

**IN THE SUPREME COURT OF OHIO**

**THE STATE OF OHIO, ex rel.  
FAITH ANDREWS, CLERK OF  
COURTS FOR LAKE COUNTY, OHIO**

Address:  
Lake County Courthouse, West Annex  
25 North Park Place  
Painesville, OH 44077

Relator,

v.

**THE COURT OF COMMON PLEAS  
OF LAKE COUNTY, OHIO,**

**THE HONORABLE EUGENE A. LUCCI,**

**THE HONORABLE VINCENT A.  
CULOTTA,**

**THE HONORABLE JOHN P.  
O'DONNELL,**

**THE HONORABLE PATRICK J.  
CONDON, and**

**THE HONORABLE COLLEEN A.  
FALKOWSKI,**

Address:  
Lake County Courthouse  
47 North Park Place,  
Painesville, OH 44077,

Respondents.

**CASE NO:**

**ORIGINAL ACTION**

**COMPLAINT FOR WRITS OF  
PROHIBITION AND MANDAMUS  
AND SUPPORTING AFFIDAVIT**

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# **COMPLAINT FOR WRITS OF PROHIBITION AND MANDAMUS**

## **Introduction**

1. NOW COMES Relator Faith Andrews, Clerk of Courts for Lake County, Ohio (“Ms. Andrews”), and through her attorneys, hereby seeks issuance of peremptory writs of prohibition and mandamus to: (1) vacate two unlawful Journal Entries (collectively, “Improper Journal Entries”) and related directives from five judges of the Lake County Court of Common Pleas (“Respondents”); (2) prohibit enforcement of the Improper Journal Entries’ directives and related threats; and 3) prohibit Respondents from constructively removing Ms. Andrews from her elected office without due process nor complying with the statutory recall process under Ohio law.

2. Respondents are improperly interfering with Ms. Andrews’ duties and rights as an elected official in Lake County, Ohio, and have constructively removed her from her elected position by conduct including, *inter alia*, forbidding her under threat of fines and imprisonment from being present in the Courthouse but one day a month with an armed deputy sheriff present. Respondents’ Improper Journal Entries and directives are procedurally invalid and substantively unjustified. Respondents have constructively removed Ms. Andrews from her elected position without formal complaint, hearing, and other process required under Section 38, Article II of the Ohio Constitution and Ohio Revised Code §3.07 *et seq.* Respondents have further censored and defamed Ms. Andrews for disagreements over the funding of courthouse technology without affording her an opportunity to explain her position, in violation of the Ohio Supreme Court Code of Judicial Conduct.

3. Respondents have acted not only in callous disregard for applicable Ohio procedure and this Court’s Code of Judicial Conduct, but also without factual justification. For example, Respondents have ordered that Ms. Andrews may not enter the courthouse except one day a month

with an armed guard present and subject to other extraordinary security measures without citing any factual support that Ms. Andrews in fact poses a risk of physical harm to anyone. There is none. In the Improper Journal Entries, Respondents maliciously portray Ms. Andrews in a false light in an effort to influence public opinion against her and to undermine her ability to fulfill the duties of her elected office.

4. Left with no alternative, Ms. Andrews now seeks a writ of mandamus compelling Respondents to vacate the Improper Journal Entries and directives, and a writ of prohibition precluding Respondents from constructively removing her from office or otherwise stripping her of the rights, duties, and emoluments of her office by means in violation of Ohio law.

### **JURISDICTION**

5. This is an original action in prohibition and mandamus to prevent Respondents' unauthorized and unconstitutional interference with the official duties of Ms. Andrews, who is the duly elected Clerk for the Lake County Court of Common Pleas. This Court has original jurisdiction over this action pursuant to Article IV, Section 2 of the Ohio Constitution.

### **PARTIES**

6. Ms. Andrews is a resident of Lake County, Ohio, and is the duly elected Clerk of the Lake County Court of Common Pleas.

7. Respondents are the Court of Common Pleas for Lake County, Ohio, and the five judges of that court's General and Domestic Relations Divisions who signed one or more of the Improper Journal Entries challenged here: The Honorable Eugene A. Lucci, The Honorable Vincent A. Culotta, The Honorable John P. O'Donnell, The Honorable Patrick J. Condon, and the Honorable Colleen A. Falkowski (collectively, "Respondents").



## **BACKGROUND**

8. Before becoming the Clerk of Courts for Lake County, Ms. Andrews worked for several decades in business, including founding her own consulting and administrative support firm. (Andrews Aff. ¶ 2.)

9. In or about 2020, Ms. Andrews ran as a candidate for Lake County Clerk of Courts against the incumbent office holder in the November general election. (*Id.* at ¶ 3.) She campaigned in part based on her experience in the design of administrative systems for businesses and the need to improve the administration of the courts in order to promote transparency, efficiency, and fiscal accountability. (*Id.*)

10. Ms. Andrews won a majority of the votes cast in the 2020 election for the office of the Clerk by the electors of Lake County. (*Id.* at ¶ 4.)

11. Ms. Andrews began serving as Clerk of Courts in January 2021. (*Id.* at ¶ 5.) She entered office as a female outsider promising to improve the operations of the Clerk's Office.

12. Consistent with her campaign promises, she studied the operations of the Office of the Clerk, including its case-management and document-management solutions. (*Id.*) Thereafter, in a private email sent to the Budget Director for Lake County, Ms. Andrews expressed disagreement with the transfer of \$260,000 from a fund established for digitization of court records but used to pay for the purchase and implementation of aiSmartbench: a workflow/dashboard application used by the judges. (*Id.*) In the email to the Budget Director, Ms. Andrews also expressed her disagreement that she should be required to pay for any costs associated with the implementation and maintenance of aiSmartbench, including annual licensing and support fees, as neither Ms. Andrews nor her staff in the Clerk's office have licenses for or access to use aiSmartbench. (*Id.*)

13. Ms. Andrews believed she acted appropriately in raising privately her concern about the funding source for aiSmartbench, but after learning of this expression of disagreement, Respondents punished Ms. Andrews by taking away her established role swearing in juries. (*Id.* at ¶ 6.)

14. On October 12, 2021, Respondents further delivered to Ms. Andrews a letter attached to Ms. Andrews' Affidavit as Exhibit A (hereinafter the "October Letter") stating, *inter alia*, that they had "many other concerns about the clerk's maintenance of the court's files" besides the dispute about appropriate funding for the software, and that "those will be addressed in other communications." (*Id.* at ¶ 7.) Respondents also stated that Ms. Andrews has only "ministerial" duties, that she serves "only as an arm of the court," and that she "must obey orders of the court." (*Id.*) Respondents threatened that they could "journalize an order of the court," but that "in the interest of collegiality and cooperation, and not airing to the public internal difficulties caused by your misunderstanding of your role, we are providing you an opportunity to consider this letter as what a journal entry might contain, and comply." (*Id.*)

15. But Respondents were not finished putting Ms. Andrews in her place. On November 15, 2021, Respondent Judge Lucci sent via email (attached as Exhibit B to Ms. Andrew's affidavit) a draft Journal Entry (hereinafter "November Journal Entry"), which is attached to Ms. Andrews' Affidavit as Exhibit C. (*Id.* at ¶ 8.) Respondent Judge Lucci stated that if Ms. Andrews did not comply with the terms of the November Journal Entry, "the five judges will sign the order, file it, and enforce it upon any further violation. At that point, unfortunately, the order will become public record." (*Id.*)

16. In the November Journal Entry, Respondents accused Ms. Andrews of engaging in conduct unbecoming of the office of the Clerk. (*Id.* at ¶ 9.) Respondents also eliminated Ms.

Andrews's prior managerial responsibilities of the Court's IT department ("Court IT"), yet still demanded that the Clerk's office "shall pay one-half of the costs associated with the operation of [Court IT]" from the Clerk's budget. (*Id.*) While demanding that Ms. Andrews's office pay one-half of the costs associated with the operation of Court IT, the November Journal Entry prohibited Court IT from servicing or attending to the Title Division operations of Ms. Andrews's office, except when directed by the Court. (*Id.*) And Respondents further stated that Court IT "shall be under the sole and exclusive supervision and direction of the judges of the General and Domestic Relations divisions of this court, regardless of the source of funding." (*Id.*) The November Journal Entry provided that any violation would be considered a contempt of court, and "punishable as such, by fine and/or imprisonment." (*Id.*)

17. Respondents' furor towards Ms. Andrews would only grow. On March 2, 2022, Ms. Andrews delivered a copy of her annual report to Respondent Judge Lucci's chambers and asked his assistant if the judge was available for a face-to-face conversation about the report. (*Id.*) The assistant told Ms. Andrews that he was unavailable that day, but that he could meet with her at 3pm on Friday. (*Id.*) At 3pm on Friday, Ms. Andrews went to Respondent Judge Lucci's chambers to meet with him, but she was directed to enter the courtroom. (*Id.*) Respondent Judge Lucci and the other General Division and Domestic Relations Division judges were already present in the courtroom. (*Id.*) Respondent Judge Lucci, from the bench, spoke at her, as if sentencing a defendant, sharply criticizing her work as clerk. Respondents then gave Ms. Andrews a letter (attached as Exhibit D to Ms. Andrews' Affidavit) and another (and exponentially more defamatory and onerous) "Journal Entry" (the "March Journal Entry") (Andrews Aff., Exh. E) (*Id.* at ¶ 10.) Ms. Andrews was not given the opportunity to speak and she did not attempt to respond.

(*Id.*) After Respondent Judge Lucci told her that she had to leave the courthouse by 4pm or face arrest for criminal trespass, two deputy sheriffs escorted her out of the courtroom. (*Id.*)

18. Once again, Respondents expressly threatened to journalize and thereby publicize the March Journal Entry if Ms. Andrews did not immediately agree to all of its terms. (*Id.* at ¶ 12.) This time, Respondents gave Ms. Andrews less than 48 hours to review the March Journal Entry and respond, stating:

Please review the journal entry carefully. It does not deprive you of the emoluments of your office. It does hinder your ability to damage the office of the clerk of courts and interfere with the operation of the court. The judges have one question of you, which must be answered by you, and your answer conveyed to the undersigned as administrative judge of this court, by noon on Sunday, March 6, 2022, by email: Will you comply with every provision of this journal entry?

(*Id.*)

19. Twelve pages long, the March Journal Entry (Andrews Aff., Exh. E) speaks for itself as an unabashed effort to defame Ms. Andrews and to strip her of the duties of her elected office in violation of Ohio law. For example, after suggesting that she made a comment about “taking (employees) out back and shooting (them)” in “perhaps...a failed attempt at humor,” the judges then portray her as an “explosive” “paranoid” person implicitly at risk of violence against other employees. (Andrews Aff., ¶ 13.) In truth, Ms. Andrews has not done anything to indicate that she is a danger to the safety of others in the courthouse. (*Id.*)

20. On the basis of this wholly unsupported and false pretext that Ms. Andrews is a mentally ill danger to the courthouse, Respondents by the March Journal Entry banished Ms. Andrews from the courthouse at any time, except for the first business day of each month; denied her a key to the courthouse premises; subjected her office to an administrative search at any time; provided for a security camera aimed at the area just outside her personal office; and posted a

deputy sheriff near her office for “security” “whenever the clerk is in the courthouse.” (*See id.* at ¶ 14; *see also* March Journal Entry, Andrews Aff., Exh. E, ¶¶39-43; *see also* Andrews Aff. at ¶ 14.). Respondents thus ordered Ms. Andrews out of her own elected office and subjected her to security befitting a psychotic prisoner in an administrative supermax prison, all while claiming that these directives are somehow “the least onerous measures reasonably calculated to preserve the effective and efficient functioning of the court.” (March Journal Entry, Andrews Aff., Exh. E, at ¶36.)

21. Further falsely portraying her as an unbalanced threat of mass violence, the Respondents in the March Journal Entry specifically order her not to possess or convey in the courthouse “a firearm, other deadly weapon, or dangerous ordnance (sic)” even though there is no evidence to support any concern in this regard. (Andrews Aff. at ¶ 14.)

22. Less dramatic, but still denying Ms. Andrews the duties and privileges of her elected office, the March Journal Entry also effectively removes the right of the elected Clerk of Courts to supervise employees in the Clerk’s Office, including *inter alia* to discipline any employee, transfer or reassign any employee, deny any promotion that would otherwise have been received, or reduce any employee in pay or position. (*See id.* at ¶ 15; *see also* March Journal Entry, Andrews Aff., Exh. E, at ¶ 47.) With no apparent sense of irony, Respondents further order Ms. Andrews not to “abuse” any employee, which abuse is defined to include “causing any person to feel threatened or demeaned.” (*Id.* at ¶ 44). By the express terms of the March Journal Entry, Ms. Andrews is subject – for causing someone else to feel threatened or demeaned – to a finding of contempt of court, resulting in fine and/or imprisonment. (*Id.* at ¶55).

23. Respondents made these findings and ordered these directives, including removing Ms. Andrews from her own office on penalty of criminal trespass, without ever giving her the opportunity to be heard in a formal hearing or informal meeting. (Andrews Aff., ¶ 16.)

24. Ms. Andrews is unaware of any effort to follow the recall procedures under Ohio law to remove her from her elected office. (*Id.* at ¶ 17.) In the improper March Journal Entry, in fact, Respondents expressly acknowledge that they are bypassing the statutory recall process with respect to Ms. Andrews on the basis that it would be too time-consuming, saying:

Revised Code 3.08 requires a complaint be filed in this court, signed by some 14, 271 registered voters of Lake County. Such a removal action would take more time than what the current situation allows.

(Andrews Aff., Exh. E, at ¶ 35.)

25. In the improper March Journal Entry, Respondents also impose a gag order on Ms. Andrews, prohibiting her from making “public statements or accusations about allegations she may have about criminal or other illegal activities occurring within the office of the clerk of courts, or by predecessors in the office of the clerk of courts, unless in consultation with, or requested by, the prosecutor’s office or law enforcement as part of a bona fide investigation.” (Andrews Aff. at ¶ 18.)

26. While claiming not “to interfere with the emoluments of her office,” Respondents have done just that. Respondents have interfered with the advantages, rights, and responsibilities of the office that Ms. Andrews holds, even removing her right to be present in the Clerk’s Office on all but only one day a month. (*Id.* at ¶ 14; *Black’s Law Dictionary* 233 (2d E. 2001).) Respondents made the express and implied findings against her and distributed the March Journal Entry to other officials and employees of Lake County without ever affording her the opportunity to be heard. (Andrews Aff. at ¶ 16.)

