IN THE SUPREME COURT OF MISSOURI

STATE ex rel. LISA POPE,	)	
in her official capacity as	)	
Platte County Assessor	)	
	)	
Relator,	)	
vs.	)	
	)	**Case No. SC 90694**
	)	
THE HON. GERALD D. MCBETH,	)	
	)	
Respondent.	)	

APPEAL FROM THE CIRCUIT COURT OF PLATTE COUNTY, MISSOURI
THE HONORABLE GERALD D. MCBETH, CIRCUITJUDGE
CIRCUIT COURT CASE NO. 09AE-CV01533
WESTERN DISTRICT COURT OF APPEALS NO. WD72005

BRIEF OF RELATOR LISA POPE

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April 8, 2010

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JURISDICTIONAL STATEMENT

This action is before this Court on Relator's Petition for Writ of Prohibition. Relator seeks to prohibit the Trial Court (Hon. Gerald D. McBeth) from proceeding with the case. The Western District Court of Appeals denied Relator's petition for writ in prohibition and/or mandamus. Relator filed her Petition in Prohibition and/or Mandamus in this Court on February 16, 2010. This Court sustained Relator's Petition for Writ of Prohibition and issued the preliminary writ on March 2, 2010. This Court has jurisdiction to issue and determine original remedial writs pursuant to Article V, Section 4 of the Missouri Constitution.

STATEMENT OF FACTS[1]

The litigation at issue arises from the ad valorem personal and real property tax assessment done by the Platte County Assessor, Lisa Pope, of Iatan I and Iatan II, coal fired power plants located in Platte County. (Plaintiffs' First Amended Petition ¶¶ 1-34, A4-A10). The underlying litigation was initiated by Plaintiffs West Platte R-2 School District, Donald Wilson, and John Collier, the latter two members of the West Platte R-2 School Board against Defendant/Relator Lisa Pope, acting in her official capacity as Platte County Assessor. (Plaintiffs' First Amended Petition ¶¶ 1-4, A4-A5). Kansas City Power & Light, Co. ("KCP&L") was granted leave to Intervene in the original action August 17, 2009.

In the underlying action Plaintiffs seek recovery based upon four theories; (1) declaratory judgment as it relates to the duties of Defendant/Relator Pope in assessing the true value in money of Iatan I and Iatan II, (Plaintiffs' First Amended Petition ¶¶ 36-46, A10-A11), (2) a writ of mandamus compelling Assessor Pope to assess Iatan I and Iatan II real and tangible personal property at the true value in money provided by KCP&L in their R.S.Mo. § 151.030 report, specifically construction work in progress ("CWIP") located at Iatan II, (Plaintiffs' First Amended Petition ¶¶ 48-50, A12), (3) declaratory judgment setting out the duties of Assessor Pope pursuant to Article X, § 4(b) and R.S.Mo. §§ 151.100, 151.110,

[1] "A__" represents the page number(s) of the cited documents in the Appendix filed with Relator's brief.

153.030, and 153.034, regarding the assessment of Iatan I, (Plaintiffs' First Amended Petition ¶¶ 51-58, A12-A15), and (4) a writ of mandamus compelling Assessor Pope to assess the entire Iatan I power plant as local property pursuant to R.S.Mo. §§ 153.034 and 151.100. (Plaintiffs' First Amended Petition ¶¶ 59-62, A15).

This writ proceeding follows from Respondent, Hon. Gerald D. McBeth's, denial of Defendant/Relator, Lisa Pope's, Motion to Dismiss. (Trial Court Order dated October 7, 2009, A45). Relator filed a Writ of Prohibition and/or Mandamus in the Missouri Court of Appeals, Western District which was denied on January 28, 2010. (Missouri Court of Appeals, Western District Order Dated January 28, 2010, A52). Relator then filed her Petition for Writ of Prohibition and/or Mandamus in this Court on February 16, 2010. (Petition in Prohibition and/or Mandamus, A55-A65). The Court granted Relator its preliminary writ on March 2, 2010. (Preliminary Writ of Prohibition, A83).

POINTS RELIED ON

I. RELATOR IS ENTITLED TO AN ORDER PROHIBITING RESPONDENT FROM PROCEEDING WITH THIS CASE BECAUSE PLAINTIFFS' LACK STANDING, IN THAT THIS COURT HAS CONSISTENTLY REFUSED THE RELIEF SOUGHT BY SCHOOL DISTRICTS AND INDIVIDUAL TAXPAYERS BASED ON THOSE PARTIES' LACK OF STANDING, AND IN THIS INSTANCE, LACK OF STANDING EQUATES TO LACK OF JURISDICTION.

