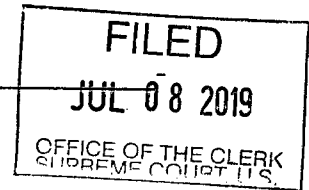


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No. 19-5163 ORIGINAL



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IN THE  
SUPREME COURT OF THE UNITED STATES

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Michael A. Kelley Jr.

Petitioner,

V.

Phillip W. Gerth,

Respondant,

---

On Petition For Writ Certiorari  
To The United States Supreme Court

---

Michael A. Kelley Jr. Pro-Se

88/6 Street, Apt. # 201

San Francisco, Ca. 94103

Telephone No. (415) 619-2319

Counsel for Respondant,

David A. Herd, (0059448)

Anspach Meeks Ellenberger LLP

175 S. Third Street, Ste. 285

Columbus, Ohio 43215 Tel. No.

(614) 745-8350

## QUESTION PRESENTED

# (1) The sole issue presented in this petition is whether the termination of attorney-client relationship for purposes of R.C. 2305.11 Legal Malpractice, (time limitation on bringing a legal-Malpractice claim) is dependent upon the filing of motion To; withdraw pursuant to Local rule of court.

# 2 Franklin County Common Pleas, Civil Division Court case No. 17-CV-005235 Presiding Judge Guy Resse II, In The matter of Allege Legal Malpractice, R.C. 2305.11 against Defendant-Appellee, Phillip W. Gerth, The courts journal entry has date of June 10th 2016 date of attorney-client withdraw. This case was scheuled for hearing June 12th 2017 but was dismissed witout adminstrative hearing, {ALj} Trail (de-novo) Petitioner; Michael A. Kelley Jr. was deprived of his fourteenth admendent right. U.S.C. (1871) and 42, U.S.C. (1983) Claims may be brought in either State or Federal Courts, Petitioner chose state courts because Ohio medicaid's processing claims Dept. being (a) State (Entity) 42, U.S.C. 1396 et. seq. U.S. code unannotated title 42, the Public Health and Wefare 1396 medicaid access-commission. (in reference To; Ohio Medicaid's Third time deinal via Thire processing claims Dept.)

it has already been established that thire was an attorney-client relationship contract signed agreement, by both parties, June 6th 2016 date entered into agreement with attorney Phillip W. Gerth, he was commissioned for the sole purpose of filing an appeal To; the six curcit court of appeals, concerning Ohio medicaid's third time denial, coverage issue. via the state of Ohio's claims processing Dept. statute of medical Limitations involved. R. C. 2305.11.3 and R. C. 2305.113

Petitioner's Health Care Provider Company Aetna Better Health of Ohio filed Grievance File No. GR0000000593 This grievance was filed upon Ohio medicaid for thire third time denial on member Michael A. Kelley Jr. To; cover the cost for his medical necessity, Oral Maxillofacial corrective reconstructive surgery procedure, To; be Preformed @ Cleveland Cllinic Ohio the R. C. 2305.11.3 and R.C. 2305.113 one year statute of Limitations, On said (Grievance) Expired June 9th 2016 The day before attorney-client withdraw. via the courts. June 10th 2016

Franklin County Common Pleas, Civil Division Court Presiding Judge Guy Resse II Granted Defendant-Appellee, Gerth, Full-summary Judgment. without {ALj} trail, (de-novo) Petitioner was denied his fourteenth amendment right, this privilage" guaranteed to all born naturalized citizens in the United States of America,

Summary judgment 56(c) adminstrative executive proceedings is not judicial yet may satisfy the due process clause (746) more over the due process clause does not require (de-novo) and in this case was applied To; Petitioner's case. No. 17-CV-005235

According, To; The due process clause Petitioner was deprived of his Fourteenth Admendment deprivation of right act 1871 and 42, U.S.C. (1983) under color of state Law. Which states the due process clause provides that (NO) state shall deprive' any person of Life, Liberty, or Property", without due process of Law.

Wherefore; Petitioner was denied the opportunity to explain those filed evidentiary documents to substantiate under oath testimony with expert witnesses From; Aetna Better Health of Ohio To; collobarte when thier (grievance) expired, June 9th 2016 and the courts would have known @ {Alj} Trial hearing that defendent, Gerth, and Petitioner's Kelley's attorney-client contract agreement had not expired until the day After said date of June 10th 2016 the date courts have journalized. attorney-client withdraw.

# 3 Is it Judicial Protocol Procedure via the courts Legal advisor or administrator to inform/instruct a Pro-se, litigant that they need to submit (a) corrective brief upon a case pending before a ruling/decision is rendered. This error is Listed as one of three Major 10th dist. court of appeals assignment of errors. which was disregarded.

The same Tenth Dist. court of Appeals Ohio Legal Advisor Jack Kullman, did inform/instruct Pro-se, Plaintiff-Appellant that a corrective brief was needed upon case No. 02-AP-1149 before the courts ruling/decision was rendered. upon (2002) case, based on same medical necessity dispute. coverage issues.

This was Ohio medicaid's Processing claims dept. second time denial, for coverage. the corrective brief was filed by paid Attorney Joquetta S. Wells, reg. No. (0030585) Tolling The Applicable Statute of Limitations R. C. 2743.16 This case coincide with [www.supremecourt.gov](http://www.supremecourt.gov) Doc. case No. 04-8475 based upon Medical Mal. Negligence against Ohio Dept. of Rehabilitation and Correction, et.al. via Ohio State University Medical Center Hospital, There Infectious Disease Clinic, (AZT/placebo) prescribed To; the state of Ohio's H.I.V./aids infected inmates. Also, R.C. 2305.113 Statute of Limitations involved.

The Class action Filed by Board of Dir. For Prisoner Reform Advoacy Center Attorney Alphonse Gerhardstein, Cincinnati Ohio Tele. No. (513) 621-9100 ext. 17 Case No. C-1-03-704 based upon wide systimic Medical Malpractice Negligence, issues, Against (O.D.R.C.) Ohio Dept. of Rehabilitation and Correction et. al. and Ohio state Univeristy Medical Center Hospital, included was the same infectious disease clinic.

Pro-se, Case No. C-2-03-1126 United States Dist. Federal Courts Dismissed And Plaintiff-Appellant's sub class motion to intervene into Class Action denied.

# (4) Is it Judicial Protocol-Pocedure for a Litigant-Plaintiff, To; file (a) motion to receive courts (opinion) on the courts reason's for a declined reconsideration for jurisdiction, motion. Plaintiff-Appellant only receive notice that states Upon consideration of the Jurisdictional memoranda filed in this case , the court declines to except jurisdiction of the appeal pursuant to S. Ct. Prac. R. 7.08(b)(4) Plaintiff-Appellant after visit to [www.tenthdistcourt.gov](http://www.tenthdistcourt.gov) Looked up see, S. Ct. Prac. R. 7.08(b)(4) vague answer 1 of 4 Multiple choice for The Courts dismissal.