27. Given less than forty-eight hours to respond over a weekend (*Id.* at ¶ 12), and threatened with contempt and criminal trespass and the publication of the defamatory March Journal Entry itself, Ms. Andrews involuntarily submitted to its terms. (*Id.* at ¶ 19; *see also* Andrews Aff., Exh. F.) Respondent Judge Lucci acknowledged that her response was “timely” in an e-mail that he sent to Ms. Andrews on Sunday, March 6, 2022 (*Id.* at ¶ 19; *see also* Andrews Aff., Exh. F.)

28. Ms. Andrews had no choice but to submit to the onerous directives of the improper March Journal Entry. The letter accompanying the March Journal Entry emphasized that it was already signed by the Respondents, and it did not address whether it purported to apply to conduct occurring before it was “journalized.” (Andrews Aff., Exh. D.) Suggesting it was already in force, the letter transmitting the March Journal Entry, warned in bold writing that if Ms. Andrews attempted to enter the courthouse (even prior to the deadline to respond) that she would be subject to contempt of court and/or criminal charges.” (*Id.*)

29. In his March 6, 2022 e-mail to Ms. Andrews, Respondent Judge Lucci further told Ms. Andrews that “if you violate any provision in the [March] Journal Entry – *as you know it has already been signed* – *we will immediately journalize it and take enforcement action.*” (Andrews Aff., Exh. F.) Respondent Judge Lucci made this threat even while acknowledging that much of the criticisms of Ms. Andrews that he had heard from the Deputy Clerk could be factually untrue, saying, “Even if 99% of what the deputy clerk says is arguably ‘factually incorrect,’ the undeniable fact is that your management and leadership style singularly has brought chaos and dysfunction to the court \*\*\* [.]” The March Journal Entry appended to Respondent Judge Lucci’s March 6 e-mail states (at ¶ 55) that “[t]he judges will enforce a violation of any provision in this order as a contempt of court, and such shall result in fine and/or imprisonment.” (Andrews Aff., Exh. E.)

30. By involuntary submitting to the March Journal Entry under direct threat, Ms. Andrews would supposedly avoid the public filing of the highly defamatory document, but whether or not she assented, she faced and continues to face imprisonment and fines for any perceived violation. (Andrews Aff., at ¶ 21.) Even though Respondents promised Ms. Andrews that the March Journal Entry would not be journalized or thereby become a public record if Ms. Andrews assented to it, Ms. Andrews is informed that the Journal Entry portraying her as a dangerous “paranoid” individual has been widely distributed to Lake County officials and also given to the media. (*Id.* at ¶ 22.)

31. On March 23, 2022, Respondent Judge Lucci sent Ms. Andrews an e-mail attached to her Affidavit as Exhibit G (the “March 23 e-mail”) (*Id.* at ¶ 23.) In the March 23 e-mail, Respondent Judge Lucci says that the judges’ “directive” is that Ms. Andrews “not occupy an office where [she] will impact legal division employees. Therefore, do not occupy an office at Victoria Place, or any other location where legal division operations take place, except for the location and at the time stated in the written unfiled [March Journal Entry] directive.” (*Id.*) Ms. Andrews cannot continue to serve her elected office as Clerk of Courts under such orders. (*Id.*)

32. On April 7, 2022, the Lake County Board of Commissioners unanimously passed a resolution to jointly apply with the Lake County Prosecutor to the court to appoint the undersigned counsel from Porter, Wright, Morris & Arthur, LLP, to represent Ms. Andrews in this dispute. (*Id.* at ¶ 24.)

33. On April 11, 2022, two of the Respondents – Administrative Judge Lucci and Presiding Judge O’Donnell – filed an “Order” in Lake County Case No. 22AA000001, styled as “Joint Application of the Lake County Prosecuting Attorney and the Lake County Board of Commissioners, Pursuant to R.C. 305.14(A), to Employ Legal Counsel to Advise and Represent



Lake County Clerk of Courts, Faith Andrews.” (April Order, attached as Exh. H to the Andrews Aff.; *see also* Andrews Aff. at ¶ 25.)

34. In the opening paragraph, the April Order states that “the court finds that the interests of justice and the public interest would be served by granting said application” for the appointment of counsel for the Clerk “*as qualified below*,” but the April Order does not explain how the appointment is “qualified” or why such qualification is appropriate given Respondents’ obvious conflict of interest. (*Id.*)

35. Respondents in their latest April Order also characterize “[t]he entire controversy between the judges and the clerk is the matter of human resources *within the clerk’s office*” and try to recast “the dispute” as “actually one *between the clerk and her employees*,” even though Respondents themselves, in their November and March Journal Entries, expressly disparage Ms. Andrews and impose upon her restrictions constructively removing her from office. (*Id.* at ¶ 26.)

36. As Respondents did in their March Journal Entry, Respondents (in the publicly filed April Order) disparage Ms. Andrews, alleging that she “acted to damage or threaten the integrity, operational continuity, and public confidence in the justice system because of [her] personality and management style” – accusations that Ms. Andrews has been given no opportunity to address before Respondents published them to the world by journalizing the Order. (*Id.* at ¶ 27.)

**MS. ANDREWS IS ENTITLED TO A WRIT OF MANDAMUS COMPELLING  
RESPONDENTS TO VACATE THE IMPROPER JOURNAL ENTRIES AND MARCH  
DIRECTIVE**

37. The allegations above are incorporated herein as if fully rewritten.

38. To be entitled to a writ of mandamus, Ms. Andrews must establish by clear and convincing evidence that (1) she has a clear legal right to the requested relief, (2) Respondents have a clear legal duty to provide it, and (3) Ms. Andrews does not have an adequate remedy in

the ordinary course of the law. *State ex rel. Brubaker v. Lawrence Cty. Bd. of Elections*, Slip Opinion No. 2022-Ohio-1087, ¶ 9, citing *State ex rel. Linnabary v. Husted*, 138 Ohio St.3d 535, 2014-Ohio-1417, 8 N.E.3d 940, ¶ 13.

39. Ms. Andrews has a clear legal right to the immediate vacatur of the Improper November and March Journal Entries and March Directive because the onerous and unfounded terms of these items constructively remove Ms. Andrews from her elected office without compliance with Section 38, Article II of the Ohio Constitution or the statutory recall provisions of Ohio law that are applicable to Ms. Andrews’s elected position.

40. Amongst other provisions of law, Section 3.08 of the Ohio Revised Code requires for the removal of public officers the filing of a formal complaint specifying the charges and signed by a percentage of the qualified electors, and trial by a jury if demanded by the officer against whom the complaint has been filed. Respondents seek to remove and have constructively removed Ms. Andrews from her elected office without complying with any of the legal safeguards mandated under Ohio law or any opportunity to be heard whatsoever. In fact, in overt disregard for the rule of law, Respondents have acknowledged that § 3.08 would require a formal complaint and the signatures of some 14,000 voters, but that this required legal process would take longer than the situation allows and so Respondents will not follow it. (Andrews Aff., Exhibit E.)

41. In addition, Rule 2.5 of the Ohio Code of Judicial Conduct mandates that “(a) judge shall cooperate with other judges and court officials in the administration of court business.” The Comment (5) further explains that in “discharging the obligation to cooperate,” a judge must “place the public’s interest in an efficient and well-run court system above any personal or partisan interests,” and that “the duty to cooperate requires the judge to engage in efforts to reach compromise for the good of the court but does not require compromise.” Respondents have

violated this Code in allowing personal animus to overcome sound judgment, and in taking extreme measures to threaten her into submission. Whether or not Ms. Andrews, the elected Clerk of Courts, was right or wrong in her views, Respondents have a clear obligation to cooperate and to engage in efforts to reach a compromise. Since the first dispute over the source of funding for aiSmartBench, Respondents have not extended Ms. Andrews the opportunity to even discuss the points of disagreement.

42. Ms. Andrews has a clear legal right to the immediate vacatur of the Improper November and March Journal Entries and March Directive because they are false and defamatory, because they constitute an unlawful prior restraint, because they impose overly broad and improper restrictions on her operations, and because they improperly wrest from her supervisory control over her own Staff.

43. Ms. Andrews has a clear legal right to the immediate vacatur of the Improper November and March Journal Entries, March Directive, and related threats set forth in the transmittal letters and other documents attached herein because all such findings and directives became effective against Ms. Andrews, on pain of contempt, without due process of law.

44. Ms. Andrews has a clear legal right to the immediate vacatur of the Improper November and March Journal Entries and March Directive because they are unlawful attempts to deprive Ms. Andrews of the rights, responsibilities, and emoluments of her elected office without formal complaint or hearing in violation of Section 38, Article II of the Ohio Constitution and the statutory mandate of R.C. 3.07. *See State ex rel. Hughes v. Brown*, 31 Ohio St.2d 41, 285 N.E.2d 376 (1972).

45. By the facts set forth above, which are expressly incorporated herein, Respondents have engaged in a gross abuse of discretion and have acted in callous disregard for Ohio law,

including Ohio constitutional requirements. Respondents further breached a clear legal duty to vacate the Improper November and March Journal Entries and March Directive.

46. Ms. Andrews lacks an adequate remedy in the ordinary course of the law to seek vacatur of the Improper November and March Journal Entries and March Directive. To date, to the best of Ms. Andrews' knowledge, the Improper Journal Entries and March Directive have not been journalized in any pending case number or proceeding in the Lake County Common Pleas Court in which Ms. Andrews could file any Notice of Appeal, but Respondents maintain that they are entitled to the force of law and threaten to immediately enforce these directives against Ms. Andrews on penalty of fines and imprisonment.

**MS. ANDREWS IS ENTITLED TO A WRIT OF PROHIBITION PRECLUDING RESPONDENTS FROM ENFORCING ANY OF THE ORDERS, DIRECTIVES, OR TERMS OF THE IMPROPER NOVEMBER AND MARCH JOURNAL ENTRIES AND MARCH DIRECTIVE; AND PRECLUDING RESPONDENTS FROM CONSTRUCTIVELY REMOVING MS. ANDREWS FROM OFFICE WITHOUT DUE PROCESS NOR COMPLYING WITH THE STATUTORY RECALL PROCESS UNDER OHIO LAW**

47. All allegations above are incorporated herein as if fully rewritten.

48. For a writ of prohibition to be justified, a Ms. Andrews must show: (1) that the court against whom the writ is sought is exercising or about to exercise judicial power; (2) that the exercise of power is unauthorized by law; and (3) that denying the writ will result in injury for which no other adequate remedy exists in the ordinary course of law. *State ex rel. Koren v. Grogan*, 68 Ohio St.3d 590, 592, 629 N.E.2d 446, 448 (1994); *State ex rel. Enyart v. O'Neill*, 71 Ohio St.3d 655, 656, 646 N.E.2d 1110, 1112 (1995). A writ of prohibition in favor of a court clerk will lie to vacate an unreasonable or arbitrary judge's order to the clerk. *State ex rel. Krakowski v. Stokes*, 16 Ohio App.3d 62, 474 N.E.2d 695 (8th Dist. 1984).

49. Respondents are exercising or are about to exercise judicial power by drafting the Improper November and March Journal Entries and March Directive, and/or signing the Improper November and March Journal Entries and March Directive in their judicial capacities, and threatening to journalize the Improper November and March Journal Entries and March Directive if Ms. Andrews does not continue to accede to and abide by their onerous and improper terms and restrictions. Respondents further threaten to enforce the directives of the Improper November and March Journal Entries and March Directive on pain of contempt.

50. Respondents' exercise of judicial power in connection with the Improper November and March Journal Entries and March Directive is unauthorized by law because they are unconstitutional, and contrary to controlling law. The Improper November and March Journal Entries and March Directive further make findings of fact without the opportunity to be heard and in denial of due process of law.

51. By drafting the Improper November and March Journal Entries and March Directive, requiring Ms. Andrews to abide by their terms, and threatening to journalize and publicize them, Respondents improperly seek to constructively remove Ms. Andrews from her elected office without abiding by the recall provisions set forth in the Ohio Revised Code. In doing so, Respondents violate Section 38, Article II of the Ohio Constitution and the statutory mandate of R.C. 3.07 et. seq. Under these circumstances, a writ of prohibition will lie to enforce these constitutional and statutory requirements. *State ex rel. Hughes v. Brown*, 31 Ohio St.2d 41, 285 N.E.2d 376 (1972) (allowing permanent writs of prohibition to ensure compliance with R.C. 3.07 and Section 38, Article II of the Ohio Constitution, when members of the board of election were summarily removed without such compliance).

52. Furthermore, Respondents have demonstrated callous disregard for legal requirements and the fundamental due process rights to notice and the opportunity to be heard, and Respondents should be prohibited from further efforts to interfere with her performance of the rights and duties of Ms. Andrews' elected office, and from constructively removing her from her office without complying with the requirements under Ohio law.

53. A denial of Ms. Andrews's requested writ of prohibition will result in an injury for which no other adequate remedy exists in the ordinary course of law. Ms. Andrews cannot appeal the Improper November or March Journal Entries or the March Directive because the Improper Journal Entries and March Directive have not been journalized in any pending case number or proceeding in the Lake County Common Pleas Court in which Ms. Andrews could file any Notice of Appeal, but Respondents threaten to enforce these items against Ms. Andrews even though not journalized.

54. Further, "[i]f an inferior court is without jurisdiction whatsoever to act, the availability or adequacy of the remedy of appeal to prevent the resulting injustice is immaterial to the exercise of supervisory jurisdiction by a superior court to prevent usurpation of jurisdiction by an inferior court." *State ex rel., Adams v. Gusweiler*, 30 Ohio St. 2d 326, 329 (1972).

55. Respondents lack any jurisdiction whatsoever to journalize or enforce the false and defamatory Improper Journal Entries and March Directive, and this Court should exercise its supervisory jurisdiction to prevent Respondent's unlawful usurpation of jurisdiction.

56. Respondents continue to violate Ms. Andrews's constitutional rights, interfere with her duties as the elected Clerk, and constructively remove her from her elected office through the threatened journalization and enforcement of the Improper Journal Entries and March Directive.

