IN THE SUPREME COURT OF OHIO

CASE NO. 2020-1133

APPEAL FROM THE COURT OF APPEALS
FIRST APPELLATE DISTRICT
HAMILTON COUNTY, OHIO
CASE NO. C1900615

KYRIAKOS GEORGANTONIS, et al.

Plaintiffs-Appellants,

vs.

CITY OF READING, OHIO

Defendant-Appellee

MEMORANDUM IN OPPOSITION TO JURISDICTION OF DEFENDANT-APPELLEE, CITY OF READING, OHIO

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POSITION STATEMENT

THE PRESENT REQUEST FOR JURISDICTION DOES NOT INVOLVE ISSUES OF PUBLIC AND GREAT GENERAL INTEREST AND DOES NOT INVOLVE A SUBSTANTIAL CONSTITUTIONAL QUESTION

Section 6, Article IV of the Ohio Constitution provides that judgments of the Courts of Appeals of this state shall serve as the ultimate and final adjudication of all cases except those involving constitutional questions, conflict cases, felony cases, cases in which the Court of Appeals has original jurisdiction, and cases of public or great general interest. *Williamson v. Rubick*, 171 Ohio St. 263, 253-254, 169 N.E.2d 876 (1960). Except in these special circumstances, a party to litigation has a right to but one appellate review of his cause. *Id*. Section 2, Article IV of the Constitution, provides in part:

> * * * In cases of public or great general interest the supreme court may * * * direct any court of appeals to certify its record to the supreme court, and may review, and affirm, modify or reverse the judgment of the court of appeals * * *.

The sole issue for determination is whether this case presents a question of public or great general interest, as distinguished from questions of interest primarily to the parties. *Williamson*, 171 Ohio St. at 254. As explained below, there is no question of public or great general interest here. Moreover, this case does not raise any constitutional questions under either the United States or Ohio constitutions.

This case involves a scissor lift which was parked on the cover of an electric box embedded in a sidewalk in the City of Reading. Since the amendments to R.C. Chapter 2744 in 2003, it has been clear that the maintenance and repair of a public sidewalk is a governmental function. Ohio Courts have drawn a clear distinction between objects which protrude from the sidewalk or when a portion of the sidewalk crumbles or breaks from cases in which a manhole or other covering is totally absent from the sidewalk and someone falls into that depression. In this case, the First

District Court of Appeals did an excellent analysis of these cases. If Plaintiff can show a manhole was left uncovered while the government was performing a proprietary function such as maintenance of the sewer system, the political subdivision may not be entitled to immunity. However, that did not happen in this case. Here, the cover of the service box, which functions as part of the sidewalk, broke. That relates to the maintenance of a sidewalk which is specifically enumerated as a governmental function under R.C. 2744.01(C)(2)(e). Even if the Court were to consider the cover to be part of a street lighting system rather than a part of the sidewalk, the First District Court of Appeals performed an excellent analysis in determining that was also a government function. An additional reason this Court should not accept this case for review is that it does not raise a clear cut issue of public or great general interest since liability can be analyzed under two separate theories.

STATEMENT OF THE CASE AND FACTS

Plaintiffs filed their Complaint on October 3, 2018 and filed a First Amended Complaint October 4, 2018. Defendant Reading filed an Answer to the Amended Complaint in which it denied all operative allegations and asserted immunity as an affirmative defense. Reading filed a Motion for Judgment on the Pleadings based upon Chapter 2744 immunity which was granted by the Trial Court. The First District Court of Appeals affirmed the decision of the Trial Court in an Opinion dated August 5, 2020.

II. FACTS

Plaintiffs allege that on October 4, 2016, Plaintiff Kyriakos Georgantonis ("Kyriakos") was painting the side of a building in the City of Reading in the course of his employment with Pastrimas Painting Company. Plaintiffs allege Kyriakos was working from a 20-foot-high raised platform of a scissor lift when the accident occurred. Prior to the incident, Kyriakos moved the

scissor lift onto the sidewalk and parked it in front of the building he was painting. In doing so, he parked one of the tires of the scissor lift on the cover of a Composolite electrical service box, which was embedded into, and even with the grade of the sidewalk surface. Plaintiffs allege that as Kyriakos was performing his painting duties, the lid of the sidewalk electric service box fractured, causing the scissor lift to fall over, which, in turn, caused Kyriakos to fall onto the surface of the sidewalk. Besides the negligence claim asserted against Reading, Plaintiffs also asserted products liability claims against the manufacturers of the service box and service box lid.