Also, Plaintiff-Appellant's Reconsideration motion response, From; Ohio Supreme Court states, reconsideration entry case No. 2018-1724 it is oredred by the court that the motion for reconsidation in this case is denied.

Case In point The Ohio Supreme Court of Ohio case No. 2018-1724 clerk of court office, Telephone No. (614) 387-9000 said I need To; file a motion To; recieve The courts opinion's concerning The courts reasons for declinging My Plaintiff-Appellant's Pro-se motion for reconsideration of thire declinging Jurisdiction, April 17th 2019

Petitioner, Michael A. Kelley Jr. was trying to stay in compliance with the The United States Supreme Court rule Booklet that states include a copy of the last courts (OPINION) rendered, when filing for a writ certiorari.

# (5) Hopefully The United States Supreme court can address or provide answers To, the Ohio court of claims forms, that are UN-CONSTITUTIONAL especially when detained, in The State of Ohio's custody as an inmate trying To; follows the Institutions rules by filing informal, complaints and grievance's To; receive, copies of There medical records, To; meet the court of claims of Ohio's compliance there FORMS entry #13 ask Plaintiff for (a) dollar amount of damages, I didn't know the extent of my damages I'am not (a) Doctor or specialist, That I'am Still to date in desperate need of Oral Maxilliofacial Corective reconstructive surgeon, Specialist.

And on those same court of claims of Ohio FORMS, they ask Plaintiff Entry # 14 For, Medical Documentation. that I was denied. and was Told by Top administrators and Wardens @ Institutions That said (quote) NO inmate shall receive copies of thire medical records as for they are confidential end (quote) my complaint was diimissed returnned as incomplete, via the Ohio Court of Claims.of Ohio, reasons not providing said medical documentation and estimate of damages, To; The Ohio court of claims This Documentation was used in my corrective breif and This did impeded my timely access, To; the courts. Pro-se, which caused the statute to commence, and this information was submitted by paid attorney J. S. Wells To; The Tenth District Court of Appeals, when I was released from the state of Ohio's custody and instructed, via the courts Legal advisor (a) corrective breif was needed on case No. 02-AP-1149 that I Org. filed Pro-se, and lead To; the reasons for Linensed Attorney J. S. Wells, To; submit My

corrective brief on Appeal Tolling The applicable statute of limitation R.C. 2743.16 and was told the saving provision; was that I was MANDATED To; ingest psychotropic medications, while in the State of Ohio's custody. (incapacitate)

Those medications compiled on Top of My now knowing what I have been diagnosed with by Physicians Specialist in the field area I'am in need of and they have allowed me access, & copies, To; my medical records since my release concerning my now 24 years, symptom diagnose of Temporomandibular (T.M.J.) joint dysfunction and in Laymen terms (a) horrible 24/7 tooth ache. with x-rays of jaw sockets and left eye orbit, and left cheek bone, These injuries were sustained and are from; my being violently attacked by two inmates which neither inmate was charged with assault, and was initiated by staff, State Ohio Officials and emergency rushed To; (O.S.U.) The same Hospital that I was was gathering damaging documentation (on) concerning the lack of proper medical care, and treatment, via Ohio State University Medical Center Hospital, There Infectious disease Clinic, and thrie prescribed practice of Anti-viral medications, (AZT/placebo) pills for H.I.V./aids infected inmates, and Their botched EMS rush surgery Procedure preformed on Petitioner Michael A. Kelley Jr.

This Petition for writ certiorari is within the The Statute. Date; of last Court, Entry Ohio Supreme Court 04/17/2019

## LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Respondent; Defendant: Phillip W. Gerth  
465 Waterbury Ct. Ste(a)  
Gahanna, Ohio 43230  
Tel. No. (614) 856-9399

Addressee To: Counsel for Defendant;  
Attorney: David A. Hurd (Reg. No. 0059448)  
Arkspach Meeks Zilkenberger LLP  
175 S. 3rd St. Ste 285  
Columbus, Ohio 43215  
Tel. No. (614) 745-8350

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## INDEX TO APPENDIX

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APPENDIX (D) Bonus Letter From; Former Attorney J. S. Wells, To; Ohio medicaid's processing claims dept. asking them for reconsideration for medical necessity Oral Maxillofacial reconstructive corrective surgery coverage.pg. 8

APPENDIX (E) Copy of San Francisco; city prosecutor's office attorney request, for postponement, That was not granted. case No. CSM-17857455 and CSM-17 case No. CSM-17857455 small claims court dismissed. (unhanded manuver).pg. 9

APPENDIX (F) Copy of Ohio career & colleges e-mail correspondance From; office manager, concerning my college transcripts, Petitioner, following The main (F.B.I.) Washington D.C. Tel. No. (202) 324-3000 instructions To; ask Ohio Edu. For (a) property receipt. complaint Fwd. To; Interl Review For; Investigation, Nov. 9th 2018.pg 10

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[www.supremecourt.gov](http://www.supremecourt.gov) Docket/case No. 04-8475 and corrective brief on appeal, To; The Tenth District Court of Appeals, Ohio Also, In The United States supreme Court Archives.

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### STATUTE AND RULES

Ohio revised code; R. C. 2305.11.3 Limitations of actions for medical malpractice,  
(statute) of repose.....pg 1

Tolling The Applicable statute of Limitation R. C. 2743.16 Corrective brief Filed by Former Attorney, J. S. Wells, reg. No. (0030585) To; The Tenth Dist. Court of Appeals, Ohio, Only a copy of Bonus Letter asking Ohio medicaid's processing claims dept. for reconsideration concerning Thire second denial medical coverage for Petitioner's medical necessity oral maxillofacial corrective surgery, APPENDIX (D)pg 8

Ohio Supreme Court case No. 2018-1724 states upon considerationof the jurisdictional filed in this case the court declines to accept jurisdiction of the appeal pursuant to S. Ct. Prac.R. 7.08(B)(4) cited without (opinion) APPENDIX (C).....pg 7

Petitioner after visiting The Ohio Supreme Courts website was able To; view the (rule) From; Ohio Supreme Court, The (rule) that is Listed is vague 1 of 4 multiple choice,  
1(a)(b) or 2(a)(b) or all four may apply. Also, APPENDIX (C).....pg 7



IN THE  
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix \_\_\_\_\_ to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the United States district court appears at Appendix \_\_\_\_\_ to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

☐ For cases from **state courts**:

*Ohio Supreme Court*  
The opinion of the highest state court to review the merits appears at Appendix C to the petition and is

- ☐ reported at Court Ohio Supreme Court & 10th Dist; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

## JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was \_\_\_\_\_.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

*This Case is Petitioner's Request for Writ, And it  
listed under Jurisdiction page (ii) is a Combination  
of Claims*

☒ For cases from **state courts**:

The date on which the highest state court decided my case was April 17<sup>th</sup> 2019  
A copy of that decision appears at Appendix \_\_\_\_.