**RELIEF REQUESTED**

WHEREFORE, Relator Faith Andrews prays that this Court issue a peremptory writ of mandamus compelling Respondents to vacate the Improper November and March Journal Entries and March Directive;

WHEREFORE, Relator Faith Andrews prays further that this Court issue a peremptory writ of prohibition to preclude Respondents from enforcing any term, directive, or order in the void and unconstitutional Improper November and March Journal Entries and March Directive and to prevent Respondents from exercising judicial power in connection with them;

WHEREFORE, Relator Faith Andrews prays further that this Court issue a peremptory writ of prohibition to preclude Respondents from further efforts to constructively remove Faith Andrews from her elected office without due process nor complying with the statutory recall process under Ohio law, or to take from her the rights, duties, and emoluments of her elected office without due process.

WHEREFORE, in the alternative to the foregoing relief, pursuant to Rule 12.05 of the Supreme Court's Rules of Practice, Relator Faith Andrews prays that this Court issue an alternative writ and schedule for the presentation of evidence, thereby staying any journalization or enforcement of the Improper November or March Journal Entries or the March Directive until a final determination of this Court.

Respectfully submitted,

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*Counsel for Relator Faith Andrews, Clerk*



IN THE SUPREME COURT OF OHIO

**THE STATE OF OHIO, *ex rel.***  
**FAITH ANDREWS, CLERK OF**  
**COURTS FOR LAKE COUNTY, OHIO**  
Address:  
Lake County Courthouse, West Annex  
25 North Park Place  
Painesville, OH 44077

v.

**THE COURT OF COMMON PLEAS**  
**OF LAKE COUNTY, OHIO,**

**THE HONORABLE EUGENE A. LUCCI,**

**THE HONORABLE VINCENT A.**  
**CULOTTA,**

**THE HONORABLE JOHN P.**  
**O'DONNELL,**

**THE HONORABLE PATRICK J.**  
**CONDON, and**

**THE HONORABLE COLLEEN A.**  
**FALKOWSKI,**  
Address:  
Lake County Courthouse  
47 North Park Place,  
Painesville, OH 44077

Respondents.

CASE NO.

ORIGINAL ACTION

AFFIDAVIT OF RELATOR  
FAITH ANDREWS,  
CLERK OF COURTS

**AFFIDAVIT OF RELATOR FAITH ANDREWS**  
**IN SUPPORT OF WRITS OF MANDAMUS AND PROHIBITION**

State of Ohio :  
County of Lake : ss

I, Faith Andrews, being first duly sworn, depose and state upon my personal knowledge, as follows:

1. I am over 18 years of age and I am under no mental or physical disability affecting my competency to testify.

2. Before becoming the Clerk of Courts for Lake County, I worked for several decades in business, including founding my own consulting and administrative support firm.

3. In 2020, I ran as a candidate for Lake County Clerk of Courts against the incumbent office holder in the November general election. I campaigned in part based on my substantial experience in consulting in the design of administrative systems for businesses. I promised to improve the administration of the courts where necessary in order to promote transparency, efficiency, and fiscal accountability.

4. I won a majority of the votes cast in the 2020 election for the office of the Clerk by the electors of Lake County.

5. I began serving as Clerk in January 2021. Consistent with my campaign promises, I studied the operations of the Office of the Clerk, including its case-management and document-management solutions. After this study, I expressed disagreement in a private email sent to the Budget Director for Lake County about \$260,000 being transferred from a fund established for digitization of court records and used to pay for the purchase and implementation of aiSmartbench, which is a workflow/dashboard application used by the judges. In my email to the Budget Director, I also expressed my disagreement that I should be required to pay for any costs associated with the implementation and maintenance of aiSmartbench, including annual licensing and support fees, as neither I nor my staff in the Clerk's office have licenses for or access to use aiSmartbench. (*Id.*)

6. I believed that I acted appropriately in raising privately my concern, but the Common Pleas judges to my understanding learned of my disagreement and then would not allow me to swear in their juries, even though they had allowed me to do that before.

7. On October 12, 2021, Judges Lucci, Falkowski, Lawson, Culotta, Barolotta, O'Donnell, and Condon delivered to me a signed letter. A true and accurate copy is attached to this Affidavit as Exhibit A (the "October Letter"). In the October Letter, the judges said, among other things, that they had "many other concerns about the clerk's maintenance of the court's files" besides the dispute about appropriate funding for the software, and that "those will be addressed in other communications." The judges further stated that I have only "ministerial" duties, that I serve "only as an arm of the court," and that I "must obey orders of the court." The judges further

stated that they could “journalize an order of the court,” but that “in the interest of collegiality and cooperation, and not airing to the public internal difficulties caused by your misunderstanding of your role, we are providing you an opportunity to consider this letter as what a journal entry might contain, and comply.”

8. The judges’ critical behavior toward me did not stop with the October Letter. On November 15, 2021, Judge Lucci sent me an email, a true and accurate copy of which is attached to my Affidavit as Exhibit B, stating that I “must comply” with a draft Journal Entry that he attached to his e-mail (“November Journal Entry”), which is attached here as Exhibit C. Judge Lucci stated that if I did not comply with the terms of the November Journal Entry, “the five judges will sign the order, file it, and enforce it upon any further violation. At that point, unfortunately, the order will become public record.”

9. In the November Journal Entry attached to Judge Lucci’s cover e-mail, the judges accused me of engaging in conduct unbecoming of the office of the Clerk. The judges also eliminated my prior managerial responsibilities of the Court’s IT department (“Court IT”), yet still demanded that the Clerk’s office “shall pay one-half of the costs associated with the operation of [Court IT]” from the Clerk’s budget. While demanding that my office pay one-half of the costs associated with the operation of Court IT, the November Journal Entry prohibited Court IT from servicing or attending to the Title Division operations of my office, except when directed by the court. And the judges stated that Court IT “shall be under the sole and exclusive supervision and direction of the judges of the General and Domestic Relations divisions of this court, regardless of the source of funding.” The November Journal Entry stated that any violation would be considered a contempt of court, and “punishable as such, by fine and/or imprisonment.”

10. This did not end the conflict. On March 4, 2022, the judges gave me a letter, a true and accurate copy of which is attached as Exhibit D, which was the cover letter to yet another “Journal Entry” – a true and accurate copy of which is attached here as Exhibit E.

11. I received his letter and March Journal Entry under circumstances threatening to me. Two days before, on March 2, 2022, I had asked Judge Lucci’s assistant if the judge was available for a face-to-face conversation about the annual report that I had recently provided. She told me that he was unavailable that day, but that he could meet at 3pm on Friday. At 3pm on Friday, I went to Judge Lucci’s chambers to meet with him, but I was directed to enter the courtroom. Judge Lucci and the other General Division and Domestic Relations Division judges were there. Judge Lucci, criticized me from the bench, telling me for the first time that my staff was “terrified” of me. He asked if the other judges had anything to say and they shook their heads. I was not given any opportunity to respond and I did not attempt to speak. Instead, I was handed the letter and March Journal Entry. Two deputy sheriffs entered the courtroom and escorted me out. I was told that I had to leave the courthouse by 4pm or face arrest for criminal trespass.

12. Once again, the judges expressly threatened to journalize and thereby publicize this new Journal Entry if I did not immediately agree to all of its terms. This time, the judges gave me less than 48 hours to review the lengthy Journal Entry and respond, saying:



Please review the journal entry carefully. It does not deprive you of the emoluments of your office. It does hinder your ability to damage the office of the clerk of courts and interfere with the operation of the court. The judges have one question of you, which must be answered by you, and your answer conveyed to the undersigned as administrative judge of this court, by noon on Sunday, March 6, 2022, by email: Will you comply with every provision of this journal entry?

13. This latest twelve-page Journal Entry includes a number of false assertions about my conduct. For example, after suggesting that I made a comment about “taking (employees) out back and shooting (them)” in “perhaps...a failed attempt at humor,” the judges then portray me as an “explosive” “paranoid” person capable of violence against other employees. I have not done anything to indicate that I am a danger to the safety of others in the courthouse.

14. While claiming in this Journal Entry not to deny me the “emoluments” of my office, the extraordinary security measures and other directives prevent me from actually doing my job. To my reading, among other things, the judges order me out of the courthouse at any time, except for the first business day of each month; they deny me a key to the courthouse premises; they subject my office to a humiliating administrative search at any time; they aim a security camera at the area just outside my personal office; they post a deputy near my office for “security” on the one day I can be present, and make various other restrictions on my operations and my free speech. The Journal Entry orders me not to possess or convey in the courthouse a “firearm, other deadly weapon, or dangerous ordnance” even though I have never done so or threatened to do so.

15. The judges also enter directives that deny me the ability to supervise the staff of the Clerk’s office, including the right to hire or discipline any employee or to transfer or reassign any employees, saying:

The clerk shall not: (1) terminate, remove, discipline, or suspend any employee from employment; (2) withhold from any employee any salary increases or employee benefits to which the employee is otherwise entitled; (3) transfer or reassign any employee; (4) deny any employee a promotion that otherwise would have been received; or (5) reduce any employee in pay or position, without prior consultation with, and the concurrence of, the administrative judge of the general division or the domestic relations judge. The clerk shall not hire any new employee without prior consultation with, and the concurrence of, the administrative judge of the general division.

16. The judges have made these findings and order these directives, including removing me from my own office on penalty of criminal trespass, without ever giving me the opportunity to be heard in a formal hearing or informal meeting.

17. I am also unaware of any effort to follow the recall procedures under Ohio law to remove me from my elected office. In the Journal Entry, the judges acknowledge that they are bypassing the statutory recall process because it would be too time-consuming, saying:

Revised Code 3.08 requires a complaint be filed in this court, signed by some 14, 271 registered voters of Lake County. Such a removal action would take more time than what the current situation allows.

18. The judges also imposed a gag order on me, prohibiting me from making “public statements or accusations about allegations [I] may have about criminal or other illegal activities occurring within the office of the clerk of courts, or by predecessors in the office of the clerk of courts, unless in consultation with, or requested by, the prosecutor’s office or law enforcement as part of a bona fide investigation.”

19. In the very short time frame I was given to respond, and given the threatening nature of the judges’ communications and the content of the Journal Entry itself, I believed that I had no choice but to agree to the judges’ demands. So I emailed my agreement to the judges on Saturday March 5, 2022, the day after I received the Journal Entry and cover letter (a true and accurate copy of my e-mail is attached here as Exhibit F).

20. Judge Lucci acknowledged that my response was “timely” in an e-mail that he sent to me on Sunday, March 6, 2022 (a true and accurate copy of the e-mail from Judge Lucci is also included in Exhibit F.) At the time when I reluctantly agreed to be bound by the terms of this latest Journal Entry, I had not been appointed counsel by the Board of County Commissioners to represent my interests in my ongoing dispute with the judges.

21. In his March 6, 2022 e-mail to me, Judge Lucci told me that “if you violate any provision in the Journal Entry – as you know it has already been signed – we will immediately journalize it and take enforcement action.” Once again, I felt directly threatened by the judges, particularly given that the Journal Entry states that “[t]he judges will enforce a violation of any provision in this order as a contempt of court, and such shall result in fine and/or imprisonment.”

22. Even though the judges assured me that the March Journal Entry would not be journalized or thereby become a public record if I assented to it, I am told that the Journal Entry portraying me as a dangerous “paranoid” individual is now widely distributed to Lake County officials and has been provided to the media. For example, Judge Lucci told me that he sent the March Journal Entry to all County Commissioners, my Chief Deputy Clerk, and my Chief of Staff. The Prosecutor informed me that the News Herald had made a request for the March Journal Entry and the Prosecutor produced it. To my knowledge I have not yet seen a story about the March Journal Entry or re-printing the March Journal Entry in the newspaper yet.

23. On March 23, 2022, Judge Lucci sent me an email, a true and accurate copy of which is attached here as Exhibit G. In this email, he says that the judges’ “directive” is that I “do not occupy an office where [I] will impact legal division employees. Therefore, do not occupy an office at Victoria Place, or any other location where legal division operations take place, except for the location and at the time stated in the written unfiled JE directive.” I do not understand how

I can continue to occupy my elected office as Clerk of Courts under the judges' ongoing and unreasonable demands.

24. On April 7, 2022, the Lake County Board of Commissioners unanimously approved a joint resolution to seek the appointment of Porter, Wright, Morris & Arthur LLP to represent my interests in this ongoing situation. I appreciate this Resolution because Porter Wright is my counsel of choice.

25. On April 11, 2022, two of the judges – Administrative Judge Lucci and Presiding Judge O'Donnell – filed an "Order" in Lake County Case No. 22AA000001, which they called "Joint Application of the Lake County Prosecuting Attorney and the Lake County Board of Commissioners, Pursuant to R.C. 305.14(A), to Employ Legal Counsel to Advise and Represent Lake County Clerk of Courts, Faith Andrews." (A true and accurate copy of this Order is attached as Exhibit H.)

26. The judges in their latest Order also claim that "the entire controversy between the judges and the clerk is the matter of human resources within the clerk's office" and "the dispute is actually one between the clerk and her employees," even though the judges themselves, in their Journal Entries, disparage me and require me to comply under penalty of fines and imprisonment with restrictions that deny me my elected office.

27. Moreover, as they do in the March Journal Entry, the judges (in the publicly filed Order) disparage me, alleging that I "acted to damage or threaten the integrity, operational continuity, and public confidence in the justice system because of [my] personality and management style" – accusations that I have had no formal opportunity to contest before the judges published them to the world.

FURTHER AFFIANT SAYETH NAUGHT



Faith Andrews

Sworn to before me and subscribed in my presence this 18<sup>th</sup> day of April, 2022.



Notary Public



ELIZA ADAMS  
Notary Public  
State of Ohio  
My Comm. Expires  
April 26, 2025



# **EXHIBIT A**

## Andrews, Faith M.

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**From:** Lucci, Judge Eugene  
**Sent:** Tuesday, October 12, 2021 9:47 AM  
**To:** Andrews, Faith M.  
**Cc:** Culotta, Judge Vincent; O'Donnell, Judge John P.; Condon, Judge Patrick J.; Falkowski, Judge Colleen; Lawson, Judge Karen; Bartolotta, Judge Mark  
**Subject:** Letter re Finances  
**Attachments:** 20211012 - LT Clerk re Financial Matters.pdf  
**Importance:** High

Dear Clerk Andrews,

Please see the attached letter from the judges of the court.