State ex rel. St. Francois County School Dist. R-III v. Lalumondier, 518 S.W.2d 638 (Mo. 1975)

State ex rel. City of Cabool v. Texas Co. Board of Equalization, 850 S.W.2d 102 (Mo. banc 1993).

Hermel, Inc. v. State Tax Commission, 564 S.W.2d 888, 897 (Mo banc. 1978)

Jackson v. Wilson, 581 S.W.2d 39 (Mo. App. 1979).

R.S.Mo. 151.030 (2009)

R.S.Mo. 151.110.1 (2009)

R.S.Mo. 151.110.3 (2009)

II. RELATOR IS ENTITLED TO AN ORDER PROHIBITING RESPONDENT FROM PROCEEDING WITH THIS CASE BECAUSE

PLAINTIFFS' SEEK TO THWART THE LEGISLATURE'S STATUTORY SCHEME FOR CHALLENGING ASSESSMENTS, IN THAT UNLESS THIS WRIT IS GRANTED, ANY CITIZEN OF MISSOURI, AND ANY ENTITY RECEIVING AD VALOREM TAX MONEY, CAN FILE SUIT AGAINST ANY COUNTY ASSESSOR CONCERNING ANY ASSESSMENT WHICH INCLUDES CONSTRUCTION WORK IN PROGESS.

David Ranken, Jr. Technical Institute v. Boykins, 816 S.W.2d 189, 192 (Mo. 1991).

R.S.Mo. § 137.270 (2009)

R.S.Mo. § 137.275 (2009)

R.S.Mo. § 138.430 (2009)

III. RELATOR IS ENTITLED TO AN ORDER PROHIBITING RESPONDENT FROM PROCEEDING WITH THIS CASE, BECAUSE PLAINTIFFS' CLAIM SEEKS TO COMPEL RELATOR TO COMMIT AN ILLEGAL ACT, IN THAT THIS SUIT SEEKS TO FORCE THE ASSESSOR TO ALTER AN ASSESSMENT AFTER THE TIME PERIOD FOR A NOTICE TO TAXPAYER HAS EXPIRED.

State ex rel. Director of Revenue v. Curless, 181 S.W.3d 595 (Mo. App. S.D. 2005).

R.S.Mo. § 151.100 (2009)

ARGUMENT

I.

RELATOR IS ENTITLED TO AN ORDER PROHIBITING RESPONDENT FROM PROCEEDING WITH THIS CASE, BECAUSE PLAINTIFFS' LACK STANDING, IN THAT THIS COURT HAS CONSISTENTLY REFUSED THE RELIEF SOUGHT BY SCHOOL DISTRICTS AND INDIVIDUAL TAXPAYERS BASED ON THOSE PARTIES' LACK OF STANDING AND IN THIS INSTANCE, LACK OF STANDING EQUATES TO LACK OF JURISDICTION.

A. Applicable standard for review

"A writ of prohibition is not issued as a matter of right; rather, whether a writ should be issued in a particular case is a question left to the sound discretion of the court in which a petition has been filed." *State ex rel. Toth v. Dildine*, 196 S.W.3d 663, 664 (Mo.App. E.D.2006) (citing *State ex rel. Baldwin v. Dandurand*, 785 S.W.2d 547, 549 (Mo. banc 1990). "[P]rohibition will lie only where necessary to prevent a usurpation of judicial power, to remedy an excess of jurisdiction, or to prevent an absolute irreparable harm to a party." *Id.* If a party lacks standing, the court must dismiss the case because it does not have jurisdiction of the substantive issues presented. *State ex rel. Ryan v. Carnahan*, 960 S.W.2d 549 (Mo.App.1998).

B. Argument

INTRODUCTION

School districts and taxpayers have no standing to review the valuation of another taxpayer's property. In the absence of an express statutory authorization, no appeal or other review is provided for political subdivisions of the state in regard to an alleged underassessment by a county board of equalization. *State ex rel. St. Francois County School Dist. R-III v. Lalumondier*, 518 S.W.2d 638 (Mo. 1975).