☐ A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

## JURISDICTION

Petitioner is respectfully invoking Jurisdiction upon this court 28, U.S.C. 1254(1) This case is a combination of claims, against Three, different entities The state of Ohio's medicaid program, tort claims act. 42, U.S.C. 1396 et. seq. medical-commission-access, (coverage), As stated in paragraph 3 benefit payments for medical assistance for surgery, as defined by (rule) duly promulgated by the services and cost related directly thereto shall be made only when a second medical opinion by a licensed physician as to the need for the surgery is obtained prior to the surgery being performed. (3) different denials. The last medical necessity oral maxillofacial corrective reconstructive surgery request submitted correctly by primary Health care physician and Health Care provider company Aenta Better Health of Ohio filed (Grievance) concerning Ohio medicaid's processing claims dept. third denial. enter respondent. concerning filing appeal and services not rendered. breach of agreement.

And deprivation, civ.R.act. 42, U.S.C. 1871 and 42, U.S.C. (1983) claims under color of state Law. denial of due process and Petitioner deprived of fourteenth Amendment, of The U.S. constitution via the Lower courts, The last court ohio supreme court case No. 2018-1724 memorandum in support of jurisdiction and reconsideration (denied) April 17th 2019

Also, Tenth District court of appeals, case No. 18-AP-000487 For reasons explained in petitioner's statement of the case, and 10th dist. court of appeals, (3) major assignments of errors as stated in corrective brief No administrative [ALJ] trail and full summary judgment 56(c) in defendant's favor, case dismissed (de-novo) via Franklin County common pleas, civil division court, case No. 17-CV-005235 and Aenta Better Health of ohio's (Grievance) disregarded copies enclosed.

In addition To; Legal Malpractice, R.C. 2305.11 of repose. against respondent, Phillip W. Gerth, and statute of Limitations of repose. R.C. 2305.11.3 and R.C. 2305.113 and R.C. 3721.17 claims that arise out of the medical diagnosis, care, or treatment.

Wherefore; Petition seeks re-address and ask this court to exercise it's supervisory authority and reverse and remand. the Lower courts rulings/decisions in

petitioner's favor for an amount To; be shown at Trail, or whichever the court  
deems fair just and proper.

## CONSTITUTIONAL AND STATUTORY PROVISION INVOLVED

Jurisdiction of This court invoked 28, U.S.C. 1254(1) Petition For; writ certiorari.

Deprivation of rights under color of state Law. civil rights act of 1871 and 42, U.S.C. (1983) Claims, deprived of fourteenth Amendment, and denial of due process,

Also, Part {PLRA} which amended 28, U.S.C. 1915 states that Federal Courts shall dismiss actions filed in-forma pauperis, if at anytime the courts determines that the action is frivolous, malicious, or fails to state a claim upon which releif can be granted,

see, 28, U.S.C. 1915 congress has recognized that a litigant where filing fees are asumed by the public unlike a paying litigant lacks an economic incentive to refrain from filing frivolous, Malicious, or repeteive lawsuits. \*1136 D. Maliciousness of the current complaint.

42, U.S.C. 1396 et. seq. U.S. code unannotated title 42, the Public Health and Welfare 1396 Medicaid access-commission.

28, U.S.C. 2403(a) The United States Supreme Court Rule Booklet, states (may apply), and shall be served on the solicitor General of the United States room 5616 Department of Justice 950 Pennsylvania Ave. N.W. Washington D.C. 20530-0001 the connstitutionality of an act of congress was drawn into question, see, rule 14.1(e)(v) From; The United States supreme Court.

The Dept. of Doj.gov not a respondent, Although constitutionality Laws are involved Notice of Appeal, not Fwd. following The United States Supreme Courts Clerk of courts instructions,

## STATEMENT OF THE CASE

This Plaintiff-Appellant, second time Pro-se Petition, seeking writ certiorari, asking The United States Supreme Court, To; grant Petitioner Michael A. Kelley Jr.'s request, And review several Lower courts ruling's and decision's.

Date of termination of attorney-client relationship for purposes of R.C. 2305.11 is not dependent upon the date of filing a motion to withdraw pursuant to local rule of court, case No. 17-CV-005235 Pro-se filed In Franklin County Common Pleas, Civil Division Court, Presiding Judge Guy Resse II, In The Matter of Legal Malpractice, Plaintiff, Michael A. Kelley Jr. (v.) Defendant, Phillip W. Gerth, This case was Dismissed without {ALJ} Administrative hearing, In direct violation of Plaintiff-Appellant's Consitutional rights, and Listed In The Tenth Dist. court of appeals, one of Three Assignment of error's Case No. 18-AP-000487

(ie) Deprivation of rights act of 1871, 42, U.S.C. (1983) under color of state Law (1983) Claims may be brought in either State or Federal Court, (Pitts (v.) County of Kern, (1998) 17 cal. 4th 340, 348, [70 cal. Rptr. 2d 823,949, P2d, 920]

constitutional torts employ the same measure of damages as common Law torts, and are not argumented based on abstract value or importance of constitutional rights Plaintiff's have the burden of proving compensatory damages in section (1983) cases and the amount of damages depends largely on the creditbilty of the plaintiff's testimony concerning thire injuries.

as prescribed Ohio R.C. 2305.11.3 and 2305.113 Limitation of actions for medical malpractice, statute of repose. Also, section 3721.17 of R. C. claims that arise out of the medical diagnosis, care or treatment.

[www.supremecourt.gov](http://www.supremecourt.gov) Doc. case No. 04-8475 In The United States Supreme Courts archives, based upon Medical Malpractice Negligence Issue's Michael A. Kelley Jr. (v.) Reginald A. Wilkinson, Director, Ohio Department of Rehabilitation and Correction et. al. (via) Ohio State University Medical Center Hospital, Infectious Disease Clinic, in-correctley prescribed H.I.V./meds. to; O.D.R.C. inmates, who were H.I.V./poz

The Class Action that was filed by Attorney, Alphonse Gerhardstein, In Southern District Federal Court, case No. C-1-03-704 Cincinnati, Ohio Tel. No. (513) 621-9100 Director, Prisoner Reform Advocate Center based upon same medical Malpractice, Negligence, Systemic issues. (concide) with my current case, issues, for the past (24) Years, I have been in pursuit of my due process, Along with 239 other Ex inmates who tried to; intervene into Class action as (a) Sub-Class. To, No avail.