*Judge Eugene A. Lucci*

General Division  
Lake County Common Pleas Court  
47 North Park Place  
Painesville, OH 44077  
Phone 440.350.2100  
Fax 440.350.2210  
Email [JudgeLucci@LakeCountyOhio.gov](mailto:JudgeLucci@LakeCountyOhio.gov)  
Web <http://www.LakeCountyOhio.gov/cpcgd/>



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## Court of Common Pleas Lake County, Ohio

### General Division

Judge Eugene A. Lucci  
Judge Vincent A. Culotta, Admin.  
Judge John P. O'Donnell  
Judge Patrick J. Condon

### Domestic Relations Division

Judge Colleen A. Falkowski

### Juvenile Division

Judge Karen Lawson, Pres.

### Probate Division

Judge Mark J. Bartolotta

October 12, 2021

### PERSONAL & CONFIDENTIAL

Faith M. Andrews  
Clerk of Courts  
25 North Park Place  
Painesville, OH 44077

Re: Clerk of Courts' Operations

Dear Clerk Andrews:

R.C. 2303.26 states that: "[t]he clerk of the court of common pleas shall exercise the powers conferred and perform the duties enjoined upon the clerk by statute and by the common law; and *in the performance of official duties the clerk shall be under the direction of the court.*" (Emphasis added). Further, the Ohio Supreme Court has held that the duties of the clerk are ministerial and nonjudicial, that the clerk serves only as an arm of the court for the more convenient performance of the functions of the court that are clerical in nature, and that the clerk exercises no discretion. *Glass v. Chapman*, 67 Ohio St. 1, 65 N.E. 154 (1902), *McKean v. Graves*, 91 Ohio St. 23, 24, 109 N.E. 528 (1914).

Thus, the clerk's office must obey orders of the court. For example, in 2003 Ohio Atty. Gen. Ops. 2003-030, the Butler County prosecuting attorney sought an opinion regarding the relative authority of the court and the clerk regarding the maintenance and release of the court's records. The judges of the Butler County Court of Common Pleas delegated to the Domestic Relations Division the authority to decide what portion of the Domestic Relations records should be available online. The General Division records were made available online, but the Domestic Relations Division ordered that the clerk remove images of entries filed in Domestic Relations cases. The clerk of courts disagreed that the court had the authority to order her to make those changes to her records and the operations of her office. The Attorney General advised that the clerk must obey the court's order, unless a court of competent jurisdiction reversed the order or prohibited its enforcement.

Further, in a proceeding in mandamus to compel the clerk to obey an order of the court, the clerk cannot challenge the validity of the order, or the authority and jurisdiction of the court that made it. *Glass v. Chapman*, 67 Ohio St. 1, 65 N.E. 154 (1902).

47 North Park Place, Painesville, Ohio 44077  
Tel. (440) 350-2500

Accordingly, the law is clear that the clerk of courts is under the direction of the courts and must obey court orders.

"The clerk makes and has custody of the court's records...." *State v. Wilson*, 102 Ohio App.3d 467, 471, 657 N.E.2d 518 (2<sup>nd</sup> Dist. 1995). However, in doing so, the clerk is an arm of the court, doing what the court would otherwise do, and has no discretion in the performance of these duties. *Id.* The Ohio Supreme Court has held that the court has general custody of and authority over its own records and files. *Ex parte Thayer*, 114 Ohio St. 194, 150 N.E. 735 (1926), syllabus. Further, this authority "extends to the files of all cases which have ever been instituted therein, whether dismissed, disposed of, or pending. This power of the court is inherent and takes precedence even of [sic] the statutory power of a clerk over court records and files." *Id.* at 201.

Accordingly, although the clerk's office maintains and keeps the court's records, the court inherently has authority over its records, and the court's authority takes precedence over the authority of the clerk. The clerk must maintain the court's records in the manner in which the court decides is best in the execution of the court's constitutional responsibilities.

The judges of the General Division and Domestic Relations Division of the Lake County Common Pleas Court have determined that the implementation of an e-filing system is necessary to the efficient administration of justice in the court and to promote access to the courts. The electronic record, in fact, is the official record of the court. See Local Rule 3.08.

It is the duty of the clerk to maintain the court's records at the direction of and for the convenience of the court. R.C. 2303.26; *State v. Wilson*, 102 Ohio App.3d 467, 471, 657 N.E.2d 518 (2<sup>nd</sup> Dist. 1995); *Glass v. Chapman*, 67 Ohio St. 1, 65 N.E. 154 (1902); *McKean v. Graves*, 91 Ohio St. 23, 24, 109 N.E. 528 (1914). The implementation and administration of an e-filing system is the responsibility of the clerk of courts. However, if maintaining the court's record meant simply taking in filings from parties or the court and placing them in the court's file, then maintaining the court's file would be an exercise in futility. Documents filed by the parties are filed for the consideration of the court and the court must have access to, and be able to utilize, the information in its records in order to administer justice. Maintaining the court's record must necessarily include such duties as making the court aware of new filings and providing the court with the means to review, search, and work with its records. With paper filings, the Lake County Clerk of Courts sends a paper filing over to the assigned judge's office, where the court reviews the filing, takes action regarding the filing if and when action is appropriate, and returns the filing to the clerk's office to be added to the court's file for the case. The court also, when appropriate, obtains its case files from the clerk for its use in scheduling the case, conducting hearings, and otherwise handling the matters involved in the case.

The court has previously determined, with the concurrence of the clerk of courts, that it would be inefficient, costly, and cumbersome for the clerk's office to print efiled documents and maintain paper files in order to provide the court with access to, and the ability to work with, its records. Digitization of the court's records, then, necessarily includes providing the court with the means to access and work with its electronic records.

Therefore, a software solution is required to provide the court with the access to its electronic records necessary to facilitate the administration of justice and the costs associated with such software is appropriately an expense of the clerk of courts. The current case/document management solution employed by the court, Courtview by Equivant, has fallen



short in the transition to and implementation of an e-filing solution that addresses the needs of the court.

Although funding for the clerk's office is generally provided by the commissioners, pursuant to R.C. 2303.06, because the clerk had a surplus of title funds, the previous clerk of courts and the commissioners, pursuant to R.C. 325.33, agreed to transfer funds in the amount of \$260,000 to the general fund to pay for the costs of implementing aiSmartBench, a software solution developed by Mentis and provided by ImageSoft, that "sits on top" of Courtview, loads the contents, through character recognition, of all of the court's files, for searchability, access, management, and any other uses of the court. Those funds were then transferred to an account for the court to enable the court to process the payments of the costs of the implementation of aiSmartBench as those costs were billed pursuant to the terms of the contract. Although the clerical tasks of processing the bills related to the project could have been completed by the clerk's office, the previous clerk of courts and the judges agreed that judicial staff would handle that task. You have a copy of that contract, signed by the commissioners. While you expressed your preference that the court use those funds for the new scope of work, those funds have been earmarked for that contract and allocated to Purchase Order 979785 and cannot be used to pay the costs of services provided outside the scope of work for which they were allocated. Those funds have not yet been expended in their entirety, solely because the aiSmartBench implementation project has been delayed.

The additional scope of work of which you now complain and which is awaiting approval is necessary to facilitate the implementation of aiSmartBench, but it is not part of the original scope of work. aiSmartBench enables the court to work with its electronic records by pulling information from the clerk's case management system, Courtview, indirectly through the clerk's imaging system, OnBase, and pushing information back to the case management system through the same means. In the process of preparing to begin the implementation of aiSmartBench, it was discovered that the clerk's office, when imaging documents in the OnBase system, has never selected specific identifying document types or codes associated with that record, so that every document in the OnBase system is identified or coded with the same generic document type, and the clerk has been so doing since the installation of Courtview in the early 2000s. As a result, it is now necessary for ImageSoft to perform additional work in order to correct this mistake so that the properly identified document types will be pulled into aiSmartBench. Thus, this additional expense is clearly associated with the duties and functions of the clerk's office, and to correct mistakes made by the three most recent clerks of courts, to the extent that this information is relevant to a determination of this issue.

Moreover, as you point out yourself, your failure to process the new scope of work has completely stopped the implementation of aiSmartBench. As e-filing has already been implemented, the absence of aiSmartBench has necessitated work-arounds that are burdensome, inefficient, and often duplicative. While the judges agreed to implement e-filing prior to aiSmartBench, understanding that such work-arounds would be necessary, this was intended to be a short-term solution. Your inaction is, therefore, impeding the efficient administration of justice.

You also suggest that the judges raise filing fees or otherwise do what we "need to do to ensure" we can run our operations. In the past, the court had a surplus in its special project fund, and, in the spirit of mutual respect and cooperation, the judges chose to exercise our discretion regarding that fund to shoulder many of the clerk's and commissioners' expenses as those expenses would have posed a hardship to the clerk's office and the commissioners at that

time. That we chose to do so in the past does not obligate us to continue to do so. Moreover, expecting the court to raise the costs to litigants when you readily have the funds available to pay this expense is unreasonable. Imposing or raising filing fees necessarily impacts the ability of litigants to access the courts. Thus, when determining indigence for purposes of waiving filing fees or court costs, courts typically grant a determination of indigence liberally to preserve the due process rights of litigants and guarantee access to the courts. *Trumbull Mem. Hosp. v. Kamofel*, 11th Dist. Trumbull No. 2008-T-0115, 2009-Ohio-1488, ¶ 26. Therefore, courts should be cautious in raising filing fees and must take into consideration the interests of litigants. The court declines to exercise its discretion to raise filing fees because you simply do not wish to spend your office's own money.

Furthermore, "[t]he language of R.C. 2303.201(E)(1) indicates that the General Assembly intends that a court of common pleas determine whether a particular expenditure constitutes a special project of the court that contributes to the efficient operation of the court." 2016 Ohio Atty.Gen.Ops. No. 2016-010. "(F)ees generated pursuant to R.C. 2303.201(E)(1) may not be used to replace moneys and services otherwise provided by statute for the operation of the court of common pleas. Rather, such moneys are to provide "additional funds" to the court of common pleas for "special projects." 2001 Ohio Atty.Gen.Ops. No. 2-39.

The General Division's special project funds have reduced dramatically over the past several years. Foreclosure cases, constituting the largest portion of special project fees, have been significantly reduced, as have been civil filings, which generate the remaining portion of the special project fees. Criminal cases, in which the court receives no special project revenues, now constitute the overwhelming majority of the judges' time. This situation is a stark reversal of that when the special projects were adopted by the court. The judges have determined that the special project balances have become perilously low, and are approaching the point where its purposes are frustrated.

In addition, the Domestic Relations Division does not possess significant funds with which to contribute to the court's record management or information technology needs; any funds that the D.R. division spends for those purposes, is funded by request or order upon the commissioners. There is no provision in the law that allows one division of the court to pay for the needs or uses of another division.

Accordingly, it is clear that the use of special project funds are within the discretion of the court and cannot be compelled, or used to replace funding that the commissioners are required by law to provide, or, for that matter, to replace funds that the clerk of courts already possesses in her office.

Further, the court determines that the clerk's legal division operations of the court has never been intended to be self-sufficient or self-sustaining. The court's funding comes primarily, by statute, from the county commissioners. "The board of county commissioners shall furnish the clerk of the court of common pleas all blankbooks, including the printed trial dockets, blanks, stationery, and *all things necessary for the prompt discharge of his duty.*" R.C. 2303.06 (Emphasis added). Accordingly, the expenses associated with the clerk's office performing its duties under Chapter 2303 would be paid from general funds allocated to the clerk's budget, rather than the court.

To the extent that the commissioners have discretion in allocating the budget for these items, if it would impair the administration of justice because of the lack of sufficient supplies



and equipment to handle the clerical duties for the courts, it would constitute an abuse of that discretion. *Whitman v. Magee*, 11th Dist. Trumbull No. 3558, 1985 WL 10045.

Although there are revenue generating statutes allowing the clerk and the judges to produce revenues off of legal operations, those revenues can come only from filing fees and from fines. Filing fees and fines that are so high as to generate relatively substantial revenue tend to violate provisions of the Bill of Rights to the U.S. Constitution, and various provisions of the Ohio Constitution. Besides, much of the filing fees and fines are already designated by statute to be remitted to various state and local governmentally-controlled offices. The clerk should not expect that the revenue-generating abilities of the court, including the clerk's legal operations, will be sufficient to fund all of the operating requirements of the clerk of court's legal division.

You are correct that the court has the means to ensure that that the court can run its operations in that the court has the sole discretion to determine its needs and can reasonably order funding necessary to fulfill the court's purposes, and enjoys a presumption of reasonableness. *State ex rel. Byers v. Carr*, 6th Dist. No. L-15-1258, 2016-Ohio-241, 57 N.E.3d 482, ¶18. The court believes that the additional scope of work is necessary, and, if it is necessary to do so, the court can and will order the necessary funding, whether by the clerk, or if need be, by the commissioners.


From this day forward, the clerk, further, will pay for all servers, computers, scanners, printers, all hardware, and all software that is required by sound management principles and/or the judges of this court, and all licensing fees, improvements, or replacements levied by vendors or required by the judges of this court to keep all hardware and software functioning at the latest and most current version, and any other equipment, device, or thing, whether virtual or tangible and local, along with all things necessary to safeguard the data and the court's records, whether the hardware or software sits on top of, beside, or beneath anything with which the clerk operates her office or maintains the court's records, so that the court properly may discharge its duties. The court will no longer use its funds, including special project funds, to contribute to or pay for any of the expenses of the clerk's office or of the function to create, maintain, preserve, or utilize the court's records.

Additionally, before the clerk declares any further surpluses and gives away to governmental and non-governmental entities or concerns other than the court more millions of dollars of the clerk's title funds, the clerk shall prepare for and retain sufficient funds to replace the current case/document management system, which, from several prior conversations with the clerk of court and the court's information technology employees, will be needed within a three-to-five-year horizon, and anticipated to cost between \$2.5 and \$3 million. The revenue generating ability of the clerk's title division may not always be there. Once the capacity to create lucrative income from title operations is widely realized, some legislator will likely propose legislation to "share the wealth."


This letter merely addresses the issues raised in your email to Mike Matas on September 29, 2021, which was never sent to the judges. The judges have many other concerns about the clerk's maintenance of the court's files, and those will be addressed in other communications.


