

In the matter of:

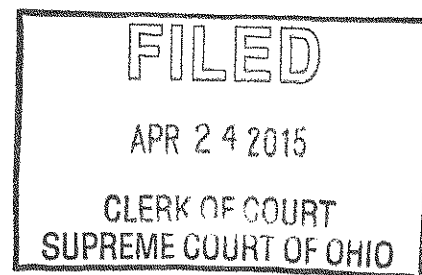
Affidavit of Disqualification of Judge James O'Grady
of the Franklin County, Ohio, Municipal Court.

15 AP 041

AFFIDAVIT OF DISQUALIFICATION (O.R.C. §2701.031)

Now comes Counsel for the Defendants in the above-captioned action, John A. Bell, Attorney-at-Law, hereinafter referred to as "Your Affiant," counsel for Central Ohio Sheltie Rescue, Inc., hereinafter referred to individually as, "Defendant COSR," and Penny Sanderbeck, hereinafter referred to individually as, "Defendant Sanderbeck," and being first duly cautioned and sworn according to law, he deposes and says as follows for his Affidavit:

1. Your Affiant is an attorney at law, admitted and in good standing to practice law in the State of Ohio, holding Attorney Registration Number 0025853.
2. Your Affiant is counsel of record for Central Ohio Sheltie Rescue, Inc., hereinafter referred to individually as, "Defendant COSR," and Penny Sanderbeck, hereinafter referred to individually as, "Defendant Sanderbeck, in a civil action pending before the Honorable James O'Grady of the Franklin County, Ohio, Municipal Court, styled as, "*Veronica Wagner Covatch, et al. vs. Central Ohio Sheltie Rescue, et al.*," and assigned case number 2014-CVF-024571.
3. Your Affiant wished to first make known that he has the greatest respect for Judge James O'Grady professionally, and always considered his personal relationship to Judge O'Grady to be cordial if not friendly.



3. Despite Your Affiant's professional respect and personal fondness for Judge O'Grady, he has good cause to believe and does believe that Judge O'Grady is strongly biased against Your Affiant's clients in this action, based upon incidents which will be detailed below, and therefore, Your Affiant believes that Judge O'Grady should be disqualified from further hearing this action pursuant to sections 2307.03 and 2307.031 of the Ohio Revised Code.¹
4. Your Affiant relates that a *hearing may be scheduled in the above-referenced case on Friday, May 1, 2015*, although such hearing does not appear on the Court's docket as of the execution of this Affidavit.
5. Your Affiant's belief that Judge O'Grady should be disqualified is based on the following events, which took place at a scheduled Pre-Trial Conference in this action on April 17, 2015:
 - A. Upon entering the courtroom, the Judge demanded that the Defendants, who had been waiting in the Franklin County Law Library out of fear for their own safety if in direct contact with the Plaintiffs, be present in the Courtroom, and asked rhetorically if Your Affiant had asked for permission that the clients not personally attend the Pre-Trial Conference;
 - B. Neither of the Plaintiffs was present in the Courtroom, and the Judge did not ask Plaintiffs' counsel why their clients were not present, nor chastize Plaintiffs' counsel for failing to seek permission that the Plaintiffs not be personally present;

¹2701.031 Disqualification of municipal or county court judge.


If a judge of a municipal or county court allegedly is interested in a proceeding pending before the judge, allegedly is related to or has a bias or prejudice for or against a party to a proceeding pending before the judge or to a party's counsel, or allegedly otherwise is disqualified to preside in a proceeding pending before the judge, any party to the proceeding or the party's counsel may file an affidavit of disqualification with the clerk of the supreme court. The affidavit of disqualification shall be filed and decided in accordance with divisions (B) to (E) of section 2701.03 of the Revised Code, and, upon the filing of the affidavit, the provisions of those divisions apply to the affidavit, the proceeding, the judge, and the parties to the proceeding.

