Appeals but would have remanded the cause for application of *Mansaray*. See *D'Ambrosio v. State*, 139 Ohio St.3d 1416, 2014-Ohio-2487, 10 N.E.3d 736.

31. On June 20, 2014, counsel for D'Ambrosio made their first and only appearance in the Supreme Court proceedings, filing a motion for reconsideration requesting the Ohio Supreme Court to “amend its order to state that the court of appeals’ decision is ‘reversed and remanded for application of *Mansaray*.’” A true and accurate copy of D'Ambrosio's motion for reconsideration is attached hereto as Exhibit 5 to the Affidavit of Charles E. Hannan.

32. On June 30, 2014, the State of Ohio opposed D'Ambrosio's motion for reconsideration.

33. On September 3, 2014, D'Ambrosio's motion for reconsideration was denied. See *D'Ambrosio v. State*, 140 Ohio St.3d 1419, 2014-Ohio-3785, 15 N.E.3d 886.

34. On September 3, 2014, a reconsideration entry was filed that reads as follows: “It is ordered by the court that the motion for reconsideration in this case fails for want of four votes.” A true and accurate copy of the reconsideration entry is attached hereto as Exhibit 6 to the Affidavit of Charles E. Hannan.

**D'Ambrosio I court proceedings following  
the Ohio Supreme Court's Summary Disposition**

35. On September 8, 2014, the judgment entries issued on June 11, 2014 and September 3, 2014 by the Supreme Court of Ohio in *D'Ambrosio v. State*, Ohio Supreme Court Case No. 2013-1864, were docketed in the Eighth Judicial District Court of Appeals case proceedings for Case No. CA-13-99520.

36. On September 12, 2014, the Court of Appeals issued a journal entry in Case No. CA-13-99520 that reads as follows:

On the authority of *Mansaray v. State of Ohio*, 138 Ohio St.3d 277, 2014-Ohio-750, 6 N.E.3d 35, the Ohio Supreme Court reversed the judgment of the Eighth District Court of Appeals in *D'Ambrosio v. State of Ohio*, 139 Ohio St.3d 1416, 2014-Ohio-2487, 10 N.E.3d 736, without remand. (See Judgment Entry of the Ohio Supreme Court filed on June 11, 2014, Case No. 2013-1864). This order is to clarify that no further action is necessary by this court.

A true and accurate copy of the Court of Appeals journal entry is attached hereto as Exhibit 7 to the Affidavit of Charles E. Hannan.

37. Despite the Court of Appeals' acknowledgement that the Ohio Supreme Court's summary disposition in *D'Ambrosio v. State*, 139 Ohio St.3d 1416, 2014-Ohio-2487, 10 N.E.3d 736, was without remand and thus required "no further action" by the Court of Appeals, the respondent began to conduct further judicial proceedings on the already-terminated case until March 7, 2016, when D'Ambrosio filed in the common pleas court a notice of voluntary dismissal without prejudice pursuant to Ohio Civil Rule 41(A).

38. Respondent purported to act in the already-terminated common pleas court case by filing an order on March 15, 2016 formally closing the case proceedings for Case No. CV-12-775307.

39. The mandate issued by the Supreme Court of Ohio in *D'Ambrosio v. State*, 139 Ohio St.3d 1416, 2014-Ohio-2487, 10 N.E.3d 736, reversed the judgment rendered in *D'Ambrosio I* with no remand provision for any further proceedings.

40. As a consequence of the mandate issued by the Supreme Court of Ohio in *D'Ambrosio v. State*, 139 Ohio St.3d 1416, 2014-Ohio-2487, 10 N.E.3d 736, the Common Pleas court case was terminated and Respondent was and is not authorized to exercise any further judicial power in *D'Ambrosio I*.

41. As a consequence of the mandate issued by the Supreme Court of Ohio in *D'Ambrosio v. State*, 139 Ohio St.3d 1416, 2014-Ohio-2487, 10 N.E.3d 736, D'Ambrosio's March 7, 2016 notice of voluntary dismissal was without any legal import or effect.

**COMMON PLEAS COURT CASE NO. CV-17-876903 – “D’AMBROSIO II”**

**Respondent Declares that the Ohio Supreme Court’s Judgment in *D’Ambrosio I* is “Not Relevant” to *D’Ambrosio II***

42. On March 6, 2017, D'Ambrosio attempted to relitigate his case by filing the civil action styled, Joe D'Ambrosio v. State of Ohio (hereafter “*D’Ambrosio II*”), Cuyahoga County Court of Common Pleas Case No. CV-17-876903, in which D'Ambrosio again sought the same determination by the Cuyahoga County Court of Common Pleas that he sought in 2012, to wit: that he was a “wrongfully imprisoned individual” pursuant to Ohio Revised Code Section 2743.48(A). A true and accurate copy of the *D’Ambrosio II* complaint is attached hereto as Exhibit 8 to the Affidavit of Charles E. Hannan. After the initial random assignment to another judge, the case was reassigned to Respondent as a case that was “related” to *D’Ambrosio I*.

