

**IN THE SUPREME COURT OF OHIO**

<b>STATE, ex rel.,</b>	:
<b>CORY A. HAYDOCY,</b>	:
	: <b>CASE NO. 2025-0850</b>
<b>RELATOR-APPELLANT,</b>	:
	: <b>On Appeal From The</b>
<b>v.</b>	: <b>10th District Court of Appeals</b>
	: <b>Franklin County, OH</b>
<b>OHIO PUBLIC EMPLOYEES</b>	: <b>Case No. 24AP432</b>
<b>RETIREMENT SYSTEM,</b>	:
	:
<b>RESPONDENT-APPELLEE.</b>	:

**REPLY BRIEF OF APPELLANT CORY A. HAYDOCY, ESQ.**

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### III. STATEMENT OF THE CASE

The Respondent's brief offers no new defense; instead, it is a retreat from the facts and a masterclass in evasion. It attempts to construct a legal fiction, ignoring the undeniable realities of this case: an attorney demand letter explicitly citing unlawful retention as the basis for the demand, two rollover forms provided by ODC and OPERS, repeated and explicit waivers of any additional "protection," a notarized lawsuit, numerous phone calls and emails, and over a year of civil litigation. These facts simply cannot be wished away.

OPERS legal position is indefensible; it is a calculated effort to manipulate the court, subvert the rule of law, and mount a political rather than a legal defense. This strategy appears to hinge on the expectation that a partisan majority will enable OPERS to quietly dismiss this case, thus sidestepping accountability. A government that denies the existence of a problem itself has a problem.

The comprehensive scope of our brief is a necessary response to a comprehensive, systemic problem. This dispute cannot be addressed in isolation. As **R.C. 145.11** dictates, the OPERS board and other fiduciaries "shall discharge their duties with respect to the funds *solely* in the interest of the participants and beneficiaries; for the exclusive purpose of providing benefits to participants and their beneficiaries." The Respondent's brief confirms that the institution does not view itself as bound by this explicit, statutory mandate absurdly positing its fiduciary duty lies to the "system" and not the people the system was created to benefit.

OPERS falsely claims Relator chose litigation over showing ID; Relator only sued after OPERS tortiously interfered with his initial rollover request to ODC and OPERS ignored a

second application, only to declare it incomplete a month later. OPERS subsequently demanded that Relator execute an additional form. Relator refused to sign this form, citing the financial risk it posed and the absence of any legal requirement to do so.

OPERS ignored communication and a notarized lawsuit, then misrepresented facts to the tribunal in an attempt to dismiss the claim. The Relator initiated this litigation due to OPERS's unjust conduct, aiming to prevent further exploitation of Ohio citizens and to serve the public interest.

OPERS implemented an internal policy regarding a ministerial funds transfer without proper notice. When presented with evidence of their wrongdoing, they compounded the issue with further corruption. As a result, litigation became essential to assert rights against institutions who seemingly consider themselves above political repercussions and the law. OPERS absurdly claims that by vaguely referencing codes and rules, they can conjure new power to deny ministerial fund rollovers and misrepresent the facts.

The undisputed factual record clearly demonstrates a lack of immediate response from OPERS. A full month elapsed after the second application's submission before any further action was taken by OPERS. Exhibit H, comprising emails from June 26 and June 27, evidences that notice of the notarization policy was provided a month after the successful submission of the *second* application and four months after statutory entitlement period commenced. This suggests a significant lack of credibility on the part of OPERS, and their actions should be recognized by the Court as a product of disorganization, impropriety, and unprofessionalism. There is no established rule requiring notarization; rather, it is a discretionary matter, which has been improperly exercised in this instance. Moreover, the absence of dates and signatures on Exhibits

B and C precludes a verifiable record in support of OPERS' position. OPERS should not be granted a second opportunity to present its defense. This court is capable of addressing this matter directly, thereby avoiding any unnecessary protraction, as it is now prepared for a decision.

As demonstrated in the merit brief, OPERS's abuse of discretion has been consistent and intentional. When confronted with evidence of their malfeasance, they have resorted to a tenuous, unsubstantiated position to justify their corruption. Counsel's claim that the notarization requirement was communicated to the Relator on May 28 is demonstrably false and is directly refuted by **Exhibit H**. The fact that OPERS-created documents prove this timeline to be a lie raises serious concerns about their credibility and candor to the tribunal. The deliberate omission of a date or signature line on Exhibits B and C suggests a calculated, multi-stage manipulation of the process—not to prevent fraud, but to make proving their corruption more difficult.

Fortunately for the Relator, he possesses over a decade of experience as legal counsel within the administrative state, including serving as in-house counsel for the Ohio Auditor of State, as a senior investigative attorney, and executive director of a government commission. These qualifications enabled him to prosecute this claim as an administrative law expert would, even with the significant disadvantage of being denied a public hearing and access to discovery.