The judges are prepared to journalize an order of the court; but, in the interest of collegiality and cooperation, and not airing to the public internal difficulties caused by your

misunderstanding your role, we are providing you an opportunity to consider this letter as what a journal entry might contain, and comply.

  
Judge Colleen A. Falkowski

  
Judge Karen Lawson, Pres.

  
Judge Mark J. Bartolotta

Sincerely,  
  
Judge Eugene A. Lucci

  
Judge Vincent A. Culotta, Admin.

  
Judge John P. O'Donnell

  
Judge Patrick J. Condon

# **EXHIBIT B**

**Andrews, Faith M.**

---

**From:** Lucci, Judge Eugene  
**Sent:** Monday, November 15, 2021 8:19 AM  
**To:** Andrews, Faith M.  
**Cc:** Culotta, Judge Vincent; O'Donnell, Judge John P.; Condon, Judge Patrick J.; Falkowski, Judge Colleen; Hamercheck, John; Connors, Colin  
**Subject:** Courts IT  
**Attachments:** 20211114 - Draft JE upon Clerk of Courts re Courts IT etc.pdf  
**Importance:** High

Clerk Andrews,

Commissioner President John Hamercheck advised the judges that he spoke with you on November 12, and again on November 13, 2021, about his meeting with the five judges of the General and Domestic Relations divisions of this court the morning of the 12th. Mr. Hamercheck stated that you will fully comply with what the judges have determined to order in the event you did not wish to comply. Mr. Hamercheck took copious notes, although he did not have a copy of the draft order. So you may not be aware of all of the details.

The judges of this court want you to succeed as clerk of their court. We want the Title Division to be wildly successful in performing the lucrative services your office has been performing for the past several years and which you have been increasing since taking office almost 11 months ago. We are prepared to stand with you and help you help our court carry out its constitutional and statutory duties, but we cannot stand idly by while your actions have put all of that at risk of dissipating.

We attach a draft of that order which lays out what the judges determine to be necessary under the present circumstances. It is NOT for filing at this time. You must comply with the terms contained within that order. If you do not comply, the five judges will sign the order, file it, and enforce it upon any further violation. At that point, unfortunately, the order will become public record. We are trying to work with you without resorting to journalization, which is embarrassing for all of us. We cannot tolerate losing good employees and being exposed to claims, complaints, and litigation, and a loss of public confidence in an institution that our five judges have collectively spent almost 70 years cultivating.

We look forward to your utilizing resources provided by the county commissioners to make your office the best clerk's office in the state.

Sincerely,

The Judges of the General Division and Domestic Relations Division

*Judge Eugene A. Lucci*

General Division  
Lake County Common Pleas Court  
47 North Park Place  
Painesville, OH 44077



Phone 440.350.2100

Fax 440.350.2210

Email [JudgeLucci@LakeCountyOhio.gov](mailto:JudgeLucci@LakeCountyOhio.gov)

Web <http://www.LakeCountyOhio.gov/cpcgd/>



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# **EXHIBIT C**

IN THE COURT OF COMMON PLEAS  
LAKE COUNTY, OHIO  
GENERAL DIVISION & DOMESTIC RELATIONS DIVISION

IN RE: SUPERVISION AND AUTHORITY OVER )  
COURTS IT DEPARTMENT ) JOURNAL ENTRY

Until further order of the court, for good cause, the judges of the General Division and Domestic Relations Division of the Lake County Court of Common Pleas hereby enter the following order pertaining to the supervision and authority over the Courts IT Department:

R.C. 2303.26 states that: “[t]he clerk of the court of common pleas shall exercise the powers conferred and perform the duties enjoined upon the clerk by statute and by the common law; and *in the performance of official duties the clerk shall be under the direction of the court.*” (Emphasis added). Further, the Ohio Supreme Court has held that the duties of the clerk are ministerial and nonjudicial, that the clerk serves only as an arm of the court for the more convenient performance of the functions of the court that are clerical in nature, and that the clerk exercises no discretion. *Glass v. Chapman*, 67 Ohio St. 1, 65 N.E. 154 (1902), *McKean v. Graves*, 91 Ohio St. 23, 24, 109 N.E. 528 (1914).

Thus, the clerk’s office must obey orders of the court. For example, in 2003 Ohio Atty. Gen. Ops. 2003-030, the Butler County prosecuting attorney sought an opinion regarding the relative authority of the court and the clerk regarding the maintenance and release of the court’s records. The judges of the Butler County Court of Common Pleas delegated to the Domestic Relations Division the authority to decide what portion of the Domestic Relations records should be available online. The General Division records were made available online, but the Domestic Relations Division ordered that the clerk remove images of entries filed in Domestic Relations cases. The clerk of courts disagreed that the court had the authority to order her to make those changes to her records and the operations of her office. The Attorney General advised that the clerk must obey the court’s order, unless a court of competent jurisdiction reversed the order or prohibited its enforcement.

Further, in a proceeding in mandamus to compel the clerk to obey an order of the court, the clerk cannot challenge the validity of the order, or the authority and jurisdiction of the court that made it. *Glass v. Chapman*, 67 Ohio St. 1, 65 N.E. 154 (1902).

Accordingly, the law is clear that the clerk of courts is under the direction of the courts and must obey court orders.

“The clerk makes and has custody of the court’s records....” *State v. Wilson*, 102 Ohio App.3d 467, 471, 657 N.E.2d 518 (2<sup>nd</sup> Dist. 1995). However, in doing so, the clerk is an arm of the court, doing what the court would otherwise do, and has no discretion in the performance of these duties. *Id.* The Ohio Supreme Court has held that the court has general custody of and authority over its own records and files. *Ex parte Thayer*, 114 Ohio



St. 194, 150 N.E. 735 (1926), syllabus. Further, this authority “extends to the files of all cases which have ever been instituted therein, whether dismissed, disposed of, or pending. This power of the court is inherent and takes precedence even of [sic] the statutory power of a clerk over court records and files.” *Id* at 201.

Accordingly, although the clerk’s office maintains and keeps the court’s records, the court inherently has authority over its records, and the court’s authority takes precedence over the authority of the clerk. The clerk must maintain the court’s records in the manner in which the court decides is best in the execution of the court’s constitutional responsibilities.

The court has developed, implemented, and maintains its own information technology department (in addition to the County IT department), currently employing two Courts IT professionals, to assist and facilitate the judges in performing their constitutional and statutory duties, including processes for creating, maintaining, and utilizing its files and other documents. The Clerk of Courts has been entrusted as an arm of the court to perform the duties enjoined upon the clerk by statute and by the common law. The supervision and authority over the County IT and Courts IT departments is not a function that is enjoined upon the clerk by statute or by the common law. The General Division and the Clerk of Courts had been sharing equally the costs associated with operating the Courts IT department, and the hiring and supervision of its employees.

The Clerk of Courts has, among other things, engaged in conduct unbecoming of her office that undermines the mission of the court, including swearing in areas within earshot of the public and visitors to the court, exposed her office to complaints, litigation, and other claims, risked voluntary resignation of employees under hostile conditions and involuntary termination without just cause, subjected her employees to such a degree of anxiety where their work product, and thus, the maintenance of the courts files and papers, is degraded, and diminished public confidence in the courts, as well as the public image of and respect for the court.

From this date forward, Courts IT personnel shall attend to the technological and information technology desires, requirements, and directions of the General and Domestic Relations divisions of this court, including the case management and document management systems employed to create, maintain, and utilize the courts’ files and other papers, documents, and processes, and other technology needs of the court, whether located within and without the offices of the Clerk of Courts. Courts IT shall not service or attend to the Title Division operations of the clerk’s office, except when directed by the court; the clerk may engage IT services outside of Courts IT to service the Title Division on an as needed or periodic basis, paid out of Title Division funds, in which case, the clerk may direct and supervise that work, so long as it does not interfere with or direct Courts IT employees in any fashion.

The Clerk of Courts, or the Board of Lake County Commissioners in the event that the clerk does not have sufficient funds, shall pay one-half of the costs associated with the operation of the Courts IT department, and the court shall pay one-half out of its special project fund account developed for that purpose to the extent that such funding is

available in the sole judgment and discretion of the court. The costs associated with the operation of Courts IT are the payroll and benefits of the employees and the required offices, furniture, equipment, and supplies necessary or commonly utilized by such professionals.

Courts IT shall be under the sole and exclusive supervision and direction of the judges of the General and Domestic Relations divisions of this court, regardless of the source of funding. The Clerk of Courts may convey technological or information technology needs to the court, which will direct Courts IT to address them as appropriate.

The Clerk of Courts shall have no authority to supervise, interfere with, admonish, direct, hire, discipline, or terminate any employee of Courts IT, regardless of the source of funding. The Clerk of Courts shall not employ other IT professionals, or other persons, including County IT, so as to interfere with the direction of the court to Courts IT.

The Clerk of Courts shall have no authority to approve, disapprove, interfere with, diminish, modify, or require the approval, including prior or post, for the purchase, acquisition, use, disposal, or retirement of equipment, supplies, hardware, software, or other technology that has been approved or directed by the judges to be purchased, acquired, used, disposed, or retired, whether used exclusively or in part by the clerk's office or otherwise.

The Clerk of Courts shall cooperate with and facilitate the performance of duties by Courts IT personnel as directed by the judges of this court.

The Clerk of Courts shall not require conversations between vendors or other providers of services or products to the clerk or court and Courts IT employees to be recorded by the vendors or other providers of services or products, and shall contact those vendors and other providers of services or products which she previously has required to do so, and inform them that such recording is no longer required and should terminate.

The Clerk of Courts shall not curse, swear, engage in any vulgarities, or engage in any conduct unbecoming of the office of the clerk or of the court in a location where members of the public or visitors to the court or clerk's offices can hear. The Clerk of Courts shall not curse, swear, engage in any vulgarities, or engage in any conduct unbecoming of the office of the clerk or of the court directed at or about any employees of the court or the clerk, or within earshot of any employees of the court or the clerk.

Any employee under the direction or hiring authority of the Clerk of Courts who feels aggrieved, abused, or discriminated against by the Clerk of Courts may approach and complain to any judge of this court. The Clerk of Courts shall inform employees and post a notice in the clerk's break room stating so.

The Clerk of Courts shall, or the Board of Lake County Commissioners shall in the event that the clerk does not have sufficient funds, or fails or refuses, pay all expenses or costs associated or required to perform the duties enjoined upon the clerk by statute and



by the common law, and/or at the direction of the judges of this court, including but not limited to preparing for, banking, and retaining sufficient funds to replace the current case/document management system, and full implementation of the courts' e-filing system and all associated or desired hardware, software, systems, or technology as directed by the court within a three-to-five year period from the date of this journal.

Any violation of this order by the Clerk of Courts or the Board of Lake County Commissioners shall be considered a contempt of court, and punishable as such, by fine and/or imprisonment.

**IT IS SO ORDERED.**

**DOMESTIC RELATIONS DIVISION**

Judge Colleen A. Falkowski

**GENERAL DIVISION**

Judge Eugene A. Lucci

Judge Vincent A. Culotta, Admin.

Judge John P. O'Donnell

Judge Patrick J. Condon

# **EXHIBIT D**



## **Court of Common Pleas** **Lake County, Ohio**

### **General Division**

Judge Eugene A. Lucci  
Judge Vincent A. Culotta  
Judge John P. O'Donnell  
Judge Patrick J. Condon

### **Domestic Relations Division**

Judge Colleen A. Falkowski

### **Juvenile Division**

Judge Karen Lawson

### **Probate Division**

Judge Mark J. Bartolotta

March 4, 2022

HAND-DELIVERED BY ALL OF THE JUDGES

### **PERSONAL & CONFIDENTIAL**

Faith Andrews  
Clerk of Courts  
25 North Park Place  
Painesville, OH 44077

Re: Judicial Direction to Clerk in Performance of Duties

Ms. Andrews:

The judges of the General and Domestic Relations divisions on this court have met on various occasions, have consulted extensively with one another, have spoken with many individuals, including deputy clerks, and investigated a multitude of claims and allegations, and have determined that the operation of the court is best served if the performance of your duties as clerk of courts is modified.

Attached is a Journal Entry, styled "Direction to the Clerk of the Court of Common Pleas in the Performance of the Clerk's Official Duties." It has not yet been filed for journalization. This document contains what, in the exhaustive and considered opinion of all of the judges served by you, is necessary for the continued existence and operation of the court, and without which, the court cannot operate as required by the Ohio constitution and law.

Please review the journal entry carefully. It does not deprive you of the emoluments of your office. It does hinder your ability to damage the office of the clerk of courts and interfere with the operation of the court. The judges have one question of you, which must be answered by you, and your answer conveyed to the undersigned as administrative judge of the court, by noon on Sunday, March 6, 2022, by email: Will you comply with every provision of this journal entry?



If your answer is "Yes," the order will not be journalized and it will not become a public record which is easily obtainable by everyone, but you will be expected to comply explicitly with all of the terms and provisions. If your answer is "No," the judges have a signed original which we will immediately journalize and enforce to the fullest extent of our authority. A failure to respond by noon on Sunday will be deemed a "No," and we will journalize the order immediately.

**The judges hereby forbid your entry into or presence in the courthouse buildings, the parking lots, or your office from 4:00 p.m. today until Monday, March 7, 2022 at 8:30 a.m. The sheriff is instructed that your presence in the courthouses or parking lots between 4:00 p.m. today until 8:30 a.m. on Monday will be considered a criminal trespass, subjecting you to contempt of court and/or criminal charges.**

It is unfortunate that this matter has come to this point. Our judges have experience with the last five elected clerks of court and about 170 years of collective experience in the law and 70 years in this court, and we have never heard of or had any problems of this nature with any clerk in this or any other court in Ohio prior to your taking office. We have attempted to work with you and give you guidance, direction, and education, all to no avail.

Our duty is to uphold the constitution and administer justice in accordance with law. Your egregious conduct as clerk has jeopardized that mission.

We await your answer on Sunday.