The above is true whether the school district and individual taxpayers outright petition for an increase of another property-owner's valuation, or challenge the assessor's method in reaching that valuation. This Court has consistently refused the relief sought by Plaintiffs based on school districts' and individual taxpayers' lack of standing. *See, St. Francois County*, 518 S.W.2d 638 (Mo. 1975) and *City of Richmond Heights and Clayton Sch. Dist. v. Board of Equalization of St. Louis County*, 586 S.W.2d 338 (Mo. banc 1979). This policy was summed up in *State ex rel. City of Cabool v. Texas Co. Board of Equalization*, 850 S.W.2d 102, 104 (Mo. banc 1993):

> These cases [including *St. Francois County School District R-III*, 518 S.W.2d 638 (Mo. 1975) and *City of Richmond Heights v. Board of Equalization of St. Louis County et al.*, 586 S.W.2d 338 (Mo. banc 1979)]

> held that neither a city nor a school district has standing to appeal, or seek review by certiorari of, an assessment by a board of equalization. The rationale for these decisions was that the legislature has provided a procedure for reviewing assessments and it made no provision for a political subdivision to challenge assessments.

Plaintiffs suggest the Court carve out special "standing" for their complaint because they claim to be challenging the "method" of assessment rather than the "amount" assessed. (Plaintiffs' Suggestions in Opposition to Motion to Dismiss, p. 2, A31).

Cabool is directly on point. There, the City suggested the county assessor should have conducted a wider investigation into a trucking company's property within the state. Such an investigation, it was suggested, would have led to an increase in the assessment and the City's tax revenue. The Court held that, if such apportionment was a "ministerial duty imposed by law", the City's argument could prevail. *Id.* at 105. The apportionment, however, necessarily required the use of discretion, could not be a "ministerial duty", and therefore the City lacked standing.

Here, as their sole ground for standing, Plaintiffs suggest the assessment of Iatan I and Iatan II is a "ministerial duty", subject to a claim in mandamus.

(Plaintiffs' Suggestions in Opposition to Motion to Dismiss, p. 6-7, Suggestions of Respondent Regarding Writ, p. 2-3, A35-A36, A67-A68).

Jackson v. Wilson, 581 S.W. 2d 39 (Mo. App. 1979), provides a good working definition of ministerial:

> A ministerial function, as opposed to a discretionary function, has been defined as "that of a clerical nature which a public officer is required to perform upon a given state of facts, in a prescribed manner, in obedience to the mandate of legal authority, without regard to his own judgment or opinion concerning the propriety of the act to be performed. [Citation omitted.] On the other hand, a discretionary function may be fairly defined as one necessarily requiring the exercise of reason in the adaption of means to an end, and discretion in determining how or whether an act should be done or a course pursued.

(at 42).

Plaintiffs' suggestion that an assessor's determination of property's "true value in money" is a "ministerial duty", (Plaintiffs' Suggestions in Opposition to Motion to Dismiss, p. 6-7, Suggestions of Respondent Regarding Writ, p. 2-3, A35-A36. A67-A68), is incorrect. In *Hermel, Inc. v. State Tax Commission*, 564 S.W.2d 888, 897 (Mo banc. 1978), the Court explained, while the definition of "true value" does not change, "what does change are the **methods used** (emphasis

ours) and the **factors considered** (emphasis ours) in determining 'true value". If the "methods used and the factors considered in determining 'true value'" are malleable, the concept of what is a property's "true value" is clearly subject to discretion. Assessment valuations subject to discretion are not "ministerial duties".

PLAINTIFFS' COUNT II – Mandamus Iatan II

Pointing at R.S.Mo. § 151.110.1, Plaintiffs' suggest that construction costs listed in KCP&L's annual report amount to an unambiguous and unquestionable determination of "true value in money". (Suggestions of Respondent Regarding Writ, p. 4-5, A69-A70). Under this logic the assessor has no other obligation but to rubberstamp the taxpayers report. While such a rubberstamp may very well constitute a "ministerial duty", there is one problem with Plaintiffs suggestion; there is no Missouri case law, administrative rule, or otherwise, supporting Plaintiffs' claim.

R.S.Mo. § 151.030, cited by Plaintiffs, (Suggestions of Respondent Regarding Writ, p. 4, A69), requires a report that is in compliance with both the requirements of the State Tax Commission and R.S.Mo. § 151.020. In reviewing 151.020.1(3)(a), it is clear that the Legislature specifically intended for local assessors to "include construction work in progress" as part of their analysis. The Legislature did not, for good reason, set any particular analysis of "construction work in progress". The Legislature's silence evidences that the assessor is not

performing a clerical function (ministerial), but exercising reason in the adaption of a means to an end (discretionary).

