

Original

ORIGINAL

TENTH DISTRICT COURT OF APPEALS
DOCKETING STATEMENT

2013 NOV -4 AM 11:01

FILED
COURT OF CLAIMS
OF OHIO

James M. Fleming
vs. Kent State University
Appellant
Appellee

Case No. _____

Court of Claims
Case No. 2011-09365

THIS APPEAL SHOULD BE ASSIGNED TO:

- The regular calendar
- The accelerated calendar for the reasons checked:

- 1. No transcript required.
- 2. Transcript consists of 50 or fewer pages, or it is of such length that its preparation and time will not be a source of delay.
- 3. An agreed statement will be submitted within 20 days.
- 4. Administrative hearing record was filed with the trial court.
- 5. All parties to this appeal agree to an assignment to the accelerated calendar.

.....
Although the appeal meets one or more of the reasons for being assigned to the accelerated calendar, it should not be assigned to the accelerated calendar because:

- 1. Brief in excess of 15 pages [see Loc.R. 7 (8)] is necessary to set forth adequately the facts and argue the issues in the case.
- 2. Appeal concerns unique issue of law that will be of substantial precedential value in determination of similar cases.
- 3. _____

.....
(QUESTIONS 1 THROUGH 4 APPLY TO ALL APPEALS)

- 1. Is this a premature appeal filed after the decision (or sentence) but before any entry of judgment?
See App.R. 4(A) and (B). Yes No
- 2. Is a copy of an order of the transcript from the court reporter filed herewith? Yes No
An App.R. 9C statement will be filed An App.R. 9D statement will be filed
- 3. Will the court reporter complete and file the transcript within 40 days? (20 days if on and accelerated calendar?)
 Yes No Not Applicable
- If not, to what date is an extension requested? _____ Is a properly supported motion for extension being filed? Yes No
- 4. Will the appellant's brief be filed after transmittal of record on appeal? (15 days if on an accelerated calendar?)
 Yes No
- If not, to what date is an extension requested? _____ Is a properly supported motion for extension being filed? Yes No

(QUESTIONS 5 THROUGH 15 APPLY TO CIVIL AND ADMINISTRATIVE APPEALS ONLY)

- 5. Did the judgment or order dispose of all claims by and against all parties? Yes No
- If not, does the judgment or order include and express determination that there is "no just reason for delay?"
See Civ.R. 54(B). Yes No

6. Has an appeal in this trial court case been previously filed with this court? Yes No If yes, what is the prior appellate court case number? _____

7. Nature of Case:

- Administrative Appeal
- Contract
- Declaratory Judgment

- Domestic Relations
- Juvenile
- Medical Malpractice

- Personal Injury
- Probate
- Other—please specify _____

8. Is this appeal from an order of the trial court that grants or denies the adoption of a minor child or grants or denies determination of parental rights? Yes No

9. Has counsel for appellant changed on appeal? Yes No

10. Do you know of any other case(s) pending before this court or recently decided by this court that raises the same issue or issues? Yes No If yes, please cite the case numbers(s) _____

11. Have the parties to this appeal previously been parties to a appeal filed in this court? Yes No
If yes, please cite the case numbers _____

12. Does the appeal turn on an interpretation or application on a particular case(s) or statute(s)? Yes No
If yes, please cite the cases or statutes _____

13. How would you characterize the extent of your settlement discussions prior to judgment? None Minimal
 Moderate Extensive

14. Have settlement discussions taken place since the judgment or order appealed from was entered? Yes No

15. Would a pre-hearing "settlement" conference be of any assistance to the resolution of this matter? Yes No
Please explain (optional) _____

16. Briefly summarize the assignments of error presently anticipated to be raised on appeal, unless a statement of the assignments of error has been filed with the clerk of the trial court pursuant to App.R. 9(B). (Attach a separate sheet if necessary.) Error: That plaintiff was constructively discharged.
Error: That the stipulated damages clause was an
unenforceable penalty.

John F. Myers (John F. Myers)
Appellant or Attorney for Appellant

0032779
Supreme Court Registration Number

NOTICE:

THE PRIMARY PURPOSE OF A PRE-HEARING CONFERENCE IS TO ENCOURAGE THE PARTIES TO EXPLORE ANY POSSIBILITIES FOR SETTLEMENT OF THE CASE BEFORE INCURRING ADDITIONAL EXPENSES OR, IF THAT IS NOT POSSIBLE, TO LIMIT THE ISSUES.

LOC.R.4(F) PROVIDES THAT THIS COURT MAY ASSESS REASONABLE EXPENSES, INCLUDING ATTORNEY FEES, ASSESS ALL OR A PORTION OF THE APPELLATE COSTS, OR DISMISS THE APPEAL FOR FAILURE TO COMPLY WITH PROVISIONS OF THIS RULE.