Sincerely,

Judge Eugene A. Lucci  
Administrative Judge

Enclosure

# **EXHIBIT E**

IN THE COURT OF COMMON PLEAS  
LAKE COUNTY, OHIO  
GENERAL DIVISION & DOMESTIC RELATIONS DIVISION

IN RE:           DIRECTION TO THE CLERK OF           )  
                  THE COURT OF COMMON PLEAS       )       JOURNAL ENTRY  
                  IN THE PERFORMANCE OF THE       )  
                  CLERK'S OFFICIAL DUTIES           )

{P 1}           The court of common pleas was created by the Ohio Constitution and vested with the judicial power of the state. Ohio Constitution, Article IV, Section 1. The court is charged with providing fair, impartial, speedy, and sure administration of justice. Ohio Constitution, Article IV, Section 4.

{P 2}           The Lake County Court of Common Pleas consists of several departments, including its clerk of courts for the generation, filing, recording, maintaining, and utilization of records on all cases and matters on which it is empowered to exercise the judicial authority of the state of Ohio.

{P 3}           R.C. 2303.26 states that: “[t]he clerk of the court of common pleas shall exercise the powers conferred and perform the duties enjoined upon the clerk by statute and by the common law; and *in the performance of official duties the clerk shall be under the direction of the court.*” (Emphasis added). Further, the Ohio Supreme Court has held that the duties of the clerk are ministerial and nonjudicial, that the clerk serves only as an arm of the court for the more convenient performance of the functions of the court that are clerical in nature, and that the clerk exercises no discretion. *Glass v. Chapman*, 67 Ohio St. 1, 65 N.E. 154 (1902), *McKean v. Graves*, 91 Ohio St. 23, 24, 109 N.E. 528 (1914).

{P 4}           Thus, the clerk’s office must obey orders of the court. For example, in 2003 Ohio Atty. Gen. Ops. 2003-030, the Butler County prosecuting attorney sought an opinion regarding the relative authority of the court and the clerk regarding the maintenance and release of the court’s records. The judges of the Butler County Court of Common Pleas delegated to the Domestic Relations Division the authority to decide what portion of the Domestic Relations records should be available online. The General Division records were made available online, but the Domestic Relations Division ordered that the clerk remove images of entries filed in Domestic Relations cases. The clerk of courts disagreed that the court had the authority to order her to make those changes to her records and the operations of her office. The Attorney General advised that the clerk must obey the court’s order, unless a court of competent jurisdiction reversed the order or prohibited its enforcement.

{P 5}           Further, in a proceeding in mandamus to compel the clerk to obey an order of the court, the clerk cannot challenge the validity of the order, or the authority and jurisdiction of the court that made it. *Glass v. Chapman*, 67 Ohio St. 1, 65 N.E. 154 (1902).

{P 6} Accordingly, the law is clear that the clerk of courts is under the direction of the courts and must obey court orders.

{P 7} “The clerk makes and has custody of the court’s records....” *State v. Wilson*, 102 Ohio App.3d 467, 471, 657 N.E.2d 518 (2<sup>nd</sup> Dist. 1995). However, in doing so, the clerk is an arm of the court, doing what the court would otherwise do, and has no discretion in the performance of these duties. *Id.* The Ohio Supreme Court has held that the court has general custody of and authority over its own records and files. *Ex parte Thayer*, 114 Ohio St. 194, 150 N.E. 735 (1926), syllabus. Further, this authority “extends to the files of all cases which have ever been instituted therein, whether dismissed, disposed of, or pending. This power of the court is inherent and takes precedence even of [sic] the statutory power of a clerk over court records and files.” *Id.* at 201.

{P 8} Accordingly, although the clerk’s office maintains and keeps the court’s records, the court inherently has authority over its records, and the court’s authority takes precedence over the authority of the clerk. The clerk must maintain the court’s records in the manner in which the court decides is best in the execution of the court’s constitutional responsibilities.

{P 9} A court speaks through its journals and an entry is effective only when it has been journalized. Civ.R. 58(A) and Crim.R. 32(C). To journalize a decision means that certain formal requirements have been met, *i.e.*, the decision is reduced to writing, it is signed by a judge, and it is filed with the clerk so that it may become a part of the permanent record of the court. The time-stamped date offers some evidence of its filing. *State v. Ellington*, 36 Ohio App.3d 76, 77-78, 521 N.E.2d 504, 506 (9th Dist.1987); *San Filipo v. San Filipo*, 81 Ohio App.3d 111, 112, 610 N.E.2d 493 (9th Dist.1991). The clerk of courts employs deputy clerks who are specially trained in filing court papers and journalizing decisions and orders of the judges. The training includes operation of the courts’ electronic filing system.

{P 10} The clerk of courts of Lake County, Faith Andrews, was elected on November 3, 2020, and took office on January 1, 2021. All references in this order to the “clerk” or the “clerk of courts” specifically mean Faith Andrews. Quotations in this entry are from statements made to the judges by employees of the clerk of courts. The clerk admittedly had no prior experience being employed or acting as a clerk or deputy clerk of courts. The clerk of courts’ office employs 25 deputy clerks in the legal division in the courthouse, and another 23 employees in the title division offices not located in the courthouse. Seven deputy clerks have resigned during the past year. All of the factual information referred to in this entry is the result of judicial interviews and/or statements of current and former deputy clerks and from the judges’ own observations and that of their staffs.

{P 11} “On (the clerk of court’s) first day on the job, the chief deputy clerk (with 39 years on the job) walked (the clerk) around the entire courthouse and introduced her to judicial staff that was present. (The clerk) told (the chief deputy) someone was parked in



her spot – (the clerk) seemed easily agitated over this. (The deputy clerk) found out (the clerk) had parked in the incorrect spot somewhere around the Administration building (in the clerk of *the commissioners'* spot). When (the clerk and the chief deputy) were on the first floor of the courthouse (the chief deputy) showed (the clerk) out the window where she should be parking. Her space was vacant." That is when "(some employees) knew we were in trouble the first day that she started."

{P 12} "Shortly after taking office, (the clerk) started displaying some disturbing behavior." The clerk of courts has, among other things, engaged in conduct unbecoming of her office that undermines the mission of the court and public confidence in the court, including: engaging in "outbursts (of) screaming/yelling and slamming of things ... and doors;" using profanity in areas within earshot of the public and visitors to the court; exposing her office and Lake County to complaints, litigation, and other claims; risking voluntary resignation of employees under hostile conditions and involuntary termination without just cause; subjecting her employees to such a degree of anxiety where their work product, and thus, the maintenance of the courts' files and papers, is degraded; and sullyng the public image of and respect for the court. "(The clerk) makes the whole office a hostile work environment. Everyone is unhappy and stressed. Obviously I know what she has said to others."

{P 13} The clerk has made harsh, disrespectful references to, and disparaging statements about the judges, which endangers functioning of the workplace. She has referred to the judges as the "black robe brigade" and that she was "bench slapped" when the judges gave her an extensive written (and confidential) warning about her behavior. She has said that the judges "think they run the show, but she is an elected official also, and she doesn't like being told 'no'." She has openly referred to the judges as "F--king Judges and that they are bullies."

{P 14} The clerk has made disrespectful and disparaging statements in public and in front of her staff and at state-wide meetings about Charles E. Coulson, the elected Prosecuting Attorney of Lake County, frequently calling him, "What the f--, Chuck" and that Motherf---er Chuck." She has stated that she "will hire my own attorneys (because she does) not trust the prosecutors."

{P 15} The clerk has also spoken "in an ill manner" about the "commissioners, (assistant) prosecutors, and attorneys." "The (clerk) got upset at a question posed by the Probate court to the clerk about which way she entered the building and (the clerk) got so angry that she slammed her door and screamed 'I am sick and f--king tired of be treated this way. I am an elected official' she continued screaming but (employees) could not hear what she was saying through the profanities." The clerk's tirade could be heard by "people at the counter."

{P 16} The clerk does not trust the courts' I.T. professionals, as they "lie to (her)" and they do not give her "what (she) asks for (in reference to a new mouse)" while "throwing the packaging around and pounding her fists on the desk."

{P 17} The clerk's behavior and leadership style have been counterproductive, destructive, and hazardous to the clerk of court's institutional efficiency. The clerk has regularly and frequently engaged in profanity laced explosive tirades in the presence of employees and visitors to the office of the clerk. The judges were told that a member of the public captured a portion of one of the clerk's "outbursts and relayed the incident on social media, warning people to research a candidate before voting for them."

{P 18} Although there are deputy clerks with as much as 40, 39, 30, 29, 25, and 15 years on the job, who have worked for as many as five clerks of court, the current clerk will not tolerate any deputy suggesting anything that the clerk does not like. "(The clerk) then proceeded to tell me if the supervisors argue with her they will be demoted or fired. (She is) very unstable always seeks to have someone to blame because nothing is her fault. We go from one day of shouting to the next day of such sweetness you don't know what to think. When she does not get her way or someone says something she does not like she completely loses it."

{P 19} As a result of the behavior of the clerk of courts, as detailed throughout this order, employees of the clerk are exhibiting physical manifestations of the increased stress, including massive headaches and stomach distress, nausea, vomiting, weeping at their desks, loss of sleep and appetite, digestive issues, and increasing anxiety. Employees are beginning to take medications that they never used before to help them sleep. Employees are drinking more than usual to cope with the stress. Employees begin feeling dread on Sunday evening about having to come to work the following day. They are breaking down in tears over the stress and the apprehension of being belittled in front of other staff. Some employees with pre-existing conditions are having those conditions exacerbated by the stress inflicted by the clerk. Employee mental health and productivity are being affected, and they are complaining of symptoms such as post-traumatic stress, especially when the clerk slams or pounds her fists on a table or countertop accompanied by the use of the vilest and foul language, including the words, "f--k", "c--t", and "s--t." She frequently calls people "c--ts" and "bitches." The employees feel emotionally battered and everyone is on edge at all times that the clerk of courts is in the office. They stated of the situation, "We are working for an unpredictable, unstable, and unqualified boss ... the tension in the office has become unbearable" and "no person should have to work under these conditions."

{P 20} The clerk exhibits paranoid behavior, which has a deleterious effect upon the deputy clerks, leaving them with the feelings that they are not trusted and/or cannot perform their duties without extreme surveillance. The clerk has required members of the court's information technology department to audio record, and inform vendors of the requirement to audio record, all conversations between them and the members of the I.T. department, presumably for later review by the clerk. The clerk's newest policy requires all employees to copy in real time the clerk on any email communications with judges, judicial staffs, and other county offices, presumably for the clerk to review hundreds of email messages each day. A refusal to sign the policy would result in immediate



termination, as would a violation of that policy. Forwarding an email after the fact, rather than copying the clerk in real time, has been treated as a violation of the clerk's policy. "(The clerk) does not trust her employees to come in and do what they are hired to do. She makes us sign papers for disciplinary's if we don't do certain things like for example if we send an email to a judge or any of the judge's staff we need to CC (the clerk). Also when we give someone change we need to show her how we gave them the change back like how many fives, ones, etc. I have also heard that some of the girls get sick in the morning before they come in because they are so stressed out by her and what they have to deal with every day. As for myself I have worked for the clerk's office for (several) years now and this past year has been the hardest and most stressful. Everyone is always walking around on eggshells or waiting for the other outbursts and hoping they don't get caught in the crosshairs."

{P 21} "From the first day (the clerk) came into the office and almost every one-on-one discussion centered around her mission to discredit (her predecessor as clerk) and 'cleaning up the mess she made of the Clerk position.'" The clerk frequently says, "I have to clean up the mess it is as illegal as f--k. Someone is going to jail." Once in a public restaurant at a meeting between the clerk and a deputy clerk, the clerk emphasized that "she is the Clerk of Courts and it will be her way. She is not going to listen to the Judges, Prosecutor's or Commissioners. She will hire her own Attorneys. Advised me there are many illegal things going on in this County. Spoke of (her predecessor) and her illegal things she did re: budget issues. She was swearing and pounding on the table. (The deputy clerk) stood up and looked behind her to see if anyone was sitting behind her to deter (the clerk)." On another occasion, the clerk "was unhappy with (a deputy clerk's) bookkeeping supervisor over a PayPal project where she felt (the clerk's predecessor) had illegally taken in funds. When it was explained the issue stemmed from PayPal adjusting convenience fees, (the clerk) told (the bookkeeping supervisor) to perform a task within our system. When (the bookkeeping supervisor) stated this was an I.T. and Equivant (case management/bookkeeping software) situation, and she didn't know how to do this, this sent (the clerk) into a rage. She screamed very nasty profanities at (the bookkeeping supervisor), stomped from our area with a nonstop rant through the office and slammed her office door while still screaming behind the closed door. Please note, our area is the furthest from her office and we could still hear her. We were all pretty shook up." Recently, the clerk is ordering the locks changed to the offices of the clerk of courts for the reason that she irrationally fears the previous clerk of courts, her predecessor and opponent in the election, who happens to work temporarily in a bar association office two floors above the clerk's, will enter her offices to sabotage the operations.

{P 22} The clerk alternates frequently between chastising employees and praising them in such an unpredictable manner that the deputy clerks are confused and have no stability in expectations. The clerk pits supervisors against each other, and for instance, tells supervisors that other supervisors said or did something "negative about (the other)" that the supervisors' years of experience with each other tells them it could not be true.

The attempt at such manipulation is a waste of the deputy clerks' time and indicates the clerk's devious motivation. The clerk plays newer employees who have not known each other as well against each other, in order to manipulate them, which creates dissension within the department. "(The clerk) continues to write down what you say privately and shares it with others. When one of the supervisors are with her she talks bad about the other supervisors." The clerk "has made statements ... about having a mulligan file for everyone in the office, and she will use it against someone if she has to."

{P 23} The clerk has a zero tolerance (policy) for the (cash) drawer being off even by a penny. There are 10 to 15 people using the drawer on any given day. We literally go into a panic if the drawer reflects an overage of \$0.10." "Our money drawer (has to) add up correctly (it) could not be one cent short or one cent over."

{P 24} Employees are fearful to approach the judges about their concerns because they believe they will be fired if the clerk finds out. The clerk tells employees that she has "something" (presumably, evidence of crimes, ethical violations, or other wrongdoing) on all of the judges and that, if the clerk "goes down," she is "taking the judges with her." It is reasonable to surmise that her purpose in so saying this is to discourage employee complaints to the judges, as the judges should or would be fearful of providing any comfort or relief to those employees for any grievances.