The case that was Pro-se filed In U.S. Dist. Federal Courts, was based upon how The Lower court's Judge's had abused the court's discretion, The presiding Judge on case No. 2 :15-CV-2233 In Federal Dist. Courts Judge Algenon L. Marbely and Magistrate Judge Terrence P. Kemp, In There report and recommendation July 23rd 2015 states that All Judge's have under the doctrine of Absolute immunity as To; the four Originally joined Defendant's doc. (3) and on July 2nd 2015 Plaintiff-Appellant, Michael A. Kelley Jr. filed his objection doc. (5)

Plaintiff-Appellant, Objection's Added Ohio Medicaid- Medicare as as fifth defendant, who Plaintiff claims harmed him in violation of the eight and fourteenth, Amendment to the United States Constitution doc. (5) As stated in report and recommendation from; U.S. Dist. federal Court, Plaintiff-Appellant, Michael A. Kelley Jr. Amended The case July 1st 2015 Adding Ohio Medicaid- Medicare, alleging that Ohio Medicaid-Medicare for the third time (denied) his Legit Claim for Medical coverage (via) there processing claims Dept. The Processing Claims Dept. have @ there access Licensured Physician's who assist making decision's upon claims, This Case was (D.O.A.) But; The saving Provision was the courts appellate process, The case was DISMISSED WITHOUT PREJUDICE! From; The U.S. Dist. Federal Court's

Enter Attorney Phillip W. Gerth, who's contact info. was provided via Columbus, Ohio Attorney referral service, (614) 221-0754 Who Plaintiff-Appellant, entered into Attorney-Cleint, contract, ageement, June 6th 2016 @ our Three and half hour consultation, @ atty. Gerth's Law office Located at 465 Waterbury Ct. ste. (a) Gahanna, Ohio 43230 Tel. No. (614) 856-9399 Attorney Gerth, was provided Legal doc.s outlining the case, And my need for Appeal, To; The Six Circuit Court of Appeals,

attorney Gerth, said he totally understood the scope of my case, he said I had some of the most damaging documentation, and in fact he had just filed a case similar the only difference was the person was Dined Once, by Ohio Medicaid-Medicare processing claims Dept. included in my Doc.'s was one copy of my Health care Provider Company Aetna Better Health of Ohio's Grievance, File No. GR0000000593 They Also, gave Ohio Medicaid-Medicare extra time Allotted To; Respond To; said Grievance past (30) day's And They have @ Thier disposal Physician's whom are Specialist that assist filing Claims, for coverage, and deemed mine (A) medical Necessity, There was Also, Documentation from; Oral Maxillofacial specialist, That diagnosed, Plaintiff-Appellant with TMJ jaw joint dysfunction, Temporomandibular, which my symptoms have gotten worst.



Which brings me, To; the issue of Attorney Gerth's breach of our contract, Atty. Gerth, was negligent in failing to exercise the knowledge skill and ability possessed by members of the Legal profession, I have suffered injuries, damages, as a direct result of said negligence,

Plaintiff-Appellant also, allege that Defendant-Appellee, Gerth, deliberately or with reckless indifference failed To; meet the statute-dead Line, and he knew that the statute would expire on June 9th 2016 From; my Health Care Provider, Company, Aetna Better Health Of Ohio On their Grievance, To; Ohio Medicaid-Medicare. with No response. from; Ohio Medicaid-Medicare. Administrators, @ Aetna Better Health of Ohio explained to me about my options recourse, I chose the courts, instead of resubmitting medical necessity back To; Ohio Medicaid's processing claims dept.

I made sure Defendant-Appellee, Gerth, @ our Three in half hour consult. with said copies of corrective brief on Appeal case No. 02-AP-1149 concerning Ohio Medicaid's second time denying my legit claim and that Time was of essence, his reply was he was confident he could meet the dead-Line, and on said Date, of June 9th 2016 The date of his Tele. con. to; me asking if I could come up with an additional \$ 3,600.00 more dollars so he could file (a) whole new case, as he put it. I asked him What gives! and reminded him that I had borrowed the retainer fee money From; my Father Michael A. Kelley Sr. retired Federal Gov. employee Defense Construction Supply Center, 3990 East Broad St. Columbus, Ohio home Tel. No. (614) 445-6985 Address 2176 Liston ave. Col's Ohio 43207 I asked what happen To; The Appeal that we had both agreed upon,

Defendant, Gerth Tried To; explain to; me I had Zero chance probability with an Appeal, my reply was if you felt that way why did You agree to; file my appeal. Defendant, Gerth is very deceptive in his practice and is now trying To; use his Attorney Client Clause, # 14 in In our Attorney-Cleint, signed agreement, Case in point Attorney Geth, knew The Grievance had Expired The day of his Tele. con. Call, To; Plaintiff, Michael A Kelley Jr. Attorney Gerth, and I was still under contract, that date, 06/09/16 This might explain why Atty. Gerth, gave my father Michael A. Kelley Sr. (a) \$ 755.00 partial refund, and the courts deemed copy of his check miscellaneous doc. Plaintiff-Appellant, Still believes services was not rendered. and all monies should have been returned.

This information would have been provided upon my scheduled hearing date and Trial June 12th 2018 set before Judge Guy Resse II, In Franklin County common Pleas, Civil Division Court, case No. 17-CV-005235 Judge, Guy Resse II, neglected to; allow Plaintiff-Appellant, Michael A. Kelley Jr. his due process, in violation with U.S.C. Civ. R. act. of 1871, 42, U.S.C. (1983) and to my understanding {ALj} Administrative Law proceedings are virtually always conducted as bench Trials,

Administrative executive proceedings is not judicial yet they may satisfy the due process clause, (746) moreover, the due process clause does not require (de-novo) And in this case No. 17-CV-005235 Plaintiff-Appellant, Michael A. Kelley Jr. Case it was applied, based upon these issues Plaintiff-Appellant, was deprived of his fourteenth, Amendment, U.S.C. Civ. R. act. of 1871, 42 U.S.C. (1983) The due process clause provides that (NO) state shall deprive" any person of Life, Liberty, or Property," without due process of Law.

Under oath, plaintiff-Appellant, would have testified, and produced expert witnesses, via Aetna Better Health of Ohio, concerning There Grievance. filed for Plaintiff-Appellant, Michael A. Kelley Jr.

I still have in my possession The first notice from; Maryellen O'Shaughnessy, Clerk of Courts Franklin County Ohio Notice, That I received by Reg. U.S. mail which states that my hearing date is scheduled for June 12th 2018 In The matter of Legal Malpractice, against Defendant, Phillip W. Gerth, I did honor this court date, with my personal appearance, June 12th 2018

I would Like The United States Supreme Court To; know that Plaintiff-Appellant, Michael A. Kelley Jr. was in route, from; San Francisco, Ca. June 10th 2018 From; Where I currently reside at 88/6 St Apt. # 201 SF. Ca 94103 Cell No. (415) 619-2319 I Also, have (a) second notice, which I received after my return from; Columbus, Ohio that was sent Reg. U.S. mail Time stamp date 06/08/18 from; said courts, it takes 3/4 day's reg. U.S. mail, the notice states You are Here by notified that an entry which may be a final appealable order has been filed with the Clerk of common Pleas Court on 06/08/18 if Plaintiff-Appellant had of known I would have saved myself, \$ 537.00 American Air-Lines round trip ticket Air fair. Plaintiff did not know case had been dismissed (de-novo) ruled on, until date of Trial. and ask The Clerk why Wasn't I notified.