This is not a matter of a reasonable interpretation of the law; it is a profound act of institutional bad faith by OPERS that has forfeited any presumption of regularity. OPERS's defense is not a legal argument; it is a political one. It attempts to reframe a clear-cut case of institutional failure as a minor dispute with an irrational litigant. But the facts, as established by OPERS's own documents, tell another story.

This case is a narrative of a fiduciary's choice: to uphold its duty or to subvert it for institutional convenience. The Relator, in this action, has consistently acted as a fiduciary to his own interests, to his family, and to the public by documenting and exposing every instance of public misconduct. He did so by providing two applications, an explicit waiver, a notarized lawsuit, and a demand letter. He has left no stone unturned.

In stark contrast, OPERS' actions can only be classified as a cover-up. It delayed and denied the Relator's claims, misrepresented facts to the tribunal, and then presented a defense that is a retreat from the facts. This is not a legal defense; it is a confession. The time for a choice has passed. The time for justice is now.

OPERS's duty is ministerial, but its actions were a deliberate act of bad faith. When a government asserts that its duty to the collective outweighs its duty to the individual, and when it creates an unwritten rule to subvert a clear statutory mandate, it has abdicated its claim to legitimacy. The law is clear and facts are unassailable. The question, therefore, is not whether a writ should be issued, but whether the Court will allow an authoritarian bureaucracy to stand in the way of a citizen's constitutional rights.

**Issue Presented:** This case forces the Court to confront a fundamental inversion of power. The central issue is not whether a citizen can eventually receive his retirement funds, but whether a public institution created to serve its beneficiaries can force a beneficiary to submit to its will, regardless of the clear dictates of the law?



#### IV. LAW AND ARGUMENT

A. Proposition of Law I: The Tenth District Court of Appeals erred in affirming OPERS's authority to impose an unpublished notarization policy for ministerial fund transfers, contradicting R.C. 145.40(A)(1) and binding precedent.

##### **I. The Law and OPERS' Legally Absurd Position:**

OPERS's position—that its fiduciary duty lies only to the fund as an abstract entity, not to a specific beneficiary—is a legal fallacy that a court must reject. This argument is a self-serving attempt to shield the institution from accountability. The Ohio Revised Code is unequivocal: R.C. 145.11 explicitly states that the board shall discharge their duties with respect to the funds solely in the interest of the participants and beneficiaries. This language establishes a direct, individual fiduciary relationship with every member. The fund is not an end in itself; it is a vehicle for the members it serves. To claim that a duty to the fund as a whole overrides a duty to an individual is to fundamentally invert the purpose of a public pension system. It is a cynical misinterpretation that subordinates the rights of a citizen to the political convenience of an administrative entity. The law is clear, and the facts demonstrate a deliberate breach of this sacred trust.

OPERS's assertion that Relators submitted application was "not complete" is a self-serving fabrication. The record shows that Relator only received notice of this alleged requirement four months after his statutory entitlement to the requested rollover and a month after submitting *another* lawful application. To claim this is a "required step" is a legal absurdity. A requirement not on a form, not in the law, and not communicated until after an application is submitted is not a requirement. It is a procedural hurdle designed solely to delay and deny fund access. OPERS, a government agency with a fiduciary duty, is engaged in a transparent attempt

to subvert the rule of law, and this Court should not be complicit.

## **II. A Fiduciary Duty Owed to the Beneficiary, Not Just the Fund**

OPERS's brief attempts to justify its position by claiming that its rules were adopted with the aim of protecting the fund. This, however, is not a legal defense but a political one. It is a defense that presumes a government's right to misrepresent, obstruct, and deny a citizen what is rightfully theirs. This Court must reject such an argument. OPERS owes Relator a fiduciary duty as trustee of funds after the 60-day statutory period expires, which in this case, occurred on February 27, 2024.

OPERS's assertion that its general rule-making authority under R.C. 145.09 allows it to impose a notarization requirement is a **fundamental misinterpretation of the law**. A general grant of authority is not a carte blanche to create new hurdles that directly contradict a specific, mandatory statutory directive. R.C. 145.40's use of "**shall pay**" is an unambiguous command, and the relator has met all legal requirements. By demanding notarization without legal basis, OPERS is violating its fiduciary duty and acting outside its authority. This isn't **fiduciary care**; it's a **profound breach of trust** that subordinates a citizen's clear legal rights to the administrative convenience of an agency. The law is clear, and OPERS's actions transform what should be a straightforward fiduciary relationship into what is essentially a hostage situation, forcing the relator to capitulate to extra-statutory demands to access funds.

