

RESOLUTION AUTHORIZING AN APPLICATION TO THE COURT OF COMMON PLEAS FOR CONSIDERATION AND AUTHORIZATION TO RETAIN THE SERVICES OF SPECIAL COUNSEL, MANSOUR GAVIN, LPA TO REPRESENT THE ASHTABULA COUNTY BOARD OF ELECTIONS IN A CHALLENGE OF RIGHT TO VOTE AND CORRECTION OF REGISTRATION LIST REGARDING THE ASHTABULA COUNTY PROSECUTING ATTORNEY, COLLEEN O'TOOLE

WHEREAS, on October 3, 2023, the Board of County Commissioners of Ashtabula County (the Board) received a request from the Ashtabula County Board of Elections (the BOE) to make joint application to the Ashtabula Court of Common Pleas (Court) with the Ashtabula County Prosecuting Attorney (Prosecutor) to authorize the Board to employ outside legal counsel to represent the BOE in the BOE's receipt of Form 257, Challenge of Right To Vote and Correction of Registration List which challenges the elector status of the Prosecutor (the Matter) (a copy of the BOE's request is attached hereto and incorporated herein by reference as Attachment 1); and

WHEREAS, Ohio Revised Code Section 305.14(A) authorizes the Court, upon joint application of the Board and the Prosecutor, to employ legal counsel to assist the Prosecutor, the Board, or any other county officer in matters;

WHEREAS, on October 3, 2023, the Prosecutor did not respond by the informed deadline of 2:00 p.m. as to whether or not she consents to the joint application; and

WHEREAS, because the Prosecutor has an inherent conflict in representing the BOE in the Matter of which the Prosecutor is the subject, the Board seeks consideration and authorization from the Court to employ separate legal counsel for the BOE to represent the BOE in the Matter; and

WHEREAS, the Board, on its own, requests the Court consider the Board's application and authorize the Board to employ outside legal counsel to the BOE to represent it in the Matter; and

WHEREAS, the Board desires to retain the services of Mansour Gavin, LPA to represent the BOE in this Matter at a cost **not to exceed \$2,500.00**.

NOW THEREFORE, BE IT RESOLVED, By the Board of Commissioners of Ashtabula County, Ohio, that an application to the Ashtabula County Court of Common Pleas for authorization to contract with outside legal counsel to provide legal services for the for the Ashtabula County Board of Elections in the Matter, as further outlined above. The cost of same shall be borne by Ashtabula County.

**ASHTABULA COUNTY COMMISSIONERS
CERTIFICATION PAGE**

Resolution No. 2023-499

October 03, 2023

RESOLUTION AUTHORIZING AN APPLICATION TO THE COURT OF COMMON PLEAS FOR CONSIDERATION AND AUTHORIZATION TO RETAIN THE SERVICES OF SPECIAL COUNSEL, MANSOUR GAVIN, LPA TO REPRESENT THE ASHTABULA COUNTY BOARD OF ELECTIONS IN A CHALLENGE OF RIGHT TO VOTE AND CORRECTION OF REGISTRATION LIST CHALLENGING THE ELECTOR STATUS OF ASHTABULA COUNTY PROSECUTING ATTORNEY, COLLEEN O'TOOLE.

Upon the motion of J.P. Ducro IV, seconded by Kathryn L. Whittington.

VOTE:

Casey R. Kozlowski	Aye
Kathryn L. Whittington	Aye
J.P. Ducro IV	Aye

CERTIFICATE OF CLERK

IT IS HEREBY CERTIFIED that the foregoing is a true and correct transcript of a resolution acted upon and duly passed by the Board of County Commissioners of Ashtabula County, Ohio, on the date noted above.



Lisa Hawkins, Clerk of the Board
Board of County Commissioners
Ashtabula County, Ohio



ASHTABULA COUNTY BOARD OF ELECTIONS

CHARLIE FRYE, Director
JOHN MEAD, Deputy Director

8 W. Walnut St., Jefferson, OH 44047
Phone: (440) 576-6915 | Fax: (440) 576-1445
E-mail: ashtabul@ohiosos.gov
Website: boe.ohio.gov/ashtabula

Dear Ashtabula County Prosecutor Colleen O'Toole,

CC:

Ashtabula County Commissioners Casey Kozlowski, JP Ducro and Kathryn Whittington

Ashtabula County Court of Common Pleas Administrative Judge Thomas Harris

Lisa Hawkins, Clerk of the Board

We have received this morning a Form 257, Challenge of Right to Vote and Correction of Registration List challenging Prosecutor Colleen O'Toole's status as a qualified elector. By statute we must have a hearing on this matter within 10 days of the challenge being filed (ORC 3503.24). What also complicates this issue is that next week we start early voting for the November election with voter registration closing on October 10th at 9pm. In addition, Monday is a holiday with our office being closed. We have a limited time line to meet our statutory requirements according to our election calendar as well as meeting our requirements of a hearing regarding this issue.