In Judge, Algenon L. Marbley and Magistrate Judge, Terrence P. Kemp's Report and Recommendation, states, About The four Originally joined Defendant's The Magistrate Judge dismissed all claims against the four originally-joined Defendants, the grounds of absolute judicial immunity Doc. (3) This is Plaintiff-Appellant's reason's asking The united State Supreme Court, To; Grant his Petition for writ certiorari,

# 1 Judge Fredrick Shoemaker, Presided over, This case which was initially filed In The Ohio court of claims case No C-2001-09583 concerning my Plaintiff's injuries/damages, Sub-stained while in The State of Ohio's custody, And Tried To Pro-se file Case In the Ohio Court of Claims While incarcerated, And could NOT complete The courts Forms entry # (13) asking Plaintiff for (a) Total amount of damage's received, and entry # (14) for Medical information, I requested those documents via inmates informal Complaints and Grievance process Un-successful and was told my Complaint/Case was incomplete Wherefore Complain Dismissed. Once released from; the State Of Ohio's custody, I was told The Statute had Expired. Attorney Joquetta S. Wells explained why The case Should (B) Tolle, which was more civil and constitutional rights violations In The Tenth District Court of Appeals, Judge Fredrick Shoemaker, Did Dismiss, Case No. 02-AP-1149 Corrective Brief on Appeal, filed by paid Attorney Joquetta S. Wells, registration No, (0030585) Tolling The Applicable Statute of Limitation, R.C. 2743.16 I had To; wait until My date of Release, which was March 30th 2000 This was explained In great detail, with Doc.'s by Attorney Joquetta S. Wells,

# 2 Magistrate Pamela Erdy, Presided over case No. 10-CV-16794 Michael A. Kelley Jr. defendant, where I was accused of allegedly making Lewd sexual gesture's at my next door neighbor, Mrs Tanna Blackman, whom I knew was happily married To; her husband Andrew Blackman, I Tried To; furnish Magistrate Erdy with (a) 6pg. legible hand written explanation of the chain of event@ our first court hearing, and what lead up to; my and the couple's Disagreement They for some odd reason's didn't Like or believe I should remain in battle against (O.S.U.) via The Court's (or) Like The fact That I'm totally (GAY) Magistrate Pamela Erdy refused my hand written Statement. I was formally Charged and Civil Order of Protection was put In Place, which is now (a) permanent part of my Police record.

# 3 Judge Bevelery C. Pfeffar, Presided over case No. 08-CV-5802 This case involved Three car chain reaction, my auto was rear ended while trying To; exit the expressway I-270 east bound traffic was at a stand still when my car was hit with grate force and pushed into, the car in front of me, road condition's (wet-rain-sleet) Yes I did have Liability insurance, which is required in each state by Law. I Also, tried To; Furinsh The courts with (27) Photo's of my car's damage's and wittness statement's She Judge, Pfeffar, refused To; except any documentation, wittness statements or Photo's This case Turnned into, (a) default Judgment, I was court ordered To; Twin Valley 2200 West Broad Street, Columbus, Ohio for (a) Psychiartic evaluation, (15) whole months, and then Released to, The Ohio dept. of rehabilitation and correction (17) months while in The state of Ohio's custody The Courts issued a Subpoena, without my knowledge apou my release, I filed (habeas-corpus) The case was placed on Appeal, with The Tenth District Court of Appeals, case No. 14-AP-09-682 was reversed in Plaintiff-Appellant's favor without any compensation, was told the statute (EXPIRED) was Only able To obtain valid state of Ohio driver License.

# 4 Magistrate Denise R. Mathews, Presided over case No. (2003)-CVI-17321 In The matter of Plaintiff-Appellant, Michael A. Kelley Jr. Pro-se, Filed In small claims court, Columbus, Ohio claims against fountain Park East Appartments Where Plaintiff occupied/rent a two bedroom town house, address 3767 Esquire Drive Columbus, Ohio 43110 This was a ground floor unit. Once again, I tried To; Provide To; The Magistrate with profssional documentation, from; City code Enforcement, Supv. John Lehman, which stated The unit was inhabitable, along with Photo's From; The Appartments Broken tolilet water pipe, My caseworker, Tony Vinson, From; The Columbus Aids task Force Agency 4400 N. High Street, Columbus, Ohio did wittness damages and the foul oder, and the repair men jack hammering the appartments cement floor, To; reach The broken pipe. Also, Statements From; my rent (2) own Furniture company, statement that I still owed (6) months of payments Left on brand new Tan ultra suede sofa and Love seat with matching ottoman, was ruined because of the contaminated water that had soaked into the furniture. and in the apt. hallway utility closet one chanel bed (n) bag also, christmas decorations, and DVD tapes stored in boxes on the floor because the shelves were full, The Magistrate, States Because Plaintiff, did NOT provide Beyond a Preponerance of Evidence, Wherefore; Plaintiff's Claim Is DISMISSED.

# 5 Franklin County Common Pleas, Civil Division Court. case No. (2006) CVG-033264 In The Matter of Defendent; Michael A. Kelley Jr. was accused of Failure To; Pay Rent(or)Utilities @ The Address of 425 W. rich Street, Columbus, Ohio Apt. #(C) Plaintiff, Columbus Metropolatin Housing Aurthority, Public Housing, This case was dismissed Voluntarily by Plaintiff, After Defendent Furinshed The Courts with Recipts From; Columbus, Metro Federal Credit Union Bank Located 4000 East Broad Street, (On The same grounds) Where Mother & Father, Retired From; Defense Construction Supply Center, 3990 East Broad Street Columbus, Ohio The

State of Ohio's Senator's Sharrod Brown, Office Tel. No. (614) 469-2083 And Senator, Rob Portman, Office Tel. No. casework; Atty. Michael Dustman (614) 469-6774 Tried To; Assist me in my affords To; restore housing with, Columbus Metropolotain Housing Aurtherity (BUT) I was Placed on Housing wait List and was Left on Col's Met. Housing list (7) years, without the assistance entitled to, The United States Justice Dept. Special Litigation section, Tel. No. (202) 514-6255 And Fairhousing Dept. title section, code regulation 504 fair housing act. Tel. No. (202) 514-4713 Atty. Jessica Clark Crockett, Plaintiff, Michael A. Kelley Jr. Tried To; get reimbursed for those (7) Years with copies of (6) diffrent Lease agreements paid To; property owners, and proff of payments via said Col's Metro Federal Credit Union Bank. Columbus, Legal aide society Located @ 1108 city park Columbus, Atty. Kate McGarvey, claimed They could NOT assist with refund issue, (or) wait List, also, Ohio Disability Rights, Loctaed @ 200 S. Civic Center Drive Columbus, Ohio 43215 Attorney David Scott, Tel. No. (614) 466-7264 ext.137 (No) assist From; Former Dir. (Ohio Disability Rights) Cynthia Yost.