## **III. The Facts, Law, and Precedent are Clearly Supportive of Finding in favor of Relator and Against OPERS' Unwritten Rule:**

OPERS's claim that it "immediately sent" the notarization form on May 28, 2024, is demonstrably false and is contradicted by the record. The only evidence of this notice's transmission to the Relator is contained in **Exhibit H**, which consists of emails from June 26 and

June 27. The June 27 email explicitly references "new" information—the previously hidden notary consent form—thereby proving that the notice was not provided until a month after the Relator's second application was submitted. This is not a clerical error; it constitutes a profound misrepresentation of a material fact. The apparent removal of the June 26 correspondence from the Relator's online OPERS account further suggests a deliberate effort to conceal evidence that exposes a misleading timeline and undermines OPERS's credibility. The liberty of the government ends where the rights and freedoms of its citizens begin.

OPERS's attempt to characterize this as a failure to "complete" an application is a legal absurdity. Their argument that they "had no duty to execute the rollover" directly contradicts their statutory and fiduciary obligations. As **Exhibit H** proves, OPERS did not immediately send a consent form; it took a full month after the second application was received, and four months after statutory entitlement, for them to provide notice of this new, extra-statutory requirement. This is not a reasonable action. By claiming a right to impose an arbitrary, unwritten rule, OPERS is acting as if it is a law unto itself—a profound abuse of discretion and a cynical misinterpretation of **R.C. 145.09**. The Tenth District's decision, which uncritically accepted this flawed logic, was not based on the law but on an inappropriate deference to a government agency that was demonstrably in the wrong.

OPERS, when presented with evidence of its malfeasance, demonstrated willful blindness and further corruption. If they are willing to misrepresent a simple timeline, what else will they distort for this Court?

The notion that Administrative Code Rule 145-1-66—a rule that allows OPERS to send documents electronically—somehow grants them the authority to impose a mandatory,

extra-statutory notarization policy is a cynical misinterpretation of the law. This isn't a "required step." It's an act of bureaucratic oppression, a procedural hurdle created with the sole purpose of delaying and denying fund access.

The Relator has provided two separate, fully executed rollover applications, a demand letter, and a notarized lawsuit, all stating his explicit consent. OPERS, in turn, has provided no evidence—only legal sophistry. This Court should not indulge such a profound and transparent act of institutional bad faith.

The *Davis* case in the 10th District should control. Its factual background bears a striking resemblance to the present case, involving a former public attorney suing OPERS for illegally imposing a post-employment notarization policy to access pension funds. The Court previously deemed this an inappropriate barrier to property, and this court has received no evidence or legal argument that should disturb that 62-year-old precedent.

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**B. Proposition of Law II** The Tenth District Court of Appeals erred by denying Relator-Appellant's due process rights, including timely adjudication, discovery access, and a substantive hearing on constitutional claims, through inaction and erroneous dismissal of his mandamus action.

**I. The Constitution, Due Process & Notice Pleading:** The notion that a litigant must use specific "magic words" or explicitly state that you are "suing under the Constitution" is a legal fiction. Our legal system, under the Ohio Rules of Civil Procedure, operates on a principle of **notice pleading**. This means a complaint only needs to contain a short and plain statement of the claim showing that the pleader is entitled to relief. The purpose is simply to give the opposing party fair notice of what the claim is and the grounds upon which it rests. By explicitly stating that OPERS' actions constituted a deprivation of "**property rights**," Relator did exactly

what the law requires. Relator gave OPERS and the court more than sufficient notice that a constitutional issue was at the heart of Relator's claim.

In *Arndts v. State Teachers Retirement Sys. of Ohio*, 2025 Ohio 3245 (10th Dist. 2025), the court correctly held that mandamus is the appropriate remedy when an administrative decision is not appealable, thus validating the very mechanism the Relator chose to seek justice. Conversely, in *Dehen v. Ohio State Univ.*, 2025 Ohio 3240 (10th Dist. 2025), that court correctly distinguished a challenge to a discretionary policy from a challenge to an agency's implementation, affirming that courts should not interfere with the former. The Tenth District's failure to apply this distinction in the Relator's case—where the challenge is to OPERS's refusal to perform its clear, ministerial duty under R.C. 145.40, not to a discretionary policy—is a profound and reversible error.

The court does not require a "history lesson" on constitutional law in a complaint. The substance of the claim is what matters. The complaint clearly outlines a government agency acting in bad faith to deprive a citizen of his property, which is, by its very nature, a constitutional claim. The Tenth District's failure to recognize this underscores the necessity of this appeal.

The assertion that the Relator failed to provide adequate notice of the constitutional issues is disingenuous. To claim that constitutional protections are contingent upon the use of specific, "magic words" is illogical and undermines the principles of due process. The Relator's complaint provides that OPERS' goal of protecting enrollees should not come at the expense of depriving them of their property rights, which provides comprehensive notice of the constitutional issues at stake. This appeal is critical because the due process rights of all citizens

depend on the court's recognition of the substance of a claim over a hyper-technical reading of its phrasing.