Effective Date: 11-20-1996

- C. The Judge then asked why only two (2) of the three (3) Directors of the Defendant Corporation (Central Ohio Sheltie Rescue, Inc.) were present, without regard for the facts that the third Director was dealing with a serious family medical emergency and the two (2) Directors who did attend had full authority to act on behalf of the Corporation;
- D. The Judge said that he was going to order the Defendants to immediately turn over to the Plaintiffs the dog that is the subject of the litigation, despite Your Affiant pointing out that such an order would be improper in the absence of any evidentiary presentation and would violate the Ohio replevin statutes;
- E. The Judge repeatedly referred to the Plaintiffs as the “rightful owners” of the dog in question, without having taken any evidence on the subject of ownership and despite the fact that the Defendants had legally acquired the dog from the Franklin County Animal Shelter pursuant to Ohio and federal statutes and the Shelter’s own internal policies, and believe themselves to be the “rightful owners” of the dog;
- F. Your Affiant’s clients in this action had sought a Protective Order concerning discovery matters, which specifically included a request for an oral and evidentiary hearing, and the Judge summarily said that their request was denied without hearing, despite protestations of witnesses who were victims of harassment by persons supporting the Plaintiffs in this action, and despite having presented uncontradicted evidence that the Plaintiffs’ discovery requests were vastly overbroad and burdensome;
- G. The Judge told the Defendants’ witnesses that they should “just get over it [the documented harassment and abuse that they had experienced over this litigation]”;
- H. When one of the Plaintiff’s witnesses tried to address the Judge about her fears if the requested Protective Order was not granted, the Plaintiffs’ attorneys began to shout out that their clients did not control the internet and were not responsible for the abuse, but the Judge did not stop them not limit their outburst in any way;
- I. During an in-chambers conference, Judge O’Grady repeatedly told Your Affiant that regardless of legal rights, these defendants were morally in the wrong and had a moral obligation to give the dog to the Plaintiffs, attempted several times to illustrate his belief with hypothetical arguments about a bag of money and an heirloom wedding ring, and he referred to the Defendants and Your Affiant as “ridiculous”;
- J. Also during the in-chambers conference, the Judge repeatedly asserted that Your Affiant had previously agreed that the Plaintiffs were the “rightful owners” of the dog, although Your Affiant never made any statement that could be fairly characterized in that way, having only stated that the Defendants agreed that at some point in the past, the Plaintiffs had owned the dog, and further, the Judge repeatedly accused Your Affiant of having changed position on this issue, when that was not so;

- K. During the Pre-Trial Conference on April 17, 2015, Your Affiant expressed concern that the Judge was not impartial in this matter because of the Judge's statements (that he was going to order the return of disputed property without hearing evidence and in contravention of the Ohio replevin statutes, that the Plaintiffs are the "rightful owners" of the dog, that the Defendants were morally obligated to return the dog to the Plaintiffs, and chastising Your Affiant over the failure of one Director to personally attend the Pre-Trial, all without any similar or comparable statements to the Plaintiffs), and in response, Judge O'Grady said that he would welcome being disqualified from the case.
 - L. Your Affiant has obtained statements from three of the representatives of the Defendants concerning the portions of the proceeding that they observed, and will provide Affidavits from those persons within the next few days (they are unsworn statements at this point, but Your Affiant is mindful of the time restrictions concerning this Affidavit and any possible hearing on May 1, 2015);
6. Based on the foregoing, it is evident that Judge O'Grady has already made up his mind on this matter ("pre-judged" it) before hearing evidence, and instead of an impartial arbiter, he has become allied with the Plaintiffs and cannot fairly decide this dispute, and therefore, he should be disqualified from this action pursuant to sections 2307.03 and 2307.031 of the Ohio Revised Code.

And further Your Affiant sayeth naught.



John A. Bell, Esq. 0025853
 Trial Counsel for the Defendants
 2700 East Main Street - Suite 207
 P. O. Box 091022
 Bexley, Ohio 43209-1022
 Telephone: (614)-266-2961
 Facsimile: (614)-239-0543
 E-mail: JohnLegal@aol.com

STATE OF OHIO)
 : ss.
 FRANKLIN COUNTY)

Subscribed and sworn to before me, a Notary Public in and for Franklin County, Ohio, in witness whereof I have set my hand and affixed the Seal of my office this twenty-fourth (24th) day of April 2015.

Susanna Marlowe
 Notary Public - State of Ohio
 My Commission expires _____.



Susanna Marlowe
 Notary Public, State of Ohio
 My Commission Expires 04/01/17

CERTIFICATE OF SERVICE

I hereby certify that on this twenty-fourth (24th) day of April 2015, I have served a true copy of the foregoing AFFIDAVIT OF DISQUALIFICATION (O.R.C. §2701.031) upon counsel for the Plaintiffs by placing it in regular U.S. Mail, first class postage fully prepaid, addressed to:

Mr. James H. Banks, Esq., and
Ms. Nina M. Najjar, Esq,
P. O. Box 40
Dublin, Ohio 43017-0040

Mr. Scott Sheets, Esq.
Assistant Franklin County Prosecuting Attorney
373 South High Street
Fourteenth Floor
Columbus, Ohio 43215-4591

Hon. James O'Grady, Judge
Franklin County Municipal Court
Chambers - Courtroom 14-C
375 South High Street
Columbus, Ohio 43215



John A. Bell, Esq. 0025853
Trial Counsel for the Defendants
2700 East Main Street - Suite 207
P. O. Box 091022
Bexley, Ohio 43209-1022
Telephone: (614)-266-2961
Facsimile: (614)-239-0543
E-mail: JohnLegal@aol.com