Since July 1st 2016 and my relocating here, To; San Francisco, ca. From; Columbus, Ohio In hopes of getting some corrective surgery, @ Zuckerberg General Hospital, Located @ 1001 Poterero Ave. 94110 Thinking I was going Around The state of Ohio's (3) denials,

I have experienced nothing but interference, which has been reported To; The United State Justice Dept. Special Litigation, Section 935 Pennsylvania Ave. N.W. Washington D.C. 20535 Telephone No. (202) 514-6255 Chief Deputy Duty Director, Steven Rosenbuam, or Paralegal Specialist.

This case No. CSM-17855973 Pro-se filed by Plaintiff, Michael A. Kelley Jr. In San Francisco. Ca. small claims court Located @ 400 McAllistter St. San Francisco, Ca. 94102 This case was based upon, the interference of the deliverly of my U.S. mail and bad case of food poisoning via two employees @ (MSC) South Shelter, Located 525/5th St. San Francisco, Ca. 94107 Caseworker Tony Chase, who's job duties were to assist any person who request, as I did concerning obtain copies of my college transcripts, Trying to return feild of study paralegal, With No assist from; said employee, this persons outside accomplice, Cameron ameer, who is (An) un-documented illegal immigrant, Org. From; Mexico, this can be verified by my Fromer attorney Robin S. Stith, Columbus, Ohio Tel. No. (614) 445-6700 did file something on the egregious act, committed against herself, issue of That person's citizenship (ect).

I filed (A) complaint concerning mentioned with The San Francisco, Ca. Postal Inspector's office, after there investigation, I was provided a complaint No. 32219548 and Reference No. FG-321B Along with case No. CA130810445 do to The serious and severity of my missing mail, The Employee Yalonda Johnson, @ (MSC) Whom handled all incoming mail, was ask several times by myself about my mail I Plaintiff, Michael A. Kelley Jr. was expecting From; Senator Brabar Boxer's Oakland Ca. Office before she retired I was Fwd. one written consent form; That required my signature, Trying To; obtain,copies of my college Transcripts, From; Col's Ohio Edu. Dept. Entrance exam successully completed along with 2018/2019 FAFSA student Loan App. Also, with comfirmation that my visa checking debit card that was sent To; said address, From; Bank of America, somebody made attempt To; use @ Wal-Mart, This Card was never in my possission, I continued To; use first issued ATM card which cost more money for each Transaction, I could NOT Login inter-net monthly payments, with Just ATM card.

Also, One SFMTA Clipper card That was very much needed for assistance with Transportation, medical necessity This card was intercepted, via same (MSC) staff Employee, San Francisco, Ca. Transit Authority conducted a trace before new card could be issued (5) months without, This card would have able me To; and from Physicain's Appt, My caseworker, Irene Synder, and Supv. Morty Diamond @ San Francisco, Ca. Aids Foundation Located @ 1035 Market St. SF. Ca. 94103 did assist with my Application process, Telephone No. (415) 487-3000 Also, One Apple iPhone, missing. that was delivered From; Gazelle Company,

This case was dismissed by one of The most Un-handed maneuvers, via The City prosecutors office The Attorney assigned To; said Case did file request for (a) postponement of trial, (reason;s) conflict of schedule, On the date of our hearing I telephone Ms. Joycelyn G. Perez July 13th 2017 asking if she had heard anything about her request, her reply was she was confident that the courts would reschedule and that she wouldn't be there hind sight in retrospect is 20/20 I should have appeared I was Listed as a No show. I tried To; resubmit case Too, No avail. Enclosed One copy of said Request. from; Attorney @ City prosecutor office,

Also, The State of Ohio Administrator;s @ OJ&FS Thought I did NOT request that my Medical coverage be Transferred From; Ohio, To; San Francisco, Which in fact I most certainly did, This was done upon my First chance From; date of arrival July 1st 2016 Proof positive w/Doc. from; Columbus, Ohio OJ&FS Ohio Jobs, and Family services, Director, Cynthia Dungy, Tel. No. (614) 466-6283 it was discovered that an employee @ The San Francisco, Ca. Location 1440 Harrison St. SF. Ca. Medi-Cal office, neglected to; submit The State of California's State (BUY-IN) form, this ERROR was NOT caught for over (a) Year, which caused The State of Ohio to; continue paying my Part (B) medical coverage, I was reimbursed (2) months retro-active,

These covert/retaliation acts that are being committed upon me are because of my Key involvement, against The Ohio Dept. of Rehabilitation and Correction, et. al. via Ohio State University Medical Center Hospital, infectious disease Clinic, Medical Mal. Neg. Issues, The Class Action Case No. C-1-03-704 Filed In Southern Dist. Federal Court by Attorney Alphonse Gerhardstein, Cincinnati Ohio Telephone No. (513) 621-9100 coincide with [www.supremecourt.gov](http://www.supremecourt.gov) Doc. case search No. 04-8475 Also, my Corrective brief on Appeal, Filed by Attorney Joquetta S. Wells, Case No. 02-AP-1149 This should explain in greater detail my personal injuries damages that still to;date need To; be adequately repaired, The TMJ jaw joint dysfunction, Temporomandibular, that I have been diagnosed with (24) years now by Oral Maxillofacial specialist, symptoms have getting worst. and Petitioner Michael A. Kelley Jr. reason's for his petition asking The United States supreme Court To; review The Lower courts, Assignment of error's as listed in Plaintiff-Appellant's corrective brief on Appeal case No. 18-AP-000487 Tenth Dist. Court Of Appeals, Also, Pro-se Motion To; The Ohio Supreme Court asking

•The Ohio Supreme Court To; reconsider Jurisdiction declining Jurisdiction, of Case No. 2018-1724 concerning mentioned.

Celotex Corp. (v.) Catrett 477 U.S. 317 (1986) The Court of Appeals, position is inconsistent with the standard for summary judgment set fourth in Rule 56(c), which provides that summary judgment is proper,

And In This case was NOT proper, My Case No. 17-CV-005235 In Franklin County Common Pleas, Civil Division Court Presiding Judge Guy Resse II, was dismissed without {ALJ} trial hearing (de-novo)

244 U.S. App. D.C. 160,756 F.2d 181 reversed and remanded. This Opinion was delivered by: Senior Chief Justice William J. Rehnquist, The United States Supreme Court.



## REASONS FOR GRANTING THE PETITION

PETITIONER; Michael A. Kelley Jr. Respectfully petition for writ certiorari

To; The United State Supreme Court

And Jurisdiction of this court is invoked under 28, U.S.C. 1254(1)

Journal Entry case No. 18-AP-000487 By; a decision and judgment entry filed October, 9th 2018 this appeal was dismissed for failure to file a brief that complies with the (Ohio Rules) of Appellate procedure, on October 30th 2018, appellant filed an application for reconsideration, of that dismissal because we found no obvious error or issue that was not considered in our entry dismissing this appeal appellant's application for reconsideration is denied.