## **II. OPERS's Central Argument is Predicated on the Unsubstantiated Assertion that this Matter is Fundamentally Non-Justiciable—a Procedural Evasion:**

This stance constitutes a transparent and cynical endeavor to circumvent a substantive adjudication of OPERS's actions. The paramount issue in this case is not whether the rollover can ultimately be effectuated—a red herring intended to obfuscate the true controversy—but rather whether OPERS is bound by a ministerial duty to proceed without demanding an extraneous, extra-statutory form.

The Tenth District's own recent jurisprudence exposes the profound legal and logical flaw in its decision to dismiss this case where the challenge is to OPERS's refusal to perform its clear, ministerial duty under **R.C. 145.40**, not to a discretionary policy—is a profound and reversible error. The Court is therefore faced with a clear choice: either uphold its own precedent and compel OPERS to act, or abandon its established legal principles to protect a state agency that has acted without a shred of good faith.

OPERS's argument of non-justiciability is a transparent attempt to avoid a substantive ruling on the merits. The core of this dispute is not merely about the finalization of the rollover, but about OPERS's refusal to fulfill its **ministerial duty** to proceed without demanding an unauthorized form. The ongoing refusal to process the request confirms that this is a **live controversy** and reveals an abuse of power, not mere bureaucratic delay.

OPERS's "fishing expedition" argument is a clear attempt to obstruct discovery and mirrors their refusal to process the rollover request. They disingenuously ignore the fact that they

directed ODC to disregard the February 2024 application, thereby violating their fiduciary duty to the Relator to act on lawful instructions. The record is incomplete precisely because OPERS has baselessly rejected all discovery requests. This position also contradicts the 10th District's finding that the Relator's requested process was both lawful and reasonable. The use of OPERS's own form with waiver language strongly indicates the process's sufficiency, yet OPERS continues to obstruct the Relator's request for a specific record—the July 2024 transmission of the initial application—which is critical for fully exposing the alleged misconduct.

Allowing OPERS to prevail on this basis would set a dangerous precedent, effectively rewarding administrative misconduct and providing a playbook for future bad faith actions, thereby undermining judicial oversight and accountability. As a member of this court recently noted, **Judicial independence is founded on public trust**. OPERS's strategy is a direct assault on public trust. Its consistent tactic of delay, denial, and defense is not a legitimate legal strategy, but a profoundly cynical act of institutional evasion which is inherently political in nature. OPERS's actions here are a direct threat to the public's faith in its government, and a court that turns a blind eye to that threat risks sacrificing its own independence.

### **III. Institutional Failure:**

The actual failure lies not in Realtor's pleading, but in the Tenth District's refusal to address the constitutional issue once it was properly raised in the complaint. A court is non-negotiably obligated to consider such issues. The Tenth District's own recent jurisprudence cited above further highlights the profound legal and logical flaw in this decision.

**ODC and OPERS:** ODC and OPERS exhibit functional indistinguishability, sharing both leadership and operational proximity. Their refusal to process a lawful rollover constitutes

either gross incompetence or deliberate malice, thereby violating their fiduciary duty and established legal precedent through an arbitrary and capricious exercise of discretion. OPERS's assertion that ODC is a distinct entity, thereby excusing its failure to process forms, lacks legal foundation, particularly given that both entities routinely handle such transactions and *individually* owe the Relator a fiduciary duty as trustee of his funds. Their actions represent an abuse of discretion and a breach of trust.

Furthermore, OPERS's analogy of a traveler passing through TSA with a fisherman's license is both absurd and telling. A direct comparison of the two situations reveals the flaw(s) in their reasoning. The traveler at the airport presents a matter of physical safety, national security, and public health. In contrast, the Relator's demanded process is a simple financial transaction with no physical danger involved.

The TSA's purpose is to prevent harm. OPERS's purpose is to serve a fiduciary duty to fund beneficiaries such as Relator. By attempting to equate a financial transaction with a national security threat, OPERS reveals the profound and cynical depths of its institutional self-interest. Following up on OPERS own purported logic, if the TSA and Government declared a fisherman's license sufficient to pass security, and the Relator relied on that pronouncement, then it is incumbent upon the TSA and Government to either accept the license or update their policy. The facts are undeniable. The Relator provided two separate, fully executed rollover applications, a demand letter, and over a year of civil litigation—all of which confirm his identity and explicit desire to control his own property. In the face of this overwhelming evidence, OPERS's insistence on the execution of an extra-statutory form is not a reasonable action; it is a profound act of bad faith. OPERS's position—that a policy not required by law, and contradicted by the facts of the case, can be used to deny a ministerial duty—puts form over function against



clear precedent requiring the opposite. OPERS's refusal to act, and its simultaneous claim that ODC cannot compel them to do so, is a self-serving and illogical position that is consistent with OPERS' desire to have it both ways. The system does not serve the fund; it serves the people. And a government that fails to recognize that has no claim to legitimacy.

