

**STATE OF MICHIGAN  
IN THE MICHIGAN SUPREME COURT**

TRIAL LAWYERS ASSOCIATION OF WAYNE COUNTY JUVENILE COURT; SUE E. RADULOVICH, P.C.; SUE E. RADULOVICH, as Next Friend of NADIA E., a Minor; SUE E. RADULOVICH, as Next Friend of TOMMIE P., a Minor; DEBORAH TRENT; DEBORAH TRENT, as Next Friend of TONY B., a Minor; MURIEL SHILLINGFORD; MURIEL SHILLINGFORD, as Next Friend of KIMBERLY S., a Minor; JEREMY BRAND; JEREMY BRAND, as Next Friend of NAOMI S., a Minor; JEREMY BRAND, as Next Friend of KYISHIA R., a Minor; JEREMY BRAND, as Next Friend of TERRI N., a Minor; SYDNEY L. RUBY; SYDNEY L. RUBY, as Next Friend of CLARENCE S., a Minor; SYDNEY L. RUBY, as Next Friend of WILLIAM and WESLEY D., Minors; PATRICK DEVINE; PATRICK DEVINE, as Next Friend of JUSTIN S., on behalf of themselves and all others similarly situated,

Plaintiffs,

-v-

Docket No. 133616

HON. MARY BETH KELLY, CHIEF JUDGE  
THIRD JUDICIAL CIRCUIT COURT, in her  
official administrative capacity; THIRD  
JUDICIAL CIRCUIT COURT, jointly and severally,

Defendants.

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248.691.4200

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Third Circuit Court  
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Detroit, MI 48226  
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**DEFENDANTS' RESPONSE TO PLAINTIFFS' MOTION FOR IMMEDIATE  
CONSIDERATION AND OBJECTIONS TO THE PLAINTIFFS' FIRST SET OF  
INTERROGATORIES AND FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

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Now come Defendants, Hon. Mary Beth Kelly, Chief Judge of the Third Circuit Court, and the Third Circuit Court, through their attorney, Gregory J. Kocab, Office of the Judicial Assistant for the Third Circuit Court, and for their response to Plaintiffs' Motion for Immediate Consideration and objections to the Plaintiffs' First Set of Interrogatories and First Request for Production of Documents state as follows:

**1. Response to Plaintiffs' Motion for Immediate Consideration**

Without acceding to any of the statement of facts or legal positions taken by the plaintiffs in their Motion for Immediate Consideration, nonetheless, the Defendants concur in that part of the Plaintiffs' Request for Immediate Consideration in which they seek immediate consideration of their Complaint for Superintending Control.

Because, as more fully explained in the defendants' Brief in Support of their Answer to the Complaint for Superintending Control, the plaintiffs' claims are either barred by several legal or equitable doctrines, or in any event, are wholly without merit, the Supreme

Court should deny the remaining requests<sup>1</sup> for interim relief in the Plaintiffs' Motion for Immediate Consideration.

**2. Objections to the Plaintiffs' First Set of Interrogatories and First Request for Production of Documents**

There is no provision in the court rules concerning the availability of discovery in actions for superintending control that are brought before the Supreme Court, a point conceded by the plaintiffs in their Motion for Immediate Consideration, ¶ 11. Moreover, no discovery is needed for the Supreme Court to adjudicate this matter. The key facts, especially the timing of certain critical events as more fully set forth in the defendants' Brief in Support of Answer to Complaint for Superintending Control, are not in dispute. Because the information sought in the plaintiffs' interrogatories and the documents they seek are not ultimately material to the resolution of this case, nor are they calculated to lead to the discovery of admissible evidence, see MCR 2.301(B),<sup>2</sup> therefore, discovery, in any event,

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Among other things, Plaintiffs sought the issuance of an interim order that would reinstate the individual attorneys who had represented the juveniles prior to November 2006. The absurdity of this request is self-evident. For the reasons stated in the Defendants' Brief in Support of their Answer to the Complaint for Superintending Control, the Supreme Court ought not grant the relief sought in the Complaint. Should the Supreme Court now require the original attorneys reinstated (at a considerable cost to the Court, see Affidavit of Bernard Kost, ¶¶ 17-18), but then dismiss the Complaint, those reassignment orders would then need to be reissued.

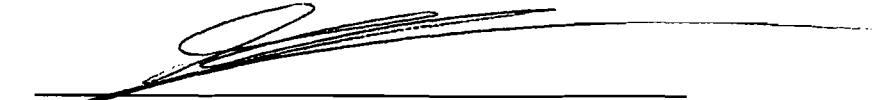
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Ultimately, apart from the resolution of the affirmative defenses asserted by the defendants, this case devolves on the resolution of several legal issues concerning the scope of a trial court's ability to implement changes in the way it assigns counsel for juveniles in light of MCL 712A.17c, and the asserted constitutional challenges of the plaintiffs to the orders of removal. When so seen, the information sought in the interrogatories and the documents is entirely irrelevant and is not likely to lead to relevant admissible evidence. See MCR 2.302(B)(1). For example, Interrogatories ¶¶ 1-5 seek information about the process that the defendants used in the issuance of the request for proposal that led to the awarding of several contracts to attorney groups for the

is simply unnecessary and should be denied.

### **3. Conclusion**

For all the reasons stated above, the defendants concur in the plaintiffs' request for immediate consideration, but further object to the issuance of any of the interim orders sought by the defendants and further object to any discovery.



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**DATED:** April 16, 2007

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representation of juveniles. This information is wholly irrelevant to the legal issues raised in the Plaintiffs' Complaint, and will not lead to any relevant information. Interrogatory ¶ 6 essentially seeks a legal response, not actual factual information. Interrogatories ¶¶ 7-12 seek information about the attorney groups with whom the defendants contracted to provide juvenile representation. Again, this information is irrelevant and unlikely to lead to relevant information. Similarly, the documents that are sought are copies of the actual contracts that the Court and the attorney groups executed, the bids submitted, additional documents concerning the implementation of LAO 2006-08(III)(D), and past contracts with attorney groups. Given the issues raised in the Complaint, none of these documents will be material to the Supreme Court's resolution of the action, nor will those documents lead to relevant evidence.

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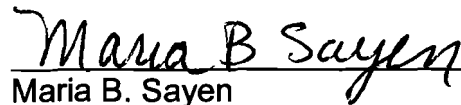
**PROOF OF SERVICE**

STATE OF MICHIGAN     )  
  )§  
COUNTY OF WAYNE     )

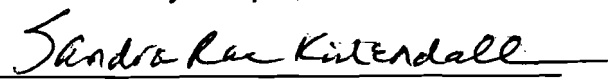
Maria B. Sayen, being first duly sworn, deposes and says that on the 20 day of April, 2007, she served a copy of defendants' response to plaintiffs' motion for immediate consideration and objections to the plaintiffs' first set of interrogatories and first request for production of documents on:

Julie H. Hurwitz, Esq.  
Julie H. Hurwitz, P.C.  
23880 Woodward Avenue  
Pleasant Ridge, MI 48069

by placing the documents in an envelope addressed as stated above, and by sealing the envelope and placing the envelope, with full and sufficient first class postage thereon, in a United States mail receptacle located at 2 Woodward Avenue, Detroit, Michigan.

  
\_\_\_\_\_  
Maria B. Sayen

Subscribed and sworn to before me  
this 20th day of April, 2007.

  
\_\_\_\_\_  
Sandra Rae Kirkendall  
Notary Public, Wayne County, Michigan  
Acting in Wayne County, Michigan  
My commission expires: July 9, 2013