With this said, ORC 309.09 states the prosecuting attorney shall be the legal advisor for the Board of Elections. However, this voter challenge has been filed against Prosecutor Colleen O'Toole. This obviously sets up a conflict of interest in the prosecutor's office ability to represent the Board of Elections. We would request of the Prosecutor; County Commissioners and the Administrative Judge of the Common Pleas Court allow the Board of Elections the narrow ability to hire outside legal counsel for the express purpose of representing the Board of Elections on this issue and any issues that might rise due to the hearing (ORC 305.14). We would like to use Mansour Gavin / LPA to represent the board as we have used them in the past and have a comfort level with their representation. We do not anticipate cost to exceed \$2500 for this firm to help our board address this matter.

An expedited response from the prosecutor and commissioners would be greatly appreciated concerning this matter.

Respectfully,

Charlie Frye, Director

John Mead, Deputy Director

COPY

IN THE COURT OF COMMON PLEAS
ASHTABULA COUNTY, OHIO

In Re: Application to rescind appointment)
of Mansour Gavin LPA)
Counsel for the Ashtabula)
County Board of Elections)

CASE NO. 2023-MD 173

JUDGE THOMAS E. HARRIS
Administrative Judge

ORDER

FILED

2023 OCT -5 PM 5:08

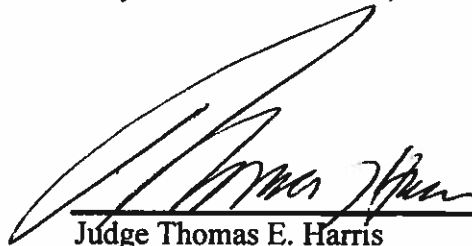
PAUL DANIELS
CLERK OF COURTS
COMMON PLEAS COURT
ASHTABULA, OH

The Court finds that the Board of Commissioners of Ashtabula County have passed a resolution to rescind the appointment of Mansour Gavin LPA to advise and represent the Ashtabula County Board of Elections in all matters involving the challenge of the residency and voter status of Colleen M. O’Toole, who currently holds the office of Ashtabula County Prosecutor.

The application filed by the Board of Commissioners of Ashtabula County to rescind the appointment of Mansour Gavin LPA to represent and advise the Ashtabula County Board of Elections in all matters involving the challenge to the residency and voter status of Colleen M. O’Toole is **GRANTED**.

IT IS SO ORDERED.

Pursuant to Civil Rule 58(B), the Clerk of this Court is directed to serve notice of this judgment and its date of entry in the journal upon the following: Prosecuting Attorney Colleen M. O’Toole; Commissioner Casey R. Kozlowski; Commissioner Kathryn L. Whittington; Commissioner J.P. Ducro, IV; Ashtabula County Board of Elections; Mansour Gavin LPA; and, Curt Hartman.



Judge Thomas E. Harris

Administrative Judge

**ASHTABULA COUNTY COMMISSIONERS
CERTIFICATION PAGE**

Resolution No. 2023-500

October 05, 2023

RESOLUTION RESCINDING RESOLUTION NUMBER 2023-499 AUTHORIZING AN APPLICATION TO THE COURT OF COMMON PLEAS FOR CONSIDERATION AND AUTHORIZATION TO RETAIN THE SERVICES OF SPECIAL COUNSEL, MANSOUR GAVIN, LPA TO REPRESENT THE ASHTABULA COUNTY BOARD OF ELECTIONS IN A CHALLENGE OF RIGHT TO VOTE AND CORRECTION OF REGISTRATION LIST REGARDING THE ASHTABULA COUNTY PROSECUTING ATTORNEY, COLLEEN O'TOOLE

Upon the motion of Kathryn L. Whittington, seconded by J.P. Ducro IV.

VOTE:

**Casey R. Kozlowski
Kathryn L. Whittington
J.P. Ducro IV**

**Aye
Aye
Aye**

CERTIFICATE OF CLERK

IT IS HEREBY CERTIFIED that the foregoing is a true and correct transcript of a resolution acted upon and duly passed by the Board of County Commissioners of Ashtabula County, Ohio, on the date noted above.



Lisa Hawkins, Clerk of the Board
Board of County Commissioners
Ashtabula County, Ohio

RESOLUTION RESCINDING RESOLUTION NUMBER 2023-499 AUTHORIZING AN APPLICATION TO THE COURT OF COMMON PLEAS FOR CONSIDERATION AND AUTHORIZATION TO RETAIN THE SERVICES OF SPECIAL COUNSEL, MANSOUR GAVIN, LPA TO REPRESENT THE ASHTABULA COUNTY BOARD OF ELECTIONS IN A CHALLENGE OF RIGHT TO VOTE AND CORRECTION OF REGISTRATION LIST REGARDING THE ASHTABULA COUNTY PROSECUTING ATTORNEY, COLLEEN O'TOOLE

WHEREAS, on October 3, 2023, the Board of County Commissioners of Ashtabula County (the Board) received a request from the Ashtabula County Board of Elections (the BOE) to make joint application to the Ashtabula Court of Common Pleas (Court) with the Ashtabula County Prosecuting Attorney (Prosecutor) to authorize the Board to employ outside legal counsel to represent the BOE in the BOE's receipt of Form 257, Challenge of Right To Vote and Correction of Registration List which challenges the elector status of the Prosecutor (the Matter); and

WHEREAS, a communication has since been received from the Board of Elections Director Charlie Frye and Deputy Director John Mead stating Mansour Gavin has decided not to continue as legal representation concerning the matter; and

WHEREAS, it is now necessary to rescind Resolution Number 2023-499 due to this withdrawal of representation; now

THEREFORE, BE IT RESOLVED, By the Board of Commissioners of Ashtabula County, Ohio, that Resolution Number 2023-499 adopted on October 3, 2023 is hereby declared rescinded.