OPERS's attempt to claim that a notarization policy serves to "thwart fraud" *in this case* is a self-serving fabrication that this Court should reject out of hand. The argument is not a defense; it is a profound and transparent act of institutional arrogance. Despite their attempts to disregard the constitutional issues, OPERS cannot ignore or circumvent the clear, rule-based requirement to fulfill their duties. Their argument against performing their job functions is fundamentally specious, as OPERS seemingly desires to have it both ways: possessing nearly absolute discretion in managing funds, yet claiming no discretion to waive redundant or superfluous processes<sup>1</sup>. This positioning renders the present case a form of arbitrary legislation, where regulations continuously adapt to align with OPERS' narrative, rather than with established law or facts.

The Court is required to conduct a de novo review, assuming all factual allegations in the complaint to be true and drawing all reasonable inferences in the Relator's favor. The Magistrate and the Court applied an incorrect standard when reviewing OPERS' motion to dismiss, and the Magistrate's order exceeded the scope of their authority.

The Relator's eight certified exhibits substantiate his claims, demonstrating his clear intent and consent to roll over funds, and OPERS's initial inaction, subsequent interference, and ultimate denial based on a non-statutory policy. Conversely, OPERS has provided no record

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<sup>1</sup> Despite Ohio Revised Code Chapter 145 containing numerous waiver provisions, OPERS absurd and contradictory position is that it lacks the authority to waive this manufactured process.

evidence to support its position, offering only arguments from counsel and a demonstrably false claim of "immediate" action. The evidence overwhelmingly favors the Relator and supports both a summary finding in his favor and the issuance of the requested writ. This case, therefore, is not about the complexities of law, but about the clarity of purpose. It reinforces the foundational principle of a just society: that government exists to serve the people, not the other way around. A finding in favor of the Relator will send an unmistakable message that in Ohio, a government that fails to respect the rights of its citizens has no claim to legitimacy.

C. Proposition of Law III The Tenth District Court of Appeals erred by ignoring evidence of Respondent-Appellee's bad faith, obstruction, and breach of fiduciary duty, creating an unlawful "two-tiered justice system" that favors bureaucracy over citizens' constitutional and statutory rights.

**I. Bad Faith and Accountability: The Consequences of Institutional Deception & Analysis Of Record Evidence:**

OPERS's assertion that notice of the notarization requirement was sent on May 28, 2024, is directly rebutted by **Exhibit H**. This documentary evidence, created by OPERS itself, proves that the notice was not provided until nearly a month later. This is not a minor error but a profound breach of the duty of candor to the court, demonstrating institutional bad faith. The fact that a state agency, represented by the Ohio Attorney General's office, would knowingly misrepresent a material fact to the tribunal is a clear and undeniable sign of its willingness to mislead the court to prevail. These documents are crucial because they serve as evidence of communication of **formal notice** of a previously unstated and extra-statutory requirement. From a legal perspective, the emails:

1. **Establish the Timeline:** They create a clear, documented timeline of events, proving that OPERS's claim of "immediately providing" the notarization notice is false. This demonstrates a significant delay in communication, which is a key part of Relator's argument.
2. **Prove Intent and Consent:** The emails acknowledge the Relator's previous attempts to

transfer funds, which validates the Relator's intent and consent to the transfer. This counters any potential argument from OPERS that the Relator was not committed to the process.

3. **Reveal Procedural Irregularity:** The emails formally introduce a new, non-statutory requirement (the notarization) as a condition for the transfer. This demonstrates that OPERS's denial of the transfer was not based on legal or statutory grounds but on an arbitrary, bureaucratic requirement, which, by definition, is an abuse of power.

The reasonable period afforded for OPERS counsel to rectify their material misrepresentation has now expired. The Relator, therefore, is fulfilling his duty of candor to this Court and providing notice of their refusal. This decision is not made with joy, but is a necessity born of OPERS and its counsel's refusal to correct the record, as they have crossed the proverbial Rubicon; they have elected to defend a material misrepresentation of fact presented to the state's highest court. Our judicial system is predicated on the good faith conduct of all parties. When a state agency, represented by legal counsel, chooses to defend a demonstrably false statement, the integrity of the entire judicial process is jeopardized.

Relator's case is direct, documented, and based on the certified record. Relator seeks to correct a clear legal error—one that dismissed his case without a public hearing or discovery despite providing sufficient evidence to warrant that process. Relator's position is not about opinion or argument; it is grounded in fact and now turns to the Court to hold OPERS accountable and correct the record.

**A fiduciary duty to act is not a discretionary right to obstruct:** OPERS's claim that notarization was necessary to "thwart fraud" is a disingenuous pretext for its profound abuse of power. The agency's possession of two fully executed applications—on its own forms—with specific waiver provisions—along with a notarized lawsuit, provided overwhelming evidence of the Relator's identity and intent. The true issue is not fraud protection but OPERS's institutionalized deceit and obstruction, which has created a year-long delay filled with

procedural games in a transparent attempt to evade its clear statutory duties. This is not the action of a responsible fiduciary but of an institution that believes it can disregard the law with impunity. This Court must not endorse such behavior. The facts of this case, which detail OPERS's persistent intransigence and refusal to act, reveal a state agency that has forfeited any presumption of correctness. When the choice is between a citizen unequivocally asserting his rights and an institution resorting to legal sophistry to evade accountability, the benefit of the doubt must be extended to the principles of liberty and the rule of law.