Plaintiffs allege that Reading is a municipal corporation located in Hamilton County, Ohio. Plaintiffs allege the electrical service box lid was constructed of polymer concrete reinforced by heavy-weave fiberglass and was designed for use in paved pedestrian areas such as sidewalks. The lid of the electrical service box was even with the grade of the remainder of the sidewalk, was one of several similar electrical service boxes embedded into nearby sidewalks, and contained conduit and other electrical apparatus "to distribute electricity to streetlights along those streets." Plaintiffs do not allege the lid of the electrical box was misaligned with the hole it was covering.

ARGUMENTS IN OPPOSITION TO APPELLANT'S PROPOSITIONS OF LAW

Response to Proposition of Law No. 1

When the cover to an electric box embedded in a public sidewalk collapses or fails that is a governmental function related to sidewalk maintenance and repair and the City of Reading is entitled to immunity under R.C. Chapter 2744

Reading is entitled to immunity under R.C. Chapter 2744, the Ohio Political Subdivision Tort Liability Act, with respect to all of Plaintiffs' claims against it. In determining whether a political subdivision is immune from tort liability pursuant to R.C. Chapter 2744, the Court should employ a three-tiered analysis. *Hess v. Austintown Twp.*, 2009-Ohio-4808, ¶ 13 (7th Dist.). First, R.C. 2744.02(A)(1) sets forth the general grant of immunity for political subdivisions for

damages in a civil action allegedly caused by any act or omission of a political subdivision or employee in connection with a governmental or proprietary function. *Id.* at ¶14. Second, the immunity afforded a political subdivision under R.C. 2744.02(A)(1) is subject to the exceptions to immunity listed in R.C. 2744.02(B). *Id.* at ¶15. Third, if one or more exceptions apply, immunity can be reinstated if the political subdivision can show one of the defenses contained in R.C. 2744.03 applies. *Id.* at ¶ 16, citing, *Colbert v. Cleveland*, 99 Ohio St.3d 215, 2003-Ohio-3319, 790 N.E.2d 781, ¶¶ 7-9.

Under the first tier of the analysis, Ohio Revised Code Chapter 2744 sets forth a general grant of immunity from liability for political subdivisions and employees of political subdivisions engaged in governmental or proprietary functions:

> Except as provided in division (B) of this section, a political subdivision is not liable in damages in a civil action for injury, death, or loss to person or property allegedly caused by any act or omission of the political subdivision or an employee of the political subdivision in connection with a governmental or proprietary function.

R.C. 2744.02(A)(1). A political subdivision is defined in R.C. 2744.01(F) as a "municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities in a geographic area smaller than that of a state." In the present case, Plaintiffs have alleged that "Defendant the City of Reading is a municipal corporation located in Hamilton County, Ohio," (First Amended Complaint, ¶ 2), and there is no dispute that Reading's alleged conduct in this case arises in connection with a governmental or proprietary function. Consequently, there is no dispute Reading is entitled to the general grant of immunity under the first tier of the immunity analysis.

Under the second tier of the analysis, R.C. Chapter 2744(B) provides five possible exceptions to immunity. *Hess*, 2009-Ohio-4808, ¶¶ 18-23. Several of the exceptions clearly do

not apply. Revised Code 2744.02(B)(1) involves negligent operation of a motor vehicle; R.C. 2744.02(B)(4) concerns physical defects within or on the grounds of buildings used in connection with governmental functions; and R.C. 2744.02(B)(5) deals with civil liability expressly imposed upon the political subdivision by a section of the Revised Code.

The only exceptions that could possibly apply in this case are R.C. 2744.02(B)(2), which involves the "negligent performance of acts by their employees with respect to proprietary functions" and R.C. 2744.02(B)(3), which deals with the negligent failure to keep public roads in repair.