{P 25} The clerk repeatedly makes statements, allegations, and accusations in public and to deputy clerks that she has uncovered illegalities in various aspects of the operations of the office, such as budgeting, sick leave, vacation leave, contracts, and "slush funds," and that "people will go to jail." The clerk tells employees that she has a "Mulligan file" on them, a narrative of derogatory information, and that she keeps these in a file separate from the employees' personnel files, and will bring them out when and as she sees fit.

{P 26} Employees have asked the clerk "to refrain from swearing and to understand we are governed by our Judges." She refuses to do the former and fails to acknowledge the latter.

{P 27} The clerk makes statements, perhaps in a failed attempt at humor, about "taking (employees) out back and shooting (them)." Employees are fearful for their own safety in the workplace, and have requested that the clerk go through security like all other employees. The employees are "very scared of (the clerk) and what she is capable of doing to (them) and (their) fellow co-workers."

{P 28} Several deputy clerks have resigned to take other public employment, some having refused offers of a pay increase of up to \$20,000 to stay with the clerk of courts of Lake County. In those instances where a deputy has taken another job, the clerk has threatened to contact the new employer to give them a piece of her mind for taking one of the clerk's employees. The clerk has threatened deputy clerks who have taken a new job that she will not transfer leave balances unless the deputy tells her immediately (rather than after the deputy starts the new job) the identity of the new employer. Many deputy



clerks are actively seeking other public employment positions, to preserve their investment in the retirement system. The clerk has offered \$60,000 to \$75,000 to employees previously earning \$43,000 to try to keep employees or to move other employees into vacated positions. When an employee refuses, the clerk tells the employee that "if (that employee) does not take that new position, it will never be offered again," suggesting that an improvement in the employee's career is ended. "(A deputy clerk who was offered a position of personal assistant to the clerk was) so afraid to decline the position ... (because) ... (the clerk) has made a statement to her that 'if you don't accept a position when I ask you, I will never ask again', as (the deputy clerk) was hoping to file (for another) position when (it becomes available)." This gives the judges some indication of the value that the employees place on the increased stress and anxiety.

{P 29} The clerk of courts has burdened the county with the risk of unemployment compensation for quitting with just cause or termination without just cause, and civil lawsuits for abuse, bullying, sexual harassment, infliction of emotional distress, interference with their employment contracts, sex discrimination (the clerk has made sex-based statements about a newly-hired male being entitled to greater compensation than experienced female employees), age discrimination (the clerk has made age-based statements about it being time for age-protected employees to leave), Americans with Disabilities Act discrimination, and other tort and employment claims, including defamation, in addition to inefficiencies created by hiring and training replacement personnel. Several deputy clerks have already consulted with legal counsel. Legal counsel for some of the clerks have put the county commissioners and prosecuting attorney on notice to preserve evidence. Many deputy clerks are advocating for organizing and acting collectively. Most deputy clerks say they will resign if the chief deputy clerk resigns, retires, or is terminated.

{P 30} Employees in the office of the clerk of courts with decades of experience in that office have advised the judges that the office is "chaotic" and dysfunctional and that the quality and quantity of work is diminished and subjected to more errors, and the office is near collapse, all due to actions of the clerk of courts. Because of short-staffing, the remaining employees are under more pressure and are overburdened. The office has lost so many deputy clerks that they cannot keep current with the work. The judges have a bona fide fear that the current situation, if left unchecked, will result in a risk of a mass walkout by, or resignation of, several, many, or even all deputy clerks. If that occurs, the court cannot perform its duty. Employees in the legal division have expressed that they are "done with (the clerk)."

{P 31} The judges have determined that the clerk of courts of Lake County, Ohio is unable to perform the duties of that office, particularly in the management of personnel, and is engaging in conduct which threatens and is detrimental to the operation and mission of the court. The clerk is interfering with the constitutional duty of the court, and the judges are required and have the inherent duty and concomitant authority to protect the existence and functioning of the court.

{P 32} The judges have given several warnings to the clerk of courts, including training by a human resources firm engaged by the county commissioners, but the clerk continues her abuse of employees and engages in other conduct unbecoming her office. On October 12, 2021, the judges provided a written, confidential, and stern warning to the clerk to correct her behavior. The court has taken any authority away from the clerk over the information technology employees based upon the imminent threat of resignation or retirement of the entire I.T. department, which if it came to fruition, would have crippled the court. The clerk still refuses to acknowledge that she is the source of any of the problems set forth in this entry. The clerk has stated that this is the way she manages – “if (an employee) does not like it, then the (employee) should get out.”

{P 33} The clerk recently hired a male employee at a rate of compensation greater than that of two female employees who have experience in the job, where the male has none, and may likely even receive some training by those females. When a deputy clerk who is a supervisor questioned the clerk about this situation and the effect it would have on the female employees, the clerk told the supervisor that she is paying the male employee more than the female employees because “he is a man.” The supervisor told the clerk that this was wrong, as it was sex discrimination, and that the aggrieved females would be very disgruntled or have a valid claim. The clerk then gave raises to the two females so that their compensation was equal to the male’s. This still was problematic under the law, and the clerk did this even after receiving human resources education which, in part, covered sex and age discrimination, and ADA violations. Moreover, the judges are informed that the male could not meet the physical requirements of the job (in terms of lifting 50-pound boxes of reams of paper), but was nonetheless hired by the clerk knowing this, which places the clerk’s office in a precarious position in any employment action in relation to the physical requirements, and also the enforcement of the physical requirement upon other employees who are expected to meet the requirements. The male also has received favorable treatment by the clerk, treatment not afforded to other female deputy clerks, despite the male deputy clerk being insubordinate to his immediate supervisor in his first week or so on the job.

{P 34} In the combined almost 70 years on the bench of the five judges currently served by the clerk of courts (who have a combined 170 years as attorneys), never have they had to speak with a deputy clerk about working conditions in the clerk’s office. The clerk’s behavior has taken up extraordinary amounts of time from the judicial responsibilities of the administrative judge and all of the other judges. The judges should not be saddled with human resources matters of the clerk’s office, but it is imperative that they do so, as they have the statutory duty to direct the clerk in the performance of her duties in the best interests of the court, and no other person, entity, or office can, and to protect the judges and commissioners from exposure to litigation and safeguard county resources.

{P 35} The clerk of courts, having been elected, can be removed, by statute, R.C. 3.07, only for certain reasons set forth in that statute, and in the manner specified in R.C.



3.08. See Ohio Constitution, Article II, Section 38. Revised Code 3.08 requires a complaint be filed in this court, signed by some 14,271 registered voters of Lake County. Such a removal action would take more time than what the current situation allows. Additionally, pursuant to R.C. 305.03(A)(1), "Whenever any county officer, except the county auditor or county treasurer, fails to perform the duties of office for ninety consecutive days, except in case of sickness or injury as provided in divisions (B) and (C) of this section, the office shall be deemed vacant." Accordingly, to continue to hold her office and draw her salary, the clerk is required to perform the duties of clerk only once every 90 days. This order will not interfere with the emoluments of her office.

{P 36} Accordingly, the judges of this court deem it essential to the operation of the court to provide the following directives to the clerk of courts, Faith Andrews. These directives are necessary and reasonable, and are the least onerous measures reasonably calculated to preserve the effective and efficient functioning of the court, and are effective immediately.

{P 37} The clerk of courts may be physically present in the office of the clerk in the courthouse (West Annex) on the first business day of each month, between the hours of 8:30 a.m. and 4:00 p.m. to perform the duties of clerk of courts, subject to the restrictions and provisions set forth in this entry. The clerk may not be present in the courthouse at any other time or day. The supervising deputy clerks of court shall oversee the day-to-day operations of the court.

{P 38} The clerk may perform the duties of office remotely, such as has been successfully accomplished by countless public and private offices throughout the United States for the better part of two years following the declaration of public emergency on March 13, 2020 involving the COVID-19 pandemic.

{P 39} When the clerk of courts is physically present in the courthouse, the clerk shall pass through the same security screening as all other employees prior to entry. The clerk shall not possess or use a key to the courthouse premises, and shall not use a "private" or restricted access door, but shall use the same general entrance as other employees of the court. The clerk shall return the keys to the courthouse to the administrative judge of the general division, forthwith.

{P 40} The clerk may not convey or attempt to convey, or possess or have under her control, a firearm, other deadly weapon, or dangerous ordnance in the courthouse, pursuant to R.C. 2923.123.

{P 41} The clerk's personal office in the courthouse shall be subject to an administrative search for security purposes at any time, as may all of the offices of the clerk of courts and vicinity.

{P 42} One of the security cameras in the clerk of courts' offices shall be aimed towards and display the area just outside of the clerk's personal office, but may not be placed inside her personal office.

**{P 43}** The sheriff's office shall post a deputy in the area of the clerk's office in the courthouse during normal operating hours as part of its security program, whenever the clerk is in the courthouse.

**{P 44}** The clerk shall not abuse any employee of the clerk or judicial offices, or any other person in the courthouse, or any person or officer performing duties appurtenant to the court's function. "Abuse" means yelling at, using profanity at or in the presence of such persons, using denigrating language or speech directed at or about any person, or causing any person to feel threatened or demeaned.

**{P 45}** The clerk shall not keep a shadow file, or "Mulligan file," on employees, or threaten disclosure of such information. If the clerk has information pertinent for placement in an employee's personnel file, it shall be placed in the file, so that the employee may timely have notice or knowledge of it, and the employee may place an explanation or rebuttal to the allegations in the employee's personnel file. The clerk shall not share, print, copy, or disseminate any so-called "Mulligan files."

**{P 46}** The clerk shall not make public statements or accusations about allegations she may have about criminal or other illegal activities occurring within the office of the clerk of courts, or by predecessors in the office of the clerk of courts, unless in consultation with, or requested by, the prosecutor's office or law enforcement as part of a bona fide investigation.

**{P 47}** The clerk shall not: (1) terminate, remove, discipline, or suspend any employee from employment; (2) withhold from any employee any salary increases or employee benefits to which the employee is otherwise entitled; (3) transfer or reassign any employee; (4) deny any employee a promotion that otherwise would have been received; or (5) reduce any employee in pay or position, without prior consultation with, and the concurrence of, the administrative judge of the general division or the domestic relations judge. The clerk shall not hire any new employee without prior consultation with, and the concurrence of, the administrative judge of the general division.

**{P 48}** The clerk shall not prevent, forbid, or discourage any employee of the clerk of courts from communicating privately in any manner and at any time (including on-duty time) with any of the judges about any topic, including by using the county email and telephone systems.

**{P 49}** The clerk shall not monitor or require all employee email communications to be copied to her without a specified need, and without prior consultation with, and the concurrence of, the administrative judge of the general division or the domestic relations judge. The clerk shall not require any employee verbal communications to be audio recorded without a specified need, and without prior consultation with, and the concurrence of, the administrative judge of the general division or the domestic relations judge.



{P 50} The clerk shall not retaliate against any employee for speaking with the judges, divulging any of the information contained in this entry, consulting with legal counsel, providing any testimony, filing any claims or lawsuits, or engaging in any "whistleblowing" activity.

{P 51} The clerk shall pay for all servers, computers, scanners, printers, all hardware, and all software that is required by sound management principles and/or the judges of this court, and all licensing fees, improvements, or replacements levied by vendors or required by the judges of this court to keep all hardware and software functioning at the latest and most current version, and any other equipment, device, or thing, whether virtual or tangible and local, along with all things necessary to safeguard the data and the court's records, whether the hardware or software sits on top of, beside, or beneath anything with which the clerk operates her office or maintains the court's records, so that the court properly may discharge its duties. The court will not use its judicial funds, including special project funds, to contribute to or pay for any of the expenses of the clerk's office or of the function to create, maintain, preserve, or utilize the court's records. The clerk will continue to pay one-half of the cost of the operation of the Courts I.T. department, both payroll and materials, but shall have no supervisory authority over that department or its personnel.

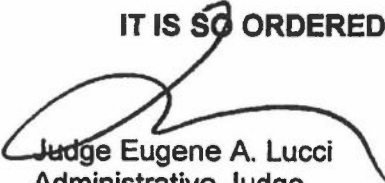
{P 52} The clerk shall not destroy any of the paper records of the court, or cause any of the paper records of the court to be destroyed, without an order of the appropriate division of the court, nor shall any electronic records be destroyed.

{P 53} The clerk shall not take any action or fail to taken any action, or cause any action or failure of action, that will diminish, impede, or obstruct any operation of the court or its generation, filing, recording, maintenance, and utilization of its records.

{P 54} Within one year from the entry of this order, the clerk shall complete a human resource management course, approved by the administrative judge, to acquire the knowledge, skills, and attitudes to be used as clerk of courts, including key principles, policies, and practices of human resource management and applying best practices for hiring and rewarding employees, and for managing employee performance, which includes instruction on discrimination and employment claims in the workplace.

{P 55} The judges will enforce a violation of any provision in this order as a contempt of court, and such shall result in fine and/or imprisonment.

**IT IS SO ORDERED.**

  
Judge Eugene A. Lucci  
Administrative Judge

  
Judge Colleen A. Falkowski





Judge Vincent A. Culotta



Judge John P. O'Donnell  
Presiding Judge



Judge Patrick J. Condon

# **EXHIBIT F**

## Andrews, Faith M.

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**From:** Lucci, Judge Eugene  
**Sent:** Sunday, March 6, 2022 9:36 AM  
**To:** Andrews, Faith M.  
**Subject:** PERSONAL & CONFIDENTIAL RE: Affirmative Response  
**Attachments:** 20220304 - JE clerk of courts - direction in performance of duties.pdf; 20220304 - LT clerk of courts with JE.pdf

Clerk of Courts Andrews,

The judges acknowledge receipt of your timely answer to our question. Thank you for choosing this path. The Journal Entry does not reflect our "requests." They are "directives." It is an order of the court. Hopefully, the action taken by the judges will stave off lawsuits, unionization, and resignations by the clerk's staff, and bring peace and order to the office. You may be spending significant time in your Title-Central office, and you will be in close contact with those employees. Importantly, we hope that word of what you have done does not reach the registrar of motor vehicles, as you have risked revocation or cancellation of your motor vehicle title contract by your potential EEO violations. A cancellation of the title contract puts at risk many contract breaches with other governmental and non-governmental entities.

If you violate any provision in the Journal Entry - as you know it has already been signed - we will immediately journalize it and take enforcement action.