## V. CONCLUSION

I. In *State ex rel. Haydocy v. OPERS*, the central conflict is a direct challenge to OPERS's willful creation of an extra-statutory rule to withhold a citizen's funds, directly defying a clear statutory mandate. This is not a challenge to OPERS's general authority, but to its implementation of an illegal policy. The Relator's claim is a demand that OPERS be compelled to perform a statutorily mandated, ministerial duty. The Tenth District's own precedents in *Arndts v. State Teachers Retirement Sys. of Ohio* and *Dehen v. Ohio State Univ.*—which correctly established mandamus as the appropriate remedy for unappealable agency decisions and distinguished between challenging a policy versus its implementation—make the lower court's dismissal of this case an act of plain error. This case, therefore, is not about the complexities of law, but about a government's choice to ignore it.

This is a straightforward case of an agency exceeding its statutory authority. The court must compel OPERS to perform its ministerial duty and award damages. This action would reaffirm that public institutions are bound by law, and the court's adherence to **stare decisis**—the principle that courts should be bound by their own precedents—will send an unequivocal

message that no government institution is above the law.

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## II. DRAFT PRELIMINARY JUDGMENT ENTRY AND ORDER<sup>2</sup>

### Findings of Fact

1. Relator-Appellant, Cory A. Haydocy, Esq., submitted two separate, lawful applications for the transfer of his retirement funds, fulfilling all statutory requirements under R.C. 145.40(A)(1).
2. OPERS acknowledged receipt of these applications, on their own forms, that explicitly directed the fund transfer. OPERS unlawfully interfered with a private contract between Ohio Deferred Compensation (ODC) and the Relator. This direct interference, absent any legal basis, is sufficient cause for this litigation to proceed.
3. Despite receiving these compliant materials, OPERS refused to complete the transfer, citing an unpublished, non-statutory policy demanding execution of an additional, unlisted notarization form. By imposing this extra-statutory requirement, OPERS's claim that it "immediately" sent notice of this policy on May 28, 2024, is directly rebutted and contradicted by documentary evidence (**Exhibit H**) showing notice was provided a month later via email.
4. Relator has presented and certified eight exhibits substantiating his claims, while OPERS has provided **no record evidence**, relying solely on arguments from counsel and misrepresentations to the tribunal.
5. Relator's complaint explicitly raised **constitutional issues**, asserting that OPERS's actions constituted a deprivation of his property rights.
6. On September 18, 2025, Relator formally notified OPERS's counsel of the material misrepresentation of fact regarding the notarization notice date and afforded counsel 72 hours to remedy the material misrepresentation with the court. This did not occur.

**Summary Analysis:** Based on the information provided, the two emails from OPERS on June 26-27, 2024, are legally significant for several reasons.

The core of Relator's legal argument, is that OPERS is obstructing a statutorily mandated transfer of funds by imposing an unauthorized and unpublished notarization requirement. The emails serve as direct evidence of this procedural overreach and an abuse of power.

By delaying the notice of this requirement for months, OPERS created a coercive situation that has caused significant financial harm to the Relator. Relator is asserting that this behavior

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<sup>2</sup> This draft Order and Judgment Entry is a preliminary document, provided for the Court's convenience. The Relator understands that this Court retains full discretion to craft a remedy that it deems just and proper. However, given that there are no material facts in dispute and the legal issues are ripe for a decision, the Relator posits that an immediate issuance of a writ of mandamus and a summary judgment in his favor is a legally and procedurally sound outcome. This would serve not only the Relator's interests but the public interest in an expeditious and final resolution of this case.

violates OPERS's fiduciary duty to its members and undermines the rule of law. The evidence suggests that OPERS is not operating as a safeguard against fraud but rather as an arbitrary gatekeeper, employing an unauthorized requirement to reject a legitimate request for the unjustified benefit of its own financial interests. In fact, OPERS has conceded to performing this same action tens of thousands of times to other beneficiaries. This is not a matter of fiduciary protection; it is a profound and cynical pattern of institutional abuse.

A comprehensive review of Exhibits A through H show a documented chronological history of the Relator's persistent attempts to complete the fund transfer, starting with the initial request and culminating in the formal denial. These documents, presented chronologically, would prove:

- **Exhibits A-G:** A series of communications—emails, letters, and forms—that demonstrate the Relator-Appellant's clear intent and multiple attempts to transfer the funds, all of which were made in compliance with statutory requirements. These exhibits show the initial request, waiver of any additional “protection”, follow-ups, and the Relator’s confusion and frustration with the stalled process requiring rights to be asserted..
- **Exhibit H:** The two emails from June 26-27, 2024, are central to this case. They serve as conclusive *rebuttal* evidence refuting OPERS’s claims by revealing evidence of written communications of a previously undisclosed requirement which directly contradicts OPERS’s stated timeline.