With respect to the latter, due to a 2003 statutory amendment, R.C. 2744.02(B)(3) no longer applies to alleged negligence in connection with a public sidewalk. *Hess*, at ¶¶ 18-23; *Burns v. City of Upper Arlington*, 2007-Ohio-797, at ¶ 14-16 (10th Dist.); *Gordon v. Dziak*, 2008-Ohio-570, at ¶ 38 (8th Dist.). The prior version of R.C. 2744.02(B)(3) read: "[P]olitical subdivisions are liable for injury, death, or loss to person or property caused by their failure to keep public roads, highways, streets, avenues, alleys, ***sidewalks***, bridges, aqueducts, viaducts, or public grounds within the political subdivisions open, in repair, and free from nuisance* * *." *Hess* at ¶ 25; 149 Ohio Laws, Part II, 3500, 3508 (emphasis added.) The current version of R.C. 2744.02(B)(3) only mentions "public roads," not sidewalks:

> . . . political subdivisions are liable for injury, death, or loss to person or property caused by their negligent failure to keep public roads in repair and other negligent failure to remove obstructions from public roads . . . .

Further, R.C. 2744.01(H) defines "public roads" as: "public roads, highways, streets, avenues, alleys, and bridges within a political subdivision. * * *." R.C. 2744.01(H). Therefore, sidewalks do not fall within the definition of public roads.

Courts have interpreted the legislature's amendment of the statute as a clear intention to remove "sidewalks" from this exception to political subdivision immunity. *Wilson v. Cleveland,* 2012-Ohio-4289, 979 N.E.2d 356, 360 ¶ 9 (8th Dist.); *Snider v. Akron,* 2008-Ohio-2156, ¶ 14 (9th Dist.). Further elaborating on the change in the statute, courts have also determined sidewalks are not considered "public roads" pursuant to R.C. 2744.02(B)(3). *Gordon v. Dziak,* 2008-Ohio-570, ¶ 36 (8th Dist.). Political subdivisions are therefore immune from liability for allegations of negligence in connection with injuries caused by allegedly defective conditions on sidewalks. *Id.*; *Hess*, 2009-Ohio-4808, ¶¶ 29-30.

That the incident alleged in the present case involved a service box lid embedded into the sidewalk rather than the concrete surface of the sidewalk itself does not change the outcome. In *Needham v. Columbus,* 2014-Ohio-1457, ¶ 17 (10th Dist.), the plaintiff sued the City of Columbus after tripping over a metal mounting bracket installed on a city sidewalk designed to hold a trash receptacle. The metal bracket protruded approximately three inches above the sidewalk. At some point prior to the accident, the trash receptacle had become detached from the bracket leaving the bracket exposed. Plaintiff tripped on the bracket and sued the City of Columbus. The City moved for judgment on the pleadings based upon political subdivision immunity for maintenance of a sidewalk. The plaintiff argued on appeal that the function of providing trash services was a proprietary function not typically provided by the government. As such, the plaintiff argued an exception applied to governmental immunity. The Tenth District rejected the plaintiff's argument, finding that the metal bracket and trash receptacle were mounted on a public sidewalk and the maintenance and repair of a public sidewalk is a governmental function. The court therefore found the city entitled to immunity.

Likewise, in *Evans v. Cincinnati*, 2013-Ohio-2063 (1st Dist), the plaintiff sued the City of Cincinnati after she tripped and fell on a sidewalk on the way to a Cincinnati Bengals game. The plaintiff alleged she tripped and fell when her pant leg got caught on a broken metal sign post jutting out of the sidewalk. The plaintiff argued the case was not about the maintenance of the sidewalk, but instead about the maintenance of the sign post. The First District rejected the plaintiff's argument. The Court found that the conduct about which plaintiff complained—that the city failed to keep the sidewalk clear of a dangerous obstruction—falls within the city's responsibilities in connection with sidewalk repair under R.C. 2744.01(C)(2)(e). *Id.* Thus, the Court held the city was entitled to immunity as to the plaintiff's claims. *Id.*

In *Bradshaw v. New Village Corp.*, 2018-Ohio-691, 95 N.E.3d 446 (8th Dist. 2018), the court recognized that "[a] sidewalk made of a combination of concrete and bricks, as opposed to concrete alone, does not transform the sidewalk into something else. It is still a public sidewalk cloaked with immunity under R.C. Chapter 2744." *Id.* at ¶ 16. Likewise, in the present case, the fact that the sidewalk at issue was made up, partly, of the cover of the electric service box does not change the immunity analysis.