Indeed, Plaintiffs' Petition and argument for standing, it appears, is entirely premised on the fact that R.S.Mo. § 151.110.1 requires KCP&L to submit a report to the assessor with the *"true value in money"* of the ***local property***. (Suggestions of Respondent Regarding Writ, p. 4-5, A69-A70). In pertinent part Suggestions of Respondent Regarding Writ read as follows: "Section 151.110.1, RSMo requires that:

> 'an **authorized officer** of every such railroad company [electric company] shall, in addition to the report required to be furnished to the county clerk, as described in section 151.030, no later than April first in each year, **furnish to each county assessor** in this state, **wherever any local property owned or controlled by such company may be located, a separate report**, under oath for the benefit of county and other local assessors, **specifically describing all lands by county tax map parcel number**, situated in such county, and not included in their returns to the state tax commission and county clerks, under sections 151.020 and 151.030, owned or controlled by such company, on the first day of January in each year, **and the true value in money thereof**.'

(citation omitted). Thus, the electric utility must declare the true value in money of its property under oath." (Suggestions of Respondent Regarding Writ, p. 4-5, A69-A70).

This is a misreading of the plain meaning of R.S.Mo. § 151.110.1, and a failure to harmonize subsections R.S.Mo. 151.110.1 and 151.110.3. The reference to "local property" in R.S.Mo § 151.110.1 only serves to designate the counties where such a report "**describing all <u>lands</u> by county tax map parcel number**" (emphasis added) is necessary. Included in the statute, R.S.Mo. § 151.110.3 states that the "true value in money" of all local property is to be **"derived by the assessor"**:

> "An authorized officer of every such railroad company [electric utility] shall, in addition to the reports required to be furnished to the county clerk as described in section 151.030 and subsection 1 of this section, furnish to the state tax commission a list by county of the **<u>true value in money of all local property as derived by the county assessor</u>** in each county no later than May first in each year."

(R.S.Mo. 151.110.3, emphasis added). Reference to R.S.Mo. § 151.110.3, however, is absent from any of Plaintiffs' pleadings.

This misreading and failure to harmonize is fatal to Plaintiffs' claims because the designation of whether the assessor's valuation is based on discretion

or a mere rubberstamp, ("ministerial duty"), is the entire foundation on which Plaintiffs' claim standing. (Suggestions of Respondent Regarding Writ, p. 3, A68). Plaintiffs' have admitted as much themselves, "[i]f this case were about the amount of the assessment as determined by the discretionary valuation of the subject property by the assessor, Respondent agrees that mandamus would not lie." (Suggestion of Respondent Regarding Writ, p. 2, A67).

Plaintiffs' mandamus claim, and therefore standing, is premised on the allegation that assessor had a clear, definite, and ministerial duty to assess the facility as described by Plaintiffs. This contention must fail as a matter of law as it is founded upon a misreading of the plain language of the relevant statutes, and Plaintiffs have failed to produce relevant law denominating that the assessment is other than discretionary.

PLAINTIFFS' COUNT IV – Mandamus Iatan I

Similarly, Plaintiffs' mandamus claim directed at Assessor Pope's assessment of Iatan I as "distributable property", for purposes of R.S.Mo. § 138.420.1, must fail. Plaintiffs' claim, as in Count II, is predicated on Assessor Pope having a simple, definite, clear legal duty (ministerial duty). *State ex rel. Twenty-Second Judicial Circuit v. Jones*, 823 S.W.2d 471 (Mo. 1992). Taxpayer standing to seek mandamus to compel the completion of a ministerial duty is a,

"narrow window". *Cabool*, 850 S.W.2d 102. A brief review Plaintiffs' cited authority shuts that "narrow window" in this case.

Plaintiffs' legal contention is that assessor was required to assess Iatan I as local property based on its "off-line" status as of January 1, 2009. (Suggestion of Respondent Regarding Writ, p. 6, A71). As a basis for this claim Plaintiffs' cite *Snider v. Casino Aztar*, 156 S.W.3d 341, 348 (Mo. banc 2005), ("The purpose of valuing property for tax assessment purposes is to determine the true value in money of the property on the relevant day."), and R.S.Mo. § 153.034 which defines local property to include property "not used directly in the generation and distribution of electric power." (Suggestions of Respondent Regarding Writ, p. 6, A71).