This body of evidence demonstrates a clear narrative: the Relator acted in good faith and followed all published procedures, while OPERS introduced a new, non-statutory requirement and then concealed the timeline of its introduction. This pattern of behavior necessarily leads the court to question OPERS's credibility and motives, strengthening the Relator's case for relief. These documents are not mere exhibits; they are the **only certified evidence** before this Court. Exhibits A through H constitute a complete and irrefutable record, not of a bureaucratic misunderstanding, but of a deliberate and systemic obstruction. As the court notes, OPERS has failed to provide any discovery, and any benefit of the doubt should be granted to the party presenting evidence and seeking a public hearing on this issue. This unrebutted evidence lay bare a course of conduct that is fundamentally at odds with OPERS's fiduciary duties. The narrative is clear and compelling: Relator followed every published rule, only to have the goalposts moved—that’s Calvinball. This is an abuse of power, and this evidence is the unassailable proof of it.

In its motion to dismiss, OPERS presented the Tenth District Court with a fundamentally flawed narrative, misrepresenting a key timeline of events and claiming it “immediately provided” notice of a non-statutory notarization requirement. This claim is directly contradicted by the **only certified evidence before the Court**—a series of documents from OPERS itself, marked as Exhibit H. These documents conclusively prove that the notice was not sent until June 26-27, 2024, a full four months after the Relator submitted his first rollover request. The Court’s decision to dismiss the complaint without a hearing or discovery effectively shielded this material misrepresentation from scrutiny and prevented the creation of a full factual record. In doing so, the Court applied an erroneous legal standard, failing to acknowledge that the Relator-Appellant provided sufficient, unassailable evidence to support his claims, while OPERS provided none. This constitutes a clear error of law and an overreach of the Court’s discretion.

## Conclusions of Law

1. The Tenth District Court of Appeals' dismissal of the Relator-Appellant's complaint, without a public hearing, was plain error and is hereby **REVERSED**.
2. OPERS's notarization policy for rollovers, when applied to the Relator, constitutes an unlawful and extra-statutory obstacle. This hurdle lacks clear legal support, particularly as the Relator has an undeniable legal right to the funds in question. Given that the Relator has satisfied all statutory requirements to be granted the due process of a transfer, no genuine issues of material fact remain for the court's consideration.
3. OPERS is under a clear **ministerial duty** to act on the Relator's lawful application and that its refusal to do so constitutes a breach of its fiduciary duty under **R.C. 145.11**.
4. The Court determined that the core issue is not the eventual transfer of funds, but rather the legality of OPERS's administrative policies and its lack of good faith.
5. The Relator is entitled to summary judgment as a matter of law. There is no genuine issue of material fact. The record evidence unequivocally demonstrates that the Relator has met all legal requirements and has a clear legal right to the requested relief. Furthermore, OPERS has a clear legal duty to perform a ministerial act, and there is no plain and adequate remedy at law. OPERS concedes this point in Exhibit E. Therefore, the Relator is entitled to a writ of mandamus and summary judgment as a matter of law.

## Relief Granted

It is hereby **ORDERED** that:

1. A peremptory **Writ of Mandamus** shall be issued, without delay, compelling OPERS to immediately transfer the Relator-Appellant's funds to his Ohio Deferred Compensation account.
2. The case is remanded to the Tenth District Court of Appeals for a hearing to determine the amount of **damages** sustained by the Relator-Appellant, including all accrued interest and reasonable attorney fees, as provided by **R.C. 2731.11**.
3. The Tenth District Court of Appeals may, in its discretion, consider a punitive damages award based on OPERS's demonstrated institutional bad faith.
4. OPERS is ordered to pay all court costs associated with this action.

## VI. APPENDIX-Appellant's Rebuttal Evidence

**Exhibit H** comprises two communications that serve as the initial notification of the Ohio Public Employees Retirement System's (OPERS) notarization requirement to the Relator.

- **Part 1:** An email dated June 26, 2024, which constitutes the first formal notice of OPERS's previously unstated policy.
- **Part 2:** A subsequent email, dated June 27, 2024, functioned as the follow-up notification, reiterating the requirement and referencing "new" information—specifically, the notarization policy central to this disagreement.