Ohio Courts have also found that covers for access ports to proprietary systems underneath sidewalks are considered a part of the sidewalk and, therefore, their maintenance is a government function. See, *Wilson v. Cleveland*, 2012-Ohio-4289, 979 N.E.2d 356, 360 (8th Dist.). In *Burns v. City of Upper Arlington*, 10th Dist. Franklin No. 06AP-680, 2007-Ohio-797, the court stated as follows:

> We conclude that in this case, the conduct about which appellee complains was the maintenance of a sidewalk, and not the maintenance of a sewer. Although the manhole cover upon which appellee tripped was intended to provide access to the sewer system, it was not, in and of itself, a part of that system. It was,

> instead, intended to form part of the walkway for pedestrian traffic to use, and was therefore part of the sidewalk.

Id. at ¶ 15.

Plaintiffs argue that they are not asserting that their claims fall within the R.C. 2744.02(B)(2)(3) exception, but instead that their claims fall within the R.C. 2744.02(B)(2) exception, which provides that "political subdivisions are liable for injury, death, or loss to person or property caused by the negligent performance of acts by their employees with respect to proprietary functions of the political subdivisions." Plaintiffs argue that the street lighting system, of which the electrical service boxes in question are a part, is a proprietary, rather than a governmental function. Plaintiffs cite cases in support of their argument in which covers were removed and not replaced while the political subdivision was engaged in a proprietary function. That argument fails because Reading did not remove and fail to replace the cover in servicing the lighting system and because the provision of street lighting is a government function.

Ohio Revised Code section 2744.01(C)(2)(e) defines a governmental function as "[t]he regulation of the use of, and the maintenance and repair of, roads, highways, streets, avenues, alleys, ***sidewalks***, bridges, aqueducts, viaducts and public grounds." (Emphasis added). Plaintiffs concede in their complaint that the electrical service box lid, which collapsed under the weight of the scissor lift Plaintiff parked on top of it, was designed for use in paved pedestrian areas such as sidewalks, was even with the grade of the remainder of the sidewalk, and was one of several similar electrical service boxes similarly embedded into nearby sidewalks. (First Amended Complaint, ¶14, 19). As the cases cited above illustrate, items embedded into sidewalks, such as trash receptacle mounting brackets and sign posts, are considered part of the sidewalk for purposes of R.C. Chapter 2744.

The *Burns* case, cited above, is also relevant to the alleged applicability of the R.C. 2744.02(B)(2) exception. The issue in *Burns* was whether the cover was part of the sidewalk, the maintenance of which is a governmental function under R.C. 2744.01(C)(2)(e), or a part of the sewer system, the maintenance of which is a proprietary function under R.C. 2744.01(G)(2)(d). The Court held that the manhole cover was a part of the surface of the sidewalk for purposes of R.C. Chapter 2744 and negligence in connection with the cover therefore involved a governmental function under R.C. 2744.01(C)(2)(e). Here, the allegedly defective electric service box cover was "designed . . . for use in commercial traffic areas as well as paved pedestrian areas such as sidewalks," was "installed such that its cover was even with the grade of the sidewalk," and contains electrical apparatus used "to distribute electricity to streetlights . . . ." (First Amended Complaint, ¶14, 19). Consequently, as in *Burns*, even if the street light system were proprietary––which is denied—Reading retains its immunity because the service box cover formed the surface of a sidewalk. However, in contrast to the sewer system in *Burns*, Ohio courts have specifically determined that maintenance of a street lighting system is a governmental function. *Graves v. City of E. Cleveland*, 1997 WL 35570, *3 (8th Dist., Jan. 30, 1997); *Ugri v. City of Cleveland*, Cuyahoga App. No. 65737, 1994 WL 476377, *3-4 (8th Dist., Sept. 1, 1994).

If there is no applicable R.C. 2744.02(B) exception to immunity under the second tier of the analysis, then it is not necessary to proceed to the third tier; the inquiry comes to an end and the defendant is entitled to judgment in its favor. See, e.g., *Hess*, 2009-Ohio-4808, ¶ 16. In the present case, because Plaintiffs' allegations of negligence concern an allegedly defective condition of a sidewalk there is no exception to Reading's immunity under R.C. Chapter 2744(B). Thus,

Reading is entitled immunity and dismissal of all claims set forth against it in the First Amended Complaint as a matter of law.