43. On May 16, 2017, Respondent issued orders that stayed the stay “pending proposed changes to R.C. 2743.48(A)(5)” and that held in abeyance the State of Ohio’s motion to dismiss for lack of jurisdiction or for judgment on the pleadings.

44. On September 11, 2017, Respondent issued an order reactivating *D’Ambrosio II*.

45. On May 25, 2018, Respondent issued an order that denied the State of Ohio’s motion for judgment on the pleadings, stating as follows in relevant part:

According to the Ohio Supreme Court, “a voluntary dismissal pursuant to Civ.R. 41(A) renders the parties as if no suit had ever been filed only against the dismissed parties.” *Denham v. New Carlisle*, 86 Ohio St.3d 594, 17997-Ohio-128, 716 N.E.2d 184; *McKay v. Promex Midwest Corp.*, 2nd Dist. Montgomery No. 20112, 2004-Ohio-3576, ¶ 25. The court finds that the interlocutory appeal in *D’Ambrosio I*, in which the Supreme Court reversed the 8th District Court of Appeals, is not relevant to the current proceedings pursuant to Civ.R. 41.

A true and accurate copy of Respondent's May 25, 2018 order issued in *D'Ambrosio II* is attached hereto as Exhibit 9 to the Affidavit of Charles E. Hannan.

46. The appeal filed in *D'Ambrosio I* was not an interlocutory appeal but rather was an appeal from a final and appealable judgment that fully adjudicated D'Ambrosio's singular claim for wrongful imprisonment under R.C. 2743.48 and did not certify under Ohio Civil Rule 54(B) that any unadjudicated claims remained pending for determination.

47. The mandate issued by the Supreme Court of Ohio in *D'Ambrosio v. State*, 139 Ohio St.3d 1416, 2014-Ohio-2487, 10 N.E.3d 736, to reverse without remand the judgment rendered in *D'Ambrosio I* is not irrelevant to *D'Ambrosio II* but rather is fully binding and determinative to the *D'Ambrosio II* proceedings.

## **CLAIMS FOR RELIEF**

### **Count 1 – Prohibition**

48. Relator restates and incorporates by reference all of the allegations contained in paragraphs 1 through 48 of this Complaint as if fully rewritten herein.

49. In rendering its judgment in *D'Ambrosio v. State*, 139 Ohio St.3d 1416, 2014-Ohio-2487, 10 N.E.3d 736, *reconsideration denied*, 140 Ohio St.3d 1419, 2014-Ohio-3785, 15 N.E.3d 886, the Supreme Court of Ohio fully decided the case with a judgment that was controlling upon the lower courts as to all matters within the compass of the judgment, including all claims that were actually decided or that should have been raised in that prior appeal.

50. In rendering its judgment in *D'Ambrosio v. State*, 139 Ohio St.3d 1416, 2014-Ohio-2487, 10 N.E.3d 736, *reconsideration denied*, 140 Ohio St.3d 1419, 2014-Ohio-3785, 15 N.E.3d 886, the Supreme Court of Ohio considered and ultimately denied D'Ambrosio's express request to remand the case for further proceedings.

51. In rendering its judgment in *D'Ambrosio v. State*, 139 Ohio St.3d 1416, 2014-Ohio-2487, 10 N.E.3d 736, *reconsideration denied*, 140 Ohio St.3d 1419, 2014-Ohio-3785, 15 N.E.3d 886, the Supreme Court of Ohio fully adjudicated the rights of the parties with a judgment that D'Ambrosio could not negate by filing a notice of voluntary dismissal pursuant to Ohio Civil Rule 41(A)(1)(a).

52. In disregard of the judgment rendered by the Supreme Court of Ohio in *D'Ambrosio v. State*, 139 Ohio St.3d 1416, 2014-Ohio-2487, 10 N.E.3d 736, *reconsideration denied*, 140 Ohio St.3d 1419, 2014-Ohio-3785, 15 N.E.3d 886, Respondent has exercised and will continue to exercise judicial power in *D'Ambrosio II*.

53. Respondent's exercise of judicial power in *D'Ambrosio II* is unauthorized by law.

54. Under the mandate rule, a lower court may carry the mandate of the upper court into execution and may not consider the questions which the mandate laid at rest. When the upper court's mandate leaves nothing left to decide, the lower court is bound to execute the upper court's mandate, implement both the letter and the spirit of the upper court's mandate, and may not disregard the explicit directives of that court. *See Fitzgerald v. City of Cleveland Civ. Serv. Comm'n*, 8th Dist. No. 104492, 2017-Ohio-7086, at ¶ 25; *State v. Carlisle*, 8th Dist. No. 93266, 2010-Ohio-3407, at ¶ 16, *affirmed on alternate grounds*, 131 Ohio St.3d 127, 2011-Ohio-6553, 961 N.E.2d 671. The mandate rule is a jurisdictional bar on the inferior court's authority to reconsider issues that were expressly or impliedly decided in a previous appeal.