Nowhere in any citation does there appear a "simple, definite ministerial act imposed by law," that could be relied upon. Nothing requires assessor to assess Iatan I, (a coal-fired power plant fully permitted and operational since 1980, (Plaintiff's First Amended Petition ¶¶ 7-8, A5), as "local property" when it is "off-line" on January 1st of any given year. Simply stated, no such duty exists. "The law favors statutory construction that harmonizes with reason and that tends to avoid absurd results." *David Ranken, Jr. Technical Institute v. Boykins*, 816 S.W.2d 189, 192 (Mo. 1991). Plaintiffs' absurd result would have power plants throughout the state bouncing back and forth from "distributable" to "local"

property in any given year, or have utility companies make repairs based upon the tax calendar instead of when actually necessary. Plaintiffs' interpretation was not intended by the legislature, nor is it supported by the plain language of the statutes.

PLAINTIFFS' COUNTS I & III – Declaratory Judgment

Plaintiffs' Counts I & III seek declaratory judgment. Plaintiffs West Platte R-2, Donald Wilson and John Collier do not possess a legally protectable interest in the assessment valuation of Iatan I and Iatan II, and therefore do not have standing to seek a declaratory judgment in this case. *See Shelton v. Shelton*, 201 S.W.3d 576, 580 (App. W.D. 2006) (In order to state a claim for declaratory relief, "it is required that there is a legally protected interest directly at issue"). Plaintiffs' cause of action for declaratory judgment is predicated on the same grounds for standing applicable to their claims in mandamus. Thus, Plaintiffs' misreading and failure to harmonize R.S.Mo. §§151.110.1, 151.110.3, and 153.034 is determinative on their declaratory judgment counts as well. Put simply, the only legally protectable interest Plaintiffs' claim is the right to force the assessor, through their mandamus action, to assess Iatan I and Iatan II in accordance with Plaintiffs' misreading of the statutory language. Therefore, because Plaintiffs' mandamus claims are invalid, based on their misreading of the relevant statutes, they have no legally protectable interest and no standing to pursue counts I & III.

II.

RELATOR IS ENTITLED TO AN ORDER PROHIBITING RESPONDENT FROM PROCEEDING WITH THIS CASE, BECAUSE PLAINTIFFS' SEEK TO THWART THE LEGISLATURE'S STATUTORY SCHEME FOR CHALLENGING ASSESSMENTS, IN THAT UNLESS THIS WRIT IS GRANTED, ANY CITIZEN OF MISSOURI, AND ANY ENTITY RECEIVING AD VALOREM TAX MONEY, CAN FILE SUIT AGAINST ANY COUNTY ASSESSOR CONCERNING ANY ASSESSMENT WHICH INCLUDES CONSTRUCTION WORK IN PROGESS.

A. Applicable standard for review

"A writ of prohibition is not issued as a matter of right; rather, whether a writ should be issued in a particular case is a question left to the sound discretion of the court in which a petition has been filed." *State ex rel. Toth v. Dildine*, 196 S.W.3d 663, 664 (Mo.App. E.D.2006) (*citing State ex rel. Baldwin v. Dandurand*, 785 S.W.2d 547, 549 (Mo. banc 1990). "Prohibition may be appropriate to prevent unnecessary, inconvenient, and expensive litigation." *State ex rel. Union Planters Bank, N.A. v. Kendrick*, 142 S.W.3d 729, 735 (Mo. 2004).

B. Argument

If Plaintiffs have standing, it would subject every county assessor and every assessment, to unlimited claims by taxpayers displeased with assessor's valuations

of their neighbors' property. As stated above, "[t]he law favors statutory construction that harmonizes with reason and that tends to avoid absurd results." *David Ranken, Jr. Technical Institute,* 816 S.W.2d 189, 192. The logical extension of Plaintiffs' argument for standing based on challenging the assessor's "method", (Suggestion of Respondent Regarding Writ, p. 2-3, A67-A68), is innumerable amounts of litigation and an absurdly broad category of persons and entities capable of challenging any assessment, at any time, coupled with a total evasion of current statutory schemes permitting appropriate challenges as determined by the Legislature.

The Legislature set forth the sole means of challenging an assessment in R.S.Mo. Chapters 137 and 138. The processes described in R.S.Mo. §§ 137.270, 137.275 and 138.430 represent the exclusive remedy available to an aggrieved party. Such remedy is limited to the property owner.