Response to Proposition of Law No. 2

The City of Reading's Streetscape Lighting System is Not a Utility Under R.C. 2744.01(G)(2)(c)

Plaintiffs made non-factual legal conclusions in their First Amended Complaint. For example, in paragraph 19, Plaintiffs allege that the service box in question was a part is the City's "proprietary lighting utility system." That statement is not a factual allegation but rather a legal conclusion, which should not be accepted as true. *Carasalina, L.L.C. v. Smith Phillips & Assocs.*, 2014-Ohio-2423, ¶ 14 (10th Dist.), citing, *Haas v. Stryker*, 6th Dist. No. WM–12–004, 2013–Ohio–2476, ¶ 10 ("Only factual allegations are presumed to be true and only claims supported by factual allegations can avoid dismissal."); *Cirotto v. Heartbeats of Licking Cty.*, 5th Dist. Licking No. 10-CA-21, 2010-Ohio-4238, ¶ 18; *Tuleta v. Med. Mut. of Ohio*, 8th Dist. No. 100050, 2014-Ohio-396, 6 N.E.3d 106, ¶ 38. Ohio courts have ruled as a matter of law that street lighting systems are not utilities and are not proprietary. *Graves*, at *3; *Ugri*, at *3-4. Plaintiffs cannot reverse that precedent by referring to Reading's streetlight system as a "proprietary lighting utility system."

The First Amended Complaint alleges that the service box in question contained conduit and other electrical apparatus "to distribute electricity to streetlights along those streets." R.C. 2744.01(G)(2)(c) provides that a "proprietary function" includes, but is not limited to: "***The establishment, maintenance, and operation of a utility***, including, but not limited to, a light, gas, power, or heat plant, a railroad, a busline or other transit company, an airport, and a municipal corporation water supply system." (Emphasis added). The First Amended Complaint contains no factual allegations that Reading's street lighting system constitutes a utility. There is no

allegation that citizens or business owners in Reading receive a bill for street lighting service as they do for water, sewer, and garbage collection, nor that they are provided their own individualized street lights, which can be turned off in the event of non-payment. In fact, the court in *Ugri* held that a street lighting system is not a proprietary function because it is not a "utility" for purposes of R.C. 2744.01(G)(2)(c). *Id.* at *1, 4.

In arguing that street lights are a utility, Plaintiffs are arguing street lights are a designated proprietary function under R.C. 2744.01(G)(2)(c). In this case, the First District Court of Appeals agreed with the Court in *Ugri* that providing street lighting is not a proprietary function and is not the operation of a utility.

Further, Plaintiffs allege the electric service box contained apparatus "to distribute electricity to streetlights." (First Amended Complaint, ¶ 19). Ohio courts have specifically held that the operation and maintenance of a street lighting system is a governmental function for purposes of R.C. Chapter 2744. *Graves v. City of E. Cleveland*, 1997 WL 35570, *3 (8th Dist., Jan. 30, 1997); *Ugri v. City of Cleveland*, Cuyahoga App. No. 65737, 1994 WL 476377, *3-4 (8th Dist., Sept. 1, 1994).

Response to Proposition of Law No. 3

Lighting of public streets is a governmental function not customarily engaged in by nongovernmental persons and is therefore Not a Proprietary Function Under R.C. 2744.01(G)(1)

To be a proprietary function under R.C. 2744.01(G)(1), a function must satisfy two requirements: First, it must not be a function described in R.C. 2744.01(C)(1)(a) or (b). Second, the function must be one that promotes or preserves the public peace, health, safety, or welfare and that involves activities that are customarily engaged in by nongovernmental persons. The function must satisfy both of those requirements to be proprietary. R.C. 2744.01(G)(1). In the

present case, Reading's street lighting system satisfies neither.

In order to satisfy the definition of proprietary function in R.C. 2744.01(G)(1)(a), the function in question must not be one described in R.C. 2744.01(C)(1)(a) or (b). Contrary to Plaintiffs' argument, the City's street lighting system qualifies as a governmental function under R.C. 2744.01(C)(1)(b), which provides that a governmental function is one "that is for the common good of all citizens of the state."