55. Based on the mandate rule, Respondent patently and unambiguously lacks jurisdiction to conduct judicial proceedings in *D'Ambrosio II*.

56. Under the doctrine of the law of the case, the decision of a reviewing court in a case remains the law of that case on the legal questions involved for all subsequent proceedings in the

case at both the trial and reviewing levels. *See Nolan v. Nolan*, 11 Ohio St.3d 1, 3, 462 N.E.2d 410 (1984).

57. Based on the doctrine of the law of the case, Respondent patently and unambiguously lacks jurisdiction to conduct judicial proceedings in *D'Ambrosio II*.

58. Under the doctrine of res judicata, a valid, final judgment rendered upon the merits bars all subsequent actions based upon any claim arising out of the transaction or occurrence that was the subject matter of the previous action.” *Grava v. Parkman Twp.*, 73 Ohio St.3d 379, 653 N.E.2d 226 (1995), syllabus.

59. Based on the doctrine of res judicata, Respondent patently and unambiguously lacks jurisdiction to conduct judicial proceedings in *D'Ambrosio II*.

60. Denying the requested writ of prohibition would cause injury for which Relator lacks an adequate remedy in the ordinary course of the law.

61. Relator prays that this Court issue an alternative and/or peremptory writ of prohibition that will prohibit the Honorable Michael J. Russo, Judge, Cuyahoga County Court of Common Pleas, from defying the judgment and mandate rendered by the Supreme Court of Ohio in *D'Ambrosio v. State*, 139 Ohio St.3d 1416, 2014-Ohio-2487, 10 N.E.3d 736, and prohibit him from conducting further judicial proceedings in *D'Ambrosio II*.

## **Count 2 – Procedendo**

62. Relator restates and incorporates by reference all of the allegations contained in paragraphs 1 through 58 of this Complaint as if fully rewritten herein.

63. Based on the judgment and mandate rendered by the Supreme Court of Ohio in *D'Ambrosio v. State*, 139 Ohio St.3d 1416, 2014-Ohio-2487, 10 N.E.3d 736, *reconsideration denied*, 140 Ohio St.3d 1419, 2014-Ohio-3785, 15 N.E.3d 886, Relator has a clear legal right to require the Respondent to render final judgment in Relator's favor in *D'Ambrosio II*.

64. Based on the judgment and mandate rendered by the Supreme Court of Ohio in *D'Ambrosio v. State*, 139 Ohio St.3d 1416, 2014-Ohio-2487, 10 N.E.3d 736, *reconsideration denied*, 140 Ohio St.3d 1419, 2014-Ohio-3785, 15 N.E.3d 886, Respondent has a clear legal duty to render final judgment in Relator's favor in *D'Ambrosio II*.

65. Respondent has failed and/or refused to comply with the judgment and mandate rendered by the Supreme Court of Ohio in *D'Ambrosio v. State*, 139 Ohio St.3d 1416, 2014-Ohio-2487, 10 N.E.3d 736, *reconsideration denied*, 140 Ohio St.3d 1419, 2014-Ohio-3785, 15 N.E.3d 886, by rendering final judgment in Relator's favor in *D'Ambrosio II*.

66. Relator lacks an adequate remedy in the ordinary course of the law in which to have Respondent comply with the judgment and mandate rendered by the Supreme Court of Ohio in *D'Ambrosio v. State*, 139 Ohio St.3d 1416, 2014-Ohio-2487, 10 N.E.3d 736, *reconsideration denied*, 140 Ohio St.3d 1419, 2014-Ohio-3785, 15 N.E.3d 886.

67. Relator prays that this Court issue a writ of procedendo that will compel the Honorable Michael J. Russo, Judge, Cuyahoga County Court of Common Pleas, to comply with the judgment and mandate rendered by the Supreme Court of Ohio in *D'Ambrosio v. State*, 139 Ohio St.3d 1416, 2014-Ohio-2487, 10 N.E.3d 736, *reconsideration denied*, 140 Ohio St.3d 1419,

2014-Ohio-3785, 15 N.E.3d 886, by rendering final judgment in Relator's favor in *D'Ambrosio*

*II.*

**WHEREFORE**, Relator Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, respectfully prays for judgment against Respondent Michael J. Russo, Judge, Cuyahoga County Court of Common Pleas, and hereby requests that this Court issue an alternative and/or peremptory writ of prohibition and/or a writ of procedendo, together with any and all other relief to which Relator is entitled, at Respondent's costs.

Respectfully submitted,

MICHAEL C. O'MALLEY, Prosecuting Attorney  
of Cuyahoga County

By: /s Charles E. Hannan  
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