Mathews v. Mathews (1981), 5 App. 3d (10th Dist. 1982)

Plaintiff-Appellant, filed (a) notice of Appeal in association with case No. 18-AP-000487 October 9th 2018 To; The Tenth District Court of Appeals, concerning Franklin County Common Pleas, Civil Division Courts Presiding Judge Guy Resse II, Decision/ruling In The matter of Allege Legal Malpractice, Against Defendant-Appellee, Gerth, R.C.2305.11 reason's The courts over-sight, (de-novo) and No {ALJ} trial administrative hearing, and summary Judgment in Full 56(c) To; Defendant. Plaintiff-Appellant, under oath would have provided testimony and produce expert witnesses From; Aetna Better Health of Ohio concerning Their (Grievance) Filed.

These are Petitioner's reason's for asking the United States Supreme Court To; Review The Lower court, Franklin County, Common Pleas Civil Division Courts, Ruling/Decision. upon case No. 17-CV-005235 Appendix (A)

And To; Also, Review The United States Tenth District Court of Appeals, Ohio, Ruling/Decision, upon case No. 18-AP-000487 Appendix (B) Petitioner Filed Notice of Appeal To; The Tenth District Court of Appeals, Ohio, This case on appeal in The Tenth Dist. Court of appeals, was From; Franklin County Common Pleas, Civil Division court, The Tenth Dist. Court of Appeals, dismissed this appeal without any real consideration, of it's meritt's or before, The courts Legal advisor or administrator could notify inform/instruct Plaintiff (a) corrective brief was needed, before the three judge panel reneded thire decision, Oct. 9th 2018 As stated in the courts reasons for dismissing were Plaintiff's failure to file a breif that complies with (Ohio Rules) of appellate Procedure. Plaintiff did submit a corrective brief Oct. 30th 2018 To; The 10th dist. Court of Appeals, They upheld Thire decision. dismissing Also, Listed was The courts (3) major assignments of errors, In Plaintiff-Appellant's corrective brief on Appeal.

And To; Review The Ohio Supreme Court, ruling/Decision case No. 2018-1724 without Ohio Supreme Courts opinion, Appendix (C)

Appendix (D) Copy of Bomus Letter From; Attorney Joquetta S. Wells, To; Ohio Medicaid's Processing Claims dept. asking for reconsideration coverage correspondance on second time denial. For, medical necessity surgery.

These Cases arise From; Petitioners case that was first Pro-se, filed In The United States Federal District Court, case No. 2 : 15-CV-2233 This case was dismissed From; U.S. dist. federal Courts WITHOUT PERJUDICE. By; Presiding Judge Algenon L. Marbley and Magistrate Judge Terrenc P . Kemp,

This Case was Amended July 1st 2015 and adding Ohio Medicaid (a) State (entity), which lead To; The filing In STATE of Ohio's Court's concerning Ohio medicaid's third time (denial) via Their claims processing dept. In hopes of prevailing with an Appeal, Those hopes were dashed and turned into, Legal Malpractice, R.C. 2305.11 as explained, In Statement of The Case To; The United States Supreme Court,

In compliance, with Part III. And Jurisdiction on writ of certiorari,

and Rule 10 Considerations Governing Review on Certiorari,

(a) United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has (departed) from the accepted and usual, course of (judical proceedings) or sanctions such a departure by a Lower court, as to call an exercise of this court's supervisory power; No {ALj} administrative hearing Trail and dismissed (de-novo) & 56(c) summary Judgment. in full for defendent.

(b) a state court of last resort has decided an important federal question in a way that conflicts with the decision of anther state court of last resort or of a United States court of appeal;

(c) a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this court.

In The matter of R.C. 2305.11 Legal Malpractice, against Fomer Attorney Defendant, Phillip W. Gerth, Case No. 17-CV-005235 concerning The Lower Courts decision In Franklin County Common Pleas, Civil Division Court, Presiding Judge Guy Resse II, Petitioner, Michael A. Kelley Jr. Plaintiff-Apppleant, Was deined his fourteenth amendment Deprivation U.S.C. Civ. R. act. of 1871 and 42, U.S.C. (1983) under color of state Law. No {ALj} Administrative hearing, T{rial}

Celotex Corp. V. Catrett, 477 U.S. 317

(Syllabus),

as required by Federal Rule of Civil Procedure 56(e) and the decision,

(In, Adickes v. S. H. Kress & Co. 398 U. S. 144)

(244 U.S. App. D.C. 160, 756 F.2d 181). reversed and remanded.

(William J. Rehnquist, delivered the Opinion; of the Court).

1 The Court of Appeal's position is consistent with the standard for summary judgment set forth in rule 56(c), which provides that summary judgment is proper

If the pleadings, dispostions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of Law",

Pp. 477 U.S. 322-326. (a) The plain Language of rule 56(c) mandates the entry of summary judgment after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at T{rial} Petitioner was deined that right.

Based upon these facts Legal Malpractice Neg. Issue's R.C. 2305.11 This case was dismissed (de-novo) which was a clear and direct violation of Plaintiff-Appellant's fourteenth amendment, of the united states constitution 42, U.S.C. (1983) claims may be brought in either State or Federal Court, Plaintiff was denied his due process of the Law.

Deprivation of rights Civ. R. act 1871 and 42, U.S.C. (1983) under color of State Law.

Which states the due-process clause provides that (No) state shall deprive" any person of Life, Liberty, or Property", without due process of Law.

Pitts v. County of Kern (1998) 17. cal. 4th 340, 348, [70 cal. Rptr. 2d 823, 949, P2d 920]

constitutional torts employ the same measure of damages as common Law torts, and are not argued based on abstract value or importance of constitutional rights Plaintiff's have the burden of proving compensatory damages in section (1983) case's and the amount of damages depends largely on the credibility of the Plaintiff's testimony concerning their injuries

Plaintiff was denied This privilege" guaranteed To; Naturalized born (U.S.A.) Citizen's and The opportunity For; a Trial Administrative hearing. {ALJ}

the Defendant was Granted Full-Summary Judgment, 56 (c) administrative executive proceedings is not judicial yet may satisfy the due process clause (746) moreover the due process clause does not require (de-novo) And In This case was Applied To; Plaintiff-Appellant Michael A. Kelley Jr. Pro-se, case No. 17-CV-005235 In The matter of Defendant-Appellee, Phillip W. Gerth, Allege, Legal Malpractice, R.C. 2305.11

