

**ORIGINAL**

FILED  
COURT OF CLAIMS  
OF OHIO

IN THE COURT OF CLAIMS OF OHIO

2015 FEB -3 PM 3:01

DARLENE LANE FERRARO

Plaintiff

v.

THE OHIO STATE UNIVERSITY  
MEDICAL CENTER

Defendant

CASE NO. 2011-10371

JUDGE PATRICK M. McGRATH

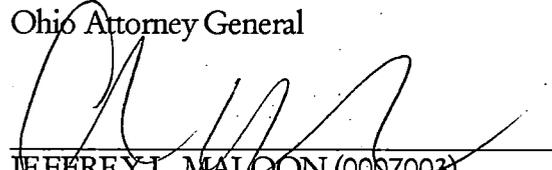
MAGISTRATE  
ROBERT VAN SCHOYCK

**DEFENDANT'S MOTION TO ORDER THE OHIO DEPARTMENT OF  
REHABILITATION AND CORRECTION TO PRODUCE RECORDS**

Defendant, The Ohio State University Medical Center ("OSUMC"), respectfully requests this Court to order the Ohio Department of Rehabilitation and Correction ("ODRC") to produce records related to Junior Lee Lane. The records maintained by ODRC are not obtainable through a subpoena, but such records are imperative to the defense of OSUMC. A memorandum in support follows.

Respectfully submitted,

MICHAEL DEWINE  
Ohio Attorney General



JEFFREY L. MALOON (0067003)  
Jeffrey.Maloon@OhioAttorneyGeneral.gov  
CHRISTOPHER P. CONOMY (0072094)  
Christopher.Conomy@OhioAttorneyGeneral.gov  
Assistant Attorneys General  
Court of Claims Defense  
150 East Gay Street, 18th Floor  
Columbus, Ohio 43215-3130  
Telephone: 614-466-7447  
Facsimile: 866-452-9957  
COUNSEL FOR DEFENDANT

**ON COMPUTER**

## MEMORANDUM IN SUPPORT

Decedent Junior Lee Lane was incarcerated in the Ohio corrections system for some time and was still under the control of the Ohio Department of Rehabilitation and Correction ("ODRC") at the time of his death. Throughout Mr. Lane's incarceration, ODRC received and/or generated several records documenting information relating to Junior Lee Lane's education, skills, physical and mental health, disciplinary issues, information surrounding Mr. Lane's parole and other materials relating to Mr. Lane. All of these matters may affect the determination of damages in the matter of Plaintiff's wrongful death action against The Ohio State University Medical Center ("OSUMC"). These records relate to such relevant issues as life expectancy and the potential earning capacity of the decedent. Therefore, OSUMC must obtain all such information and documents from ODRC as it is necessary for the proper preparation of OSUMC's defense in the upcoming damages trial.

Many of the records generated or maintained by ODRC relating to an inmate are considered confidential, protected information and are discoverable only if ordered by a court (e.g. pre-sentence investigation reports protected under R.C. 2951.03(D); health records protected under HIPPA, 42 U.S.C.A. § 1320d et seq.; 45 C.F.R. §§ 164.502(a), 164.512(a)(1); R.C. § 149.43(A)(1)(v)). Subpoenaing such confidential documents pursuant to Civ.R. 45 would prove ineffective. Furthermore, such records cannot be obtained through a public records request as they are *not* typically considered public records (*see* R.C. 5120.21(F)).

Thus OSUMC requests an order from this Court requiring ODRC to produce to OSUMC's counsel of record all files concerning Mr. Lane which were generated or maintained by ODRC including, but not limited to, all files containing information regarding Mr. Lane's education, physical health, mental health, Rules Infraction Board and other disciplinary matters,

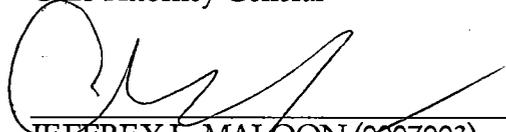
parole matters, pre-sentence investigation and any other file generated or maintained by ODRC with regard to Mr. Lane (former inmate number 332-087).

OSUMC will maintain such documents in a confidential manner as necessary, and will file any produced document under seal when required.

For all of the foregoing reasons, OSUMC respectfully requests that this Court order ODRC to produce the documents described herein.

Respectfully submitted,

MICHAEL DEWINE  
Ohio Attorney General



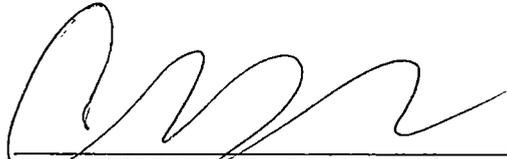
JEFFREY L. MALOON (0007003)  
Jeffrey.Maloon@OhioAttorneyGeneral.gov  
CHRISTOPHER P. CONOMY (0072094)  
Christopher.Conomy@OhioAttorneyGeneral.gov  
Assistant Attorneys General  
Court of Claims Defense  
150 East Gay Street, 18th Floor  
Columbus, Ohio 43215-3130  
Telephone: 614-466-7447  
Facsimile: 866-452-9957  
COUNSEL FOR DEFENDANT

CERTIFICATE OF SERVICE

On February 3, 2015, a copy of this document was served via regular mail and email on the following:

W. Craig Bashein  
Thomas J. Sheehan  
**Bashein & Bashein Co., L.P.A.**  
Paul W. Flowers  
**Paul W. Flowers Co., L.P.A.**  
Terminal Tower, 35th Floor  
50 Public Square  
Cleveland, Ohio 44113  
[cbashein@basheinlaw.com](mailto:cbashein@basheinlaw.com)  
[tjs@basheinlaw.com](mailto:tjs@basheinlaw.com)  
[pwf@pwfco.com](mailto:pwf@pwfco.com)

*Counsel for Plaintiff*



CHRISTOPHER P. CONOMY (0072094)  
Assistant Attorney General