Plaintiffs argue that street lighting is not a function that is for the common good of all citizens of the state because Reading's street lighting system is geographically limited to streets within certain areas of the City of Reading, as opposed to the entire state. Such a geographic limitation of the phrase "for the common good of all citizens of the state" has been held to be improper. In *Lyons v. Teamhealth Midwest Cleveland*, 2011-Ohio-5501, ¶42 (8th Dist.), the function at issue was county dispatch services. Although the dispatch services were limited to the geographic area of the county, the court held that "[t]he provision of dispatch services clearly is a function that is for the common good of all citizens of the state and it further satisfies the conditions described in R.C. 2744.01(C)(1)(c)." Likewise, in *Nihiser v. Hocking Cty. Bd. of Commrs.*, 2013-Ohio-3849, ¶ 17 (4th Dist.), the court found that the function of designating street numbers, though limited to a county, serves the common good of all citizens of the state in accordance with R.C. 2744.01(C)(1)(b).

Plaintiffs' allegations concerning Reading's street lighting system also fail to satisfy the requirements of R.C. 2744.01(G)(1)(b). As set forth above, that subsection provides that for a function to be "proprietary," it must be one that "promotes or preserves the public peace, health, safety, or welfare and that involves activities that are ***customarily*** engaged in by nongovernmental

persons." (Emphasis added). In support of its argument that street lights are a function customarily engaged in by nongovernmental persons, Plaintiffs discuss fireworks and cases involving wireless internet and argue street lighting is for the comfort and convenience of the public rather than for public health, safety and welfare. Obviously, street lighting does promote public health, safety and welfare, and is customarily provided by the government.

The court in *Lyons*, cited above, held that "[t]his court has previously held that 'R.C. 2744.01(C) does not exclude from the definition of governmental functions those functions sometimes performed by private entities for political subdivisions.' " *Lyons*, 2011-Ohio-5501, ¶ 46 (citing, *McCloud v. Nimmer*, 72 Ohio App.3d 533, 595 N.E.2d 492 (1991)). Further, in *Peters v. Cincinnati*, 105 Ohio App.3d 710, 712, 664 N.E.2d 1329, 1330 (1st Dist.1995), the Court ruled that "it is not customary for nongovernmental persons to order an abandoned vehicle to be towed from a public street, impounded, and subsequently destroyed. The fact that the police contract with a nongovernmental entity to perform these activities does not render the performance proprietary in nature." The First District reiterated the holding of *McCloud*, that "R.C. 2744.01(C) does not exclude from the definition of governmental functions those functions sometimes performed by private entities for political subdivisions." *Id.* (quoting *McCloud*, supra).

The court in *Ugri v. City of Cleveland*, 1994 WL 476377 (Sept. 1, 1994) agreed with Cleveland's argument that street lighting is a governmental function under R.C. 2744.01(C)(1)(b) and (c) because street lighting "provides for the common good of all citizens, promotes and preserves the public peace, health, safety and welfare, and is a function not engaged in or not customarily engaged in by nongovernmental persons." *Id.* at *3-4.

Whether an activity engaged in by a political subdivision is a governmental or proprietary

function is determined by the nature of the activity, not by the manner in which the injury occurred. See, R.C. 2744.01(C) and (G). The ultimate question in *Ugri* was the same as in the present case––whether the R.C. 2744.02(B)(2) immunity exception for negligent acts in connection with proprietary functions applied. The court agreed with the city's argument that the street lighting system, of which the light pole was a part, was not a "utility" under R.C. 2744.01(G)(2)(c) and that the street lighting system was a governmental function under R.C. 2744.01(C)(1)(b) and (c). *Id.* at *3-4.

As set forth above, in order for a function to be deemed proprietary pursuant to R.C. 2744.01(G)(1), the function must satisfy the requirements of both R.C. 2744.01(G)(1)(a) and (b). In the present case, for the reasons set forth above, Reading's street lighting system satisfies neither as a matter of law. The street lighting system exists for the common good of all citizens of the state and it is not customarily engaged in by nongovernmental persons. Under these circumstances, Reading's street light system is a governmental function as a matter of law and the immunity exception set forth in R.C. 2744.02(B)(2) does not apply.

CONCLUSION

For the foregoing reasons, Appellee, City of Reading, Ohio, respectfully requests the Court deny jurisdiction to review this matter. It is clear Appellant's propositions of law do not present questions of public or great general interest, but merely of particular interest to the parties. Furthermore, Appellant presents no substantial constitutional questions.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served electronic mail this 16th day of October, 2020, upon:

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