If Plaintiff was provide the opportunity To; participate in his guaranteed constitutional rights the courts would have known beyond (a) shadow of doubt that Defendant-Appellee, Gerth, did indeed breach his contract, via the documentation that Plaintiff had filed In Franklin County Common Pleas, Civil Division Court, case No. 17-CV-005235 From; Plaintiff's Health care provider Company Aetna Better Health of Ohio, The Date Clearly time stamp and Dated, On (GRIEVANCE) that he himself Appellee, Gerth, knew the day of his Tel. con. call To; Plaintiff Michael A. Kelley Jr. asking for additional monies \$3,600.00 more dollars, That (GRIEVANCE) Doc. had expired. JUNE 9th 2016 And Defendant, Gerth, ended representation June 10th 2016 Defendant, Gerth, was even explained @ our 3 in a half hour face2face consult @ his Law office, 465 Waterbury Ct. suite(a) Gahanna, Ohio 43230 Tel. No. (614) 856-0399 that Aetna Better Health of Ohio gave, Ohio Medicaid extra Time allotted per (30) days To; respond To; (GRIEVANCE) There was NO REPLY! From; Ohio Medicaid and defendant Gerth, viewed and made copies of Those documents, @ our Three in half hour face2face consultation @ his Law office. and was explained time was of essence, concerning statutes on Aetna Better Health of Ohio's grievance, and They are the same Documents, filed in Franklin County Common Pleas, Civil Division Court,

It has been noted in the court journal entries That defendant-appellee, Gerth, claims he ended his attorney-client, representation June 10th 2016 which indeed he did. Once again if Plaintiff-Appellant was allowed Too, testify This information could have been provided @ T{rail} Along with expert witnesses, R.C. 2305.11.3 and 2305.113 Limitation of actions for Medical Malpractice statute of repose. Ohio Medicaid's Claims Processing Dept. 3rd deinal (injuction) To; R.C. 2305.11 Legal Malpractice.

[E] As used in this section, (1) Hospital" includes any person Corp. association board or authority that is responsible for the operation of any hospital licensed or registered in the state including but not limited to those that are owned or operated by state

also, includes any person Corp. association board (entity) or authority that is responsible for operation of any clinic that employs a full-time staff of Physicians practicing in more than one recongnized medical specialty and rendering Advice, diagnosis, care, and or treatment, to individuals. (which includes Ohio Medicad's claims processing Dept. They have @ their access Doctor's who are specialist that assist with processing claims's)

No.3 "Physician" means a person who is Licensed to practice medicine and surgery or (osteopathic) medicine and surgery by the state medical board or person who otherwise is authorized to practice medicine and surgery or ostepathic medicine and surgery in this state.

This section coincides with The corrective breif on Appeal that was filed by; Attorney Joquetta S. Wells, reg. (0030585) In The tenth Dist. Court Of Appeals, Ohio case No. 02-AP-1149 Tolling The Applicable Statute of limitation R.C. 2743.16 Plaintiff-Appellant for; The past (24) Years has been In pursuit of benefiting from; Corrective surgery, To; his Left eye orbit, Left check bone, and Jaw scokets, There are pens and screws that are stacked on top of each other around the Left eye orbit causing Plaintiff optive eye nerve damage, Plaintiff's X-rays Proof This has been thoroughly Documented. by Oral Maxillofacial reconstructive surgeons whom are specialist. and Plaintiff-Appellant still Todate can't be properly fitted for dentures, Jaw not Lined-Up, there is a portion of my skull missing These injuries/damages are from; Plaintiff being stomped and kicked by two in-mates into a metal steam heater Loctaed in the Intitution Hallway while in The State of Ohio's custody, neither inmate was charged with assault, covert/retalitation act. From; The State of Ohio Staff and Officals for My being one of key person's, collecting documentation, concerning Medical Mal. Neg. issues, H.I.V./meds. the corrective surgery would relieve Plaintiff from; his excruciating (TMJ) jaw joint dysfunction Pain, that he has been diagnosis with this was a result From; the two inmates attack and EMS, rushed To; The Hospital Plaintiff was gathering documentation on, the physician on staff BOTCHED the procudure

performed @ (O.S.U.) while incarcerated in The State of Ohio's custody, This information is contained in said brief on Appeal, That was Filed In The Tenth dist. Court of Appeal by Atty. J.S.Wells, [www.supremecourt.gov](http://www.supremecourt.gov) Doc. case No. 04-8475 In The United States Supreme Courts Archives. Plaintiff-Appellant, Michael A. Kelley Jr. v. Reginald A. Wilkinson, Director of Ohio Dept. Rehabilitation and Correction et. al, & Ohio State Univeristy Medical Center Hospital, infectious disease Clinic concerning H.I.V./meds. ect. & Class action case No. C-1-03-704

also, R.C. 3721.17 claims that arise out of the medical diagnosis, care, or teartment. Injunction To; Defendant-Appellee, Gerth, who was negligent in failing to exerise the knowlegdge skill and abilitily posessed by members of the legal profession I have suffered injuries damages as a direct result of said negligence Plaintiff-Appellant, Also, Allege that defendant-appellee, Gerth, deliberatley or with reckless indifference failed to meet the statute dead-Line knowing prefectly well the date of his Tel.con. call To; Plaintiff-Appellant, The grievance doc. had expired from; Aetna Better Health of Ohio, June 9th 2016

Also, 42, U.S.C. 1396 et. seq. 42 U.S.C. U.S. code unannotated Title 42, The Public Health and welfare 1396 Medicaid access-commission. (in reference To; Ohio Medicaid's Third Time denial via Processing claims Dept.)

Plaintiff-Appellant, was accused of filing frivolous claims. Part {PLRA} Which amended 28, U.S.C. 1915 and failure to state a claim upon which relief could be granted, (NONE) of Plaintiff-Appellant's Pro-Se, In-Forma Pauperis, Case's have been, frivolous, Malicious, or failed To; state a claim upon which releif could be granted. These case 's have been (LISTED) In Pititioner's Statement of The Case; with case numbers and are self Explanatory.

Cain v. Commonwealth Virginia 928, F. Supp. 1132, 1136, E.D. Va. 1997

Which brings me Too, the last Two cases Pro-se filed in The Tenth Dist. Court of Appeals, Ohio case No. 18-AP-000487 This case was Plaintiff's Attempt To; Appeal The Lower courts ruling/decision upon case No. 17-CV-005235 (de-novo) Legal-Mal. with No {ALj} T[rail] hearing, 56(c) summary judgment In Full for defendent,

And Ohio Supreme Court case No. 2018-1724 Notice of Appeal and memorandum In support of Jurisdiction, Also, Appeal reconsideration declining jurisdiction denied.

These are Petitioner Michael A. Kelley Jr. reason seeking writ certiorari. Asking The United States Supreme Court To; Review The cases that are with-in Jurisdiction 28, U.S.C. 1254(1) within the statute, Date of last Court, Ruling/Decision, (April 17th 2019) Ohio Supreme Court case No. 2018-1724 (within 90 day statute). Appendix (c)

## CONCLUSION

There is only but one conclusion and Hopefully, that will be unanimous concerning The way This Petitioner's cases Pro-se, In Forma Pauperis, and via Licensed Attorney's filings have been treated, Part {PLRA} which amended 28, U.S.C. 1915 while in the State of Ohio's custody and since my release.

The Petition for writ certiorari should be granted.

Respectfully submitted,

Michael Kelly

Date: July 8<sup>th</sup> 2019