STATE OF OHIO )

COUNTY OF FRANKLIN ) SS

**AFFIDAVIT**

**IN THE SUPREME COURT OF OHIO**

**STATE, ex rel., CORY A. HAYDOCY, Relator-Appellant,**

**v.**

**OHIO PUBLIC EMPLOYEES RETIREMENT SYSTEM, Respondent-Appellee.**

Case No. 2025-0850 :

On Appeal from the Tenth District Court of Appeals:

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**AFFIDAVIT OF CORY A. HAYDOCY, ESQ. IN SUPPORT OF APPELLANT'S  
SUPPLEMENT**

**I, CORY A. HAYDOCY, ESQ., being first duly sworn, depose and state as follows:**

- 1. I am the Relator-Appellant in the above-captioned matter, currently pending before the Supreme Court of Ohio, Case No. 2025-0850.**
- 2. I have personal knowledge of the facts stated herein.**
- 3. This affidavit is submitted to authenticate and provide foundational information for documents included in Relator-Appellant's Reply in Support of the Merit Brief, filed concurrently herewith. These documents are essential for this Honorable Court's comprehensive review of the issues presented on appeal, particularly given the Tenth District Court of Appeals' dismissal of the case without establishing a factual record or conducting a hearing.**
- 4. Attached hereto as **Exhibit H** is a true and accurate copy, of a series of communications sent from OPERS to Relator between June 26-27, 2024. Exhibit H is a true and accurate copy of a series of communications from the Ohio Public Employees Retirement System (OPERS) to the Relator, sent on June 26-27, 2024. These documents, generated by OPERS, represent the first notification to the Relator of OPERS's previously unstated and unpublished notarization requirement. These records directly rebut the false claim that the notarization notice was "immediately provided" on May 28, 2024. Instead, they**

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provide irrefutable evidence of a significant delay, which constitutes a material misrepresentation to the court.

5. These documents were obtained from my personal records, having been received by me directly from OPERS at the time of their original submission or during subsequent communications regarding my account.
6. I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge and belief.

FURTHER AFFIANT SAYETH NAUGHT.

Cory A. Haydocy

CORY A. HAYDOCY, ESQ. Relator-Appellant  
State of Ohio, County of Franklin

Sworn to, or affirmed, and subscribed in my presence this 24 day of September, 2025.

Notary Public

Anne Christensen

My Commission Expires:

3/20/2027



ANNE CHRISTENSEN  
NOTARY PUBLIC  
STATE OF OHIO  
Comm. Expires  
03-20-2027

Supp. Pg. 2



Cory Haydocy &lt;cory@haydocylaw.com&gt;

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**Ohio PERS - Refund application required correspondence**

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mbsnotify@opers.org <mbsnotify@opers.org>  
To: cory@haydocylaw.com

Wed, Jun 26, 2024 at 7:24 PM

Dear Applicant,

Your refund application is pending additional information from you. Please go to [opers.org](https://opers.org) and log on to My Account to access the document(s) required to process your refund. If this information is not received within 30 days your refund application will be voided.

If you have any questions, please contact us at 1-800-222-7377.

Ohio PERS

&lt;&lt;Replies to this EMAIL are not read.

Please go to <https://www.opers.org/about/contact/index.shtml> for OPERS contact information.>>

REF-FINALREQ

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**CONFIDENTIALITY NOTICE:**

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The Ohio Public Employees Retirement System intends this e-mail message, and any attachments, to be used only by the person(s) or entity to which it is addressed. This message may contain confidential and/or legally privileged information. If the reader is not the intended recipient of this message or an employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that you are prohibited from printing, copying, storing, disseminating or distributing this communication. If you received this communication in error, please delete it from your computer and notify the sender by reply e-mail.

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Ex. H



Cory Haydocy &lt;cory@haydocylaw.com&gt;

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**OPERS Account Activity (10151813648)**

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Ohio PERS <bounce\_member@opers.org>  
Reply-To: donotreply@opers.org  
To: cory@haydocylaw.com

Thu, Jun 27, 2024 at 11:42 AM

Dear CORY HAYDOCY,

You have a new message from Ohio PERS.

For more information, please click on the following link: [www.opers.org](http://www.opers.org). From our website you will need to log into your account which is located in the top right corner of our home page. Next, enter your User ID and Password and click Log In to access your account.

Sincerely,

OPERS

<<Replies to this EMAIL are not read. Please go to <https://www.opers.org/about/contact/index.shtml> for Ohio PERS contact information>>

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**CONFIDENTIALITY NOTICE:**

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The Ohio Public Employees Retirement System intends this e-mail message, and any attachments, to be used only by the person(s) or entity to which it is addressed. This message may contain confidential and/or legally privileged information. If the reader is not the intended recipient of this message or an employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that you are prohibited from printing, copying, storing, disseminating or distributing this communication. If you received this communication in error, please delete it from your computer and notify the sender by reply e-mail.

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Ex. H

## VII. CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Reply Brief was filed electronically with the Clerk of the Supreme Court of Ohio, and served upon Respondent-Appellee's Counsel by Electronic Mail on September 24, 2025:

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*Counsel for Appellant/Pro Se*