The judges of our court have known many of these deputy clerks, some as long as 30-40 years. Our staffs know practically all of them. The deputy clerks have worked with as many as five clerks of court and each other, many of them for decades. The judges have extensive experience with the last five elected clerks of court. We have known you for only 15 months. Even if 99% of what the deputy clerks say is arguably "factually incorrect," the undeniable fact is that your management and leadership style singularly has brought chaos and dysfunction to the court to such a degree that it threatens the court's constitutional duty.

Please deliver your keys to the exterior entrances to the courthouse to my bailiff on Monday at 8:30 a.m. Do not use your private entrance, but go through security in the main courthouse. You may make preparations in your office in the West Annex on Monday morning, March 7, to work remotely, pursuant to the Journal Entry.

I've attached an electronic copy of the judges' cover letter and the Journal Entry. I've copied county administration, prosecutor, sheriff, the clerk's supervisory staff, and Courts I.T., all individuals with a need to know.

*Judge Eugene A. Lucci*

Administrative Judge  
General Division  
Lake County Common Pleas Court  
47 North Park Place  
Painesville, OH 44077  
Phone 440.350.2100  
Fax 440.350.2210  
Email [JudgeLucci@LakeCountyOhio.gov](mailto:JudgeLucci@LakeCountyOhio.gov)  
Web <http://www.LakeCountyOhio.gov/cpcgd/>



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**From:** Andrews, Faith M. <Faith.Andrews@lakecountyohio.gov>  
**Sent:** Saturday, March 5, 2022 1:57 PM  
**To:** Lucci, Judge Eugene <Judge.Eugene.Lucci@lakecountyohio.gov>  
**Subject:** Affirmative Response  
**Importance:** High

Good Afternoon Judge Lucci,

Thank you and other the Judges for taking the time to meet with me on Friday. Yes, I intend to fulfill your requests.

I do wish to state that much of the information shared by others and suppositions presented are factually incorrect. I am happy to discuss.

Again, thank you for your time on Friday.

Please confirm receipt of my affirmative response.

Sincerely,

***Faith Andrews***

Clerk of Common Pleas Court  
Lake County Courthouse, West Annex  
25 North Park Place  
Painesville, OH 44077  
440-350-2657 (Phone)  
440-350-2958 (Fax)  
[faith.andrews@lakecountyohio.gov](mailto:faith.andrews@lakecountyohio.gov)



# **EXHIBIT G**



## Andrews, Faith M.

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**From:** Lucci, Judge Eugene  
**Sent:** Wednesday, March 23, 2022 4:21 PM  
**To:** Andrews, Faith M.  
**Cc:** Culotta, Judge Vincent; O'Donnell, Judge John P.; Condon, Judge Patrick J.; Falkowski, Judge Colleen; Lawson, Judge Karen; Bartolotta, Judge Mark  
**Subject:** Victoria Place offices of the clerk  
  
**Importance:** High

Faith,

The judges have received information that you intend to set up an office at Victoria Place, where the court stores records and the digitization project is underway. We think there are two or three employees at that location, which is a part of the clerk's legal division. The judges did not think that an office could be set up at that location, and we expected that you would use your office at the title division. Our directive is that you do not occupy an office where you will impact legal division employees. Therefore, do not occupy an office at Victoria Place, or any other location where legal division operations take place, except for the location and at the time stated in the written unfiled JE directive. Thank you for your cooperation.

*Judge Eugene A. Lucci*

General Division  
Lake County Common Pleas Court  
47 North Park Place  
Painesville, OH 44077  
Phone 440.350.2100  
Fax 440.350.2210  
Email [JudgeLucci@LakeCountyOhio.gov](mailto:JudgeLucci@LakeCountyOhio.gov)  
Web <http://www.LakeCountyOhio.gov/cpcgd/>



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# **EXHIBIT H**



arising between Faith Andrews and the court concerning her conduct and the operations of the clerk of courts' office.

{¶ 4} The Board has determined, by resolution dated April 7, 2022, that it will pay counsel so employed at the following rates: lead counsel, \$450.00 per hour, partner co-counsel, \$400.00 per hour, and associate counsel, \$250.00 per hour, without limitation on the number of hours or the total amount of fees for the engagement. The court, by granting the authority to employ counsel, does not concede that the amount of compensation is reasonable, necessary, or appropriate.

{¶ 5} The judges have turned over the matter of the clerk's conduct and the prospect of litigation by the clerk's employees, and the judges' ethical obligations implicated by it all, to the judges' insurance carrier. The judges are represented by counsel retained by the insurance carrier, namely, Kimberly Vanover Riley, Esq. and Linda L. Woeber, Esq., of Montgomery Jonson LLP, to handle the defense of the judges of all aspects of the controversy, including a defense of any action brought by Ohio Disciplinary Counsel for a dereliction of duty.

{¶ 6} The Board has yet to employ, or request approval to employ, their own counsel.

{¶ 7} The court has many concerns with the application for employment of counsel, in terms of the scope of the stated engagement, namely, to advise and represent Faith Andrews regarding any disputes arising between Faith Andrews and the court concerning her conduct and the operations of the clerk of courts' office, as well as other matters. The court believes it is prudent to articulate these concerns in granting the joint application to employ counsel.

**SCOPE OF REPRESENTATION FAILS TO ADDRESS THE ISSUE AT HAND**

{¶ 8} Lake County is on notice by counsel representing the employees of the clerk of courts to preserve evidence, including video and audio recordings, e-mails, text messages, and documents, for discovery and use in any claims by the clerk's employees against any potential defendants, whether county offices or individual officials. Potential defendants are the clerk of courts, county commissioners, and the common pleas judges. If the clerk is named a defendant in a lawsuit, so likely will be the county commissioners



and the common pleas judges. In such eventuality, the judges would cross-claim against the clerk of courts and the county commissioners.

{¶ 9} The judges have no way of knowing whether the clerk of courts, county commissioners, and prosecuting attorney, and the Porter Wright counsel for the clerk of courts understand that any representation of the clerk under these circumstances is within the scope of the engagement. The court has not seen any engagement letter or contract, and the county commissioners could not have seen any engagement letter or contract before they voted to approve the employment of counsel. The prosecuting attorney stated at the April 7, 2022 commissioners' meeting that he retains the duty and authority to represent the clerk of courts with regard to all other matters, including matters of human resources within the clerk's office.

{¶ 10} The entire controversy between the judges and the clerk *is* the matter of human resources within the clerk's office - along with the clerk's personality. A letter from counsel for employees of the clerk on March 2, 2022, putting the county on notice to preserve evidence for potential litigation immediately preceded the draft journal entry of March 3, 2022.

{¶ 11} Attorney Searby spoke at the commissioners' meeting of April 7, 2022 and stated that he would hope to settle the matter of his client with the judges. The clerk of courts appears to have cast this situation to her counsel as a dispute between the clerk of courts and the judges. That is not the controversy. The dispute is actually one between the clerk and her employees, which is a human resources issue. The controversy with the judges is that the clerk uses profane and vulgar language in a public office under the auspices of the court, and her indignity, discourtesy, and disrespectful manner brings disrepute upon the court and damages public confidence in the institution of the court. Mr. Searby cannot settle with the judges any controversy with the clerk because any settlement must be between the clerk and her employees – if that is settled, the judges will be fine with it, so long as the clerk ceases and desists in her profane and vulgar language and treats everyone with respect, dignity, and courtesy.

{¶ 12} Assuming for arguments sake, that the clerk withdraws her previous voluntary assent to the direction of the judges as set forth in the draft journal entry, and if the judges do not journalize it as the order of the court, the entire matter pending between



the judges and the clerk vanishes, but the same dispute remains, as it has always been, a dispute between the clerk and her employees alleging a hostile work environment, such that the deputy clerks have told the judges they will not be able or willing to perform the function of the clerk's office.

{¶ 13} Simply put, the clerk's employees told the judges that all, or a substantial portion, of the deputy clerks of court cannot function or will not work under this clerk of courts because of her personality and how she treats the employees, to the point of chaos and dysfunction. The clerk of courts is not, and has not been, patient, dignified, or courteous to litigants, court staff, court officials, others with whom the judges/court deal in an official capacity, and others who work or visit in the courthouse. The clerk has acted to damage or threaten the integrity, operational continuity, and public confidence in the justice system because of her personality and management style, which she has assured her staff will not change. The judges stepped in to protect the clerk's employees from the clerk and to ensure the integrity, operational continuity, and public confidence in the court, as is required by their constitutional oath of office and the code of judicial conduct.

{¶ 14} The Code of Judicial Conduct obligates judges to act at all times in a manner that *promotes public confidence in the independence, integrity, and impartiality of the judiciary*. Jud. Cond. Rules 1.2. Judges may not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, *and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so*. Jud. Cond. Rules 2.3(B). Judges *shall require court staff, court officials, and others subject to the judge's direction and control to act in a manner consistent with the judge's obligations* under the judicial code. A judge is responsible not only for his or her own conduct, but for the conduct of others when those persons are acting at the judge's direction or control. Jud. Cond. Rules 2.12(A). Judges shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity, and *shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge's direction and control*. Jud. Cond. Rules 2.8(B). Accordingly, the judges are

obligated by law to require that the conduct of the clerk of courts promotes public confidence in the judiciary, does not manifest bias, prejudice, or harassment based upon, among other things, sex, gender, age, or sexual orientation, and that she be patient, dignified, and courteous to everyone in the courthouse or with whom the judges deal in an official capacity. And, in all of the foregoing, the judges may not be swayed by public clamor or fear of criticism, or permit political or other interests or relationships to influence the judge's judicial conduct or judgment. Jud. Cond. Rules 2.4 (A) and (B). When the law obligates a judge to require or order persons subject to their direction and control to do something, which the person then refuses to do, the judge must have the inherent authority to enforce the order.

{¶ 15} The judges' action against the clerk of courts has protected the clerk of courts and the Board from litigation filed by the employees of the clerk of courts – if the judges did not take such action against the clerk, the employees of the clerk would likely file a lawsuit against the clerk, county commissioners, and judges, and/or engage in mass resignations, imperiling the operational continuity of the court and public confidence in the justice system.

#### **THE SELECTION OF APPROPRIATE COUNSEL FOR THE TASK**

{¶ 16} Has the attorney been vetted by the clerk, the prosecutor, or the county commissioners? Just because the attorney is an adjunct professor at Cleveland-Marshall College of Law, a partner at Porter Wright, and has an “excellent reputation in the area of federal criminal investigations and prosecutions and SEC enforcement actions” and white collar crime does not necessarily mean that Attorney Searby is experienced in the realm of human resources and employment law, which is the issue between the clerk and her staff that brought on the involvement of the judges.

{¶ 17} In addition, the hourly rate of compensation agreed to by the Board seems excessive, considering the non-complexity of the issue. If the judges do not enforce any order restricting the clerk's ability to maintain a hostile work environment for her employees, the reason for the employment of this counsel for this task is eliminated.

{¶ 18} Also, there is no limitation on the number of hours, or the total fees to be incurred, and this appears to the court to be an enormous blank check. We have not seen any engagement agreement: will two attorneys attend to every matter, thus doubling the



fees incurred. For example, there are likely 100 or more witnesses. It is common for attorneys to depose all or most witnesses in advance of a hearing. Will two attorneys attend and prepare for each deposition? This does not appear to have been explored before the Board committed to pay the fees of the clerk's counsel.

**{¶ 19}** Moreover, is the representation to prosecute claims, counterclaims, cross-claims, or third party claims brought about by the clerk's conduct, or to also defend against claims, counterclaims, cross-claims, or third party claims by the judges, commissioners, employees of the legal division, employees of the title division, the registrar of motor vehicles, the Ohio Attorney General, or issues involving Ohio Disciplinary Counsel? Will the representation defend against a removal complaint signed by 14,271 electors? These will all likely be implicated if the judges withdraw any order along the lines of the draft journal entry, and the clerk's employees launch litigation. If the continuity of operations of the court are disrupted by the clerk of courts' employees, Ohio Disciplinary Counsel may become involved by filing dereliction of duty charges against the judges. Will Porter Wight also represent the county commissioners, as their interest seems to be aligned with the clerk, or will they be represented by separate counsel?

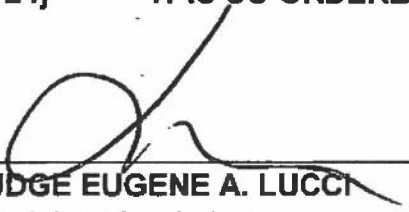
**{¶ 20}** The definition of the scope of engagement may have missed the mark, as stated in the section above, so what inquiry was made of counsel of his ability and willingness to conduct the representation of the clerk, and also the interplay or cooperation as co-counsel with the prosecuting attorney, who stated he would be representing the clerk on matters of human resources?

**{¶ 21}** The court would like to know if the defense of the clerk of courts and/or county commissioners was tendered to CORSA, the property and liability risk sharing pool established by the County Commissioners Association of Ohio, to which Lake County is a member. If so, did CORSA decline coverage for the defense of the clerk or commissioners before the clerk endeavored to engage counsel at great expense to the taxpayers of Lake County?

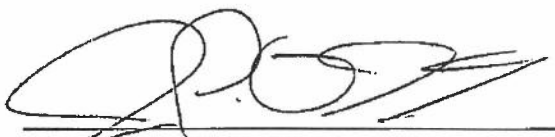
**{¶ 22}** The foregoing are all issues that the court believes should have been explored by the clerk and the commissioners with proposed counsel, and the prosecuting attorney, prior to simply signing a resolution presented to the Board and passed without much public deliberation.

**{¶ 23}** IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Board of County Commissioners is granted the authority to employ the law firm of Porter, Wright, Morris & Arthur LLP, as set forth herein, as legal counsel to Lake County Clerk of Courts, Faith Andrews, and will be compensated in an amount and manner determined by the Board of County Commissioners and paid by the Board from the county treasury.

**{¶ 24}** IT IS SO ORDERED.



JUDGE EUGENE A. LUCCHI  
Administrative Judge



JUDGE JOHN P. O'DONNELL  
Presiding Judge

Copies: Board of County Commissioners, Lake County, Ohio  
Prosecuting Attorney, Lake County, Ohio  
Faith Andrews, Clerk of Courts, Lake County, Ohio  
Edmund W. Searby, Esq., Porter, Wright, Morris & Arthur LLP  
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