

MEMORANDUM IN SUPPORT

The State of Ohio hereby respectfully requests permission to intervene in this case in order to protect the constitutionality of Ohio Rev. Code §3505.20.

The Attorney General is the “chief law officer for the state and all its departments...” Ohio Rev. Code § 109.02. In Ohio, the Attorney General is the final authority for any settlement of any legal proceeding. The Attorney General protects the interests of the State itself. *See, State ex rel. Little v. Dayton & Southwestern Railroad Co*, 36 Ohio St. 434, 1881 LEXIS 215 (1881).

Fed. R. Civ. P. 24(a) allows intervention as of right when a federal statute grants such an unconditional right of intervention or when the movant claims an in the action that the litigation may impair or impede the applicant’s ability to protect that interest. Under 28 U.S.C. §2403, the State of Ohio has such an unconditional right of intervention. Similarly, a decision that an Ohio statute violates the federal constitution most certainly impairs or impedes the State’s unarguable interest to protect its own laws. Therefore, this Court should grant the State’s motion to intervene as of right.

Fed. R. Civ. P. 24(b) permits the State to intervene if any party to an action relies upon a state statute. In this case, the Plaintiffs seek an order from this Court declaring Ohio Rev. Code §3505.20 to be unconstitutional. Therefore, the State of Ohio requests to intervene in order to defend that statute.

For the foregoing reasons, the State of Ohio respectfully requests an order allowing it, through the Ohio Attorney General, to intervene in this case.

Respectfully submitted,

JIM PETRO
Attorney General

/s/Arthur J. Marziale, Jr.

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Certificate of Service

This is to certify a copy of the foregoing was served by means of the Court's electronic filing system this 29th day of October, 2004.

/s/ Arthur J. Marziale, Jr.

Arthur J. Marziale, Jr.

Assistant Attorney General