R.S.Mo. § 151.110, sets forth the time line the assessor must follow each year in her assessment of the property of a utility company. This procedure requires the assessor to make her 2010 valuation decision regarding Intervenor KCP&L's property by April 20, 2010. Heretofore, Ms. Pope, and countless assessors throughout Missouri, have been able to perform their duties as instructed by the Legislature with the knowledge that their assessment decisions could only be challenged through the proper channels. Unless the Writ requested is ordered,

and this litigation is stopped now, Ms. Pope, and similarly situated county assessors, cannot perform their statutorily mandated duties with any assurance that they will not be in expensive and time consuming litigation with the first resident, or tax revenue recipient, who disagrees with the assessor's valuation of *another* taxpayer's property.

III.

RELATOR IS ENTITLED TO AN ORDER PROHIBITING RESPONDENT FROM PROCEEDING WITH THIS CASE, BECAUSE PLAINTIFFS' CLAIM SEEKS TO COMPEL RELATOR TO COMMIT AN ILLEGAL ACT, IN THAT THIS SUIT SEEKS TO FORCE THE ASSESSOR TO ALTER AN ASSESSMENT AFTER THE TIME PERIOD FOR A NOTICE TO TAXPAYER HAS EXPIRED.

A. Applicable standard for review

"A writ of prohibition is not issued as a matter of right; rather, whether a writ should be issued in a particular case is a question left to the sound discretion of the court in which a petition has been filed." *State ex rel. Toth v. Dildine*, 196 S.W.3d 663, 664 (Mo.App. E.D.2006) (*citing State ex rel. Baldwin v. Dandurand*, 785 S.W.2d 547, 549 (Mo. banc 1990). "[P]rohibition will lie only where necessary to prevent a usurpation of judicial power, to remedy an excess of jurisdiction, or to prevent an absolute irreparable harm to a party." *Id.* Where a

lower court's action or ruling would itself violate a statute, an excess of jurisdiction has occurred and prohibition is available. *State ex rel. Director of Revenue v. Curless*, 181 S.W.3d 595 (Mo. App. S.D. 2005).

B. Argument

Niether the assessor nor the Court has any statutory right to retroactively reassess the subject property. It is clear that Plaintiffs seek to alter and thereby increase the assessment of the subject properties, to suggest otherwise is disingenuous. For any court to award the relief requested would violate the statutory scheme for review adopted by the Legislature.

R.S.Mo. § 151.100 directs that neither a county officer nor the Board of Equalization shall alter or amend the local assessed valuation of [utility] property later than August 15th, the year the assessment was made, except by order of the State Tax Commission. The time for altering the assessment of Iatan I and Iatan II has long since lapsed. Further, the 2009 tax receipts have long since been dispersed pursuant to the statutory scheme. Altering a previous year's assessment, as requested, would be an illegal act, contravening R.S.Mo. § 151.100. Plaintiffs here seek relief that simply cannot be granted.

CONCLUSION

WHEREFORE, Relator respectfully requests that this Court make its preliminary Writ of Prohibition peremptory, that this Court enter an order

prohibiting the Honorable Gerald D. McBeth from taking further action in cause No. 09AE-CV01533, and in lieu thereof sustain Relator's motion to dismiss, and grant such other relief as the Court deems just and proper.

Respectfully submitted,

GUNN, SHANK & STOVER, P.C.

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CERTIFICATE OF SERVICE

I hereby certify that two written copies and CD-ROM of the above and foregoing was mailed first class, US Mail, postage prepaid, this 8th day of April, 2010, to:

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MISSOURI SUPREME COURT RULE 84.06(c)

COMPLIANCE CERTIFICATE

I hereby certified that the brief submitted under Missouri Supreme Court Rule 84.06:

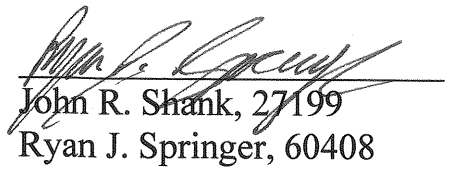
1. Includes the information required by Rule 55.03; and

2. Complies with the limitations contained in Rule 84.06(b); and

3. Contains ___4350__ words; and

4. Contains ___611___ lines; and

5. The CD-ROM herein pursuant to Rule 84.06(g) has been scanned for viruses and is virus free.



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