FILED
2023 OCT -5 PM 5:08
JL DANIELS
CLERK OF COURTS
COMMON PLEAS COURT
ASHTABULA CO OH

COPY

2023MD173

IN THE COURT OF COMMON PLEAS
ASHTABULA COUNTY, OHIO

FILED

2023 OCT -3 PM 3:32

APRIL DANIELS
CLERK OF COURTS
COMMON PLEAS COURT
ASHTABULA CO OH

IN RE: APPLICATION FOR
EMPLOYMENT OF COUNSEL)

)
) **CASE NO.**
)
) **JUDGE**

) **APPLICATION FOR AUTHORITY TO**
) **EMPLOY SEPARATE LEGAL COUNSEL**
) **TO REPRESENT THE ASHTABULA**
) **COUNTY BOARD OF ELECTIONS**

Now comes the Ashtabula County Board of Commissioners ("Board") pursuant to R.C. 305.14 and hereby moves this Court for an Order authorizing the Board to retain the legal services of Mansour Gavin, LPA to represent the Ashtabula County Board of Elections ("BOE") pursuant to the BOE's request in the matter of the receipt of Form 257, Challenge of Right to Vote and Correction of Registration List (the "Matter") pending before the BOE of which the Ashtabula County Prosecuting Attorney is the subject. A copy of the BOE's request is attached hereto and incorporated herein by reference as **Exhibit 1**. Due to the inherent conflict that exists, the Ashtabula County Prosecuting Attorney cannot represent the BOE in this Matter.

Attached as **Exhibit 2** is Resolution No. 2023-499 passed by the Board of Commissioners on October 3, 2023 authorizing the filing of this Application.

BOARD OF COUNTY COMMISSIONERS


Casey Kozlowski, President


Kathryn Whittington


J.P. Ducro IV

COPY

**IN THE COURT OF COMMON PLEAS
ASHTABULA COUNTY, OHIO**

In Re: Application to appoint
Mansour Gavin LPA
Counsel for the Ashtabula
County Board of Elections

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CASE NO. 2023-MD

173

JUDGE THOMAS E. HARRIS
Administrative Judge

ORDER

ARIL DANIELS
CLERK OF COURTS
COMMON PLEAS COURT
ASHTABULA CO OH

2023 OCT -3 PM 3:36

FILED

The Court finds that the Board of Commissioners of Ashtabula County have passed a resolution, pursuant to Ohio Revised Code Section 305.14, to appoint the law firm of Mansour Gavin LPA to advise and represent the Ashtabula County Board of Elections in all matters involving the challenge of the residency and voter status of Colleen M. O'Toole, who currently holds the office of Ashtabula County Prosecutor.

The Court finds that, on its face, Colleen M. O'Toole has a conflict of interest because she is the respondent to the challenge filed with the Ashtabula County Board of Elections, and she cannot ethically serve as legal counsel for the Ashtabula County Board of Elections and simultaneously be the respondent to a challenge filed regarding her residency and voter status.

The Board of Commissioners of Ashtabula County has a clear legal duty, pursuant to Ohio Revised Code Section 305.14 and *State ex rel. Trumbull Cty. Bd. of Elections v. Trumbull Cty. Bd. of Commrs.*, 11th Dist. Trumbull No. 2009 TR 85, 2010-Ohio-2281, to provide the Ashtabula County Board of Elections with separate legal counsel. The Ashtabula County Board of Elections has a duty to conduct a hearing within ten (10) days, pursuant to Ohio Revised Code Section 3503.24, so time is of the essence.

The application filed by the Board of Commissioners of Ashtabula County to appoint the law firm of Mansour Gavin LPA to represent and advise the Ashtabula County Board of Elections

in all matters involving the challenge to the residency and voter status of Colleen M. O'Toole is
GRANTED.

IT IS SO ORDERED.

Pursuant to Civil Rule 58(B), the Clerk of this Court is directed to serve notice of this judgment and its date of entry in the journal upon the following: Prosecuting Attorney Colleen M. O'Toole; Commissioner Casey R. Kozlowski; Commissioner Kathryn L. Whittington; Commissioner J.P. Ducro, IV; Ashtabula County Board of Elections; and, Mansour Gavin LPA.

A handwritten signature in black ink, appearing to read "Thomas E. Harris", written over a horizontal line.

Judge Thomas E. Harris

Administrative Judge