

STATE OF INDIANA

IN THE DELAWARE CIRCUIT COURT NO. 1

SS

DELAWARE COUNTY

CAUSE NO: 18C01-2001-PL-_____

STATE OF INDIANA ex rel.
BRIAN STEPHENS-HOTOPP

Plaintiff,

vs.

MICHAEL R. CLINE; WILLIAM B. SMITH;
JOSEPH EVANS

Defendants.

**INFORMATION REGARDING THE OFFICE OF COMMISSIONER OF THE BOARD
OF SANITARY COMMISSIONERS OF THE MUNCIE SANITARY DISTRICT**

Plaintiff, State of Indiana on relation of Brian Stephens-Hotopp ("Relator"), pursuant to Indiana Code 34-17, presents the following statement of facts as grounds for this proceeding:

1. Brian Stephens-Hotopp is an Indiana registered professional engineer.
2. Dan Ridenour is the Mayor of the City of Muncie, Indiana.
3. The Muncie Sanitary District was created by Ordinance 1636 adopted by the Common Council of the City of Muncie and approved by its Mayor on June 2, 1964.
4. The Muncie Sanitary District is governed by and under the control of a board of three commissioners, known as the Board of Sanitary Commissioners, two of whom are appointed by the mayor of Muncie and the third who is the city civil engineer of Muncie, a member by virtue of his office.
5. Mayor Ridenour has appointed Brian Stephens-Hotopp as the city civil engineer of the City of Muncie pursuant to Indiana Code 36-4-9-6.

6. Defendant, Michael R. Cline, has served a member of the Board of Sanitary Commissioners prior to the appointment of Brian Stephens-Hotopp as the city civil engineer of the City of Muncie.

7. Michael R. Cline is an Indiana registered professional engineer. Upon information and belief, Michael Cline served as the city civil engineer under the prior city administration of the City of Muncie, which ended on December 31, 2019. Attached as Exhibit A hereto and made a part hereof is a screenshot from the Muncie Sanitary District website taken January 15, 2020, in which Michael R. Cline is identified as the "Muncie City Engineer".

8. Pursuant to the Ordinance creating the Muncie Sanitary District and Indiana Code 36-9-25-3, Brian Stephens-Hotopp, by virtue of his office as city civil engineer, is entitled to the office as a commissioner of the Board of Sanitary Commissioners of the Muncie Sanitary District.

9. On January 15, 2020, Mayor Ridenour delivered a letter to Michael R. Cline informing him that Brian Stephens-Hotopp would replace him as a commissioner on the Board of Sanitary Commissioners. A true and correct copy of the letter is attached hereto and made a part hereof as Exhibit B.

10. Michael Cline has failed and refused to yield his position as a commissioner to Brian Stephens-Hotopp. He has asserted that he was not the city civil engineer of the City of Muncie.

11. Notwithstanding if Michael R. Cline, was not serving on the Board of Sanitary Commissioners as the city civil engineer, Brian Stephens-Hotopp is entitled by law to serve on such Board. Defendants, William B. Smith and Joseph Evans, are currently serving as the

mayor's appointments to the Board of Sanitary Commissioners. Brian Stephens-Hotopp would replace one of the three current members of the Board in order to serve on the Board as required by law.

12. Brian Stephens-Hotopp claims an interest in the office of commissioner on the Board of Sanitary Commissioners by virtue of his appointment as city civil engineer of the City of Muncie and Indiana Code 36-9-25-3 (b).

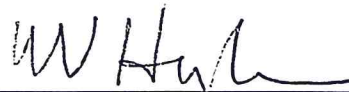
13. Michael Cline or William B. Smith or Joseph Evans has usurped, intruded upon and unlawfully holds and exercises the public office of commissioner on the Board of Sanitary Commissioners of the Muncie Sanitary District.

WHEREFORE, Plaintiff, State of Indiana on relation of Brian Stephens-Hotopp, respectfully requests judgment in favor of the Relator, that Brian Stephens-Hotopp shall proceed to exercise the functions of the office of commissioner on the Board of Sanitary Commissioners of the Muncie Sanitary District and that Michael Cline or William B. Smith or Joseph Evans is not entitled to hold that office, that Michael Cline or William B. Smith or Joseph Evans deliver all records within his custody or power belonging to that office to Brian Stephens-Hotopp.

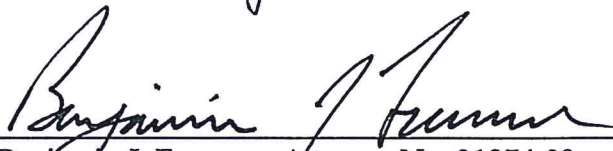
I affirm, under the penalties for perjury, that the foregoing representations are true.


Brian Stephens-Hotopp

BEASLEY & GILKISON LLP



William V. Hughes, Attorney No. 7878-18



Benjamin J. Freeman, Attorney No. 31974-38
Attorneys for Plaintiff

110 E. Charles St.
P.O. Box 1648
Muncie, IN 47308
Telephone: (765) 289-0661
Facsimile: (765) 282-4966
Attorneys for Relator



Muncie
SANITARY DISTRICT



Mike Cline

Mike Cline
Board Member



Mike Cline is the Board Vice President. He is a professional engineer and has been designated as the Muncie City Engineer. Mike graduated from Ohio State in 1976 with a Bachelor of Science degree in Civil Engineering and specializes in water, wastewater and stormwater engineering. He spent almost two years as the Construction Inspection Engineer at the Muncie Wastewater Treatment plant in the early 1980's. Mike and his wife Judy recently



CITY OF MUNCIE

300 North High Street • Muncie, Indiana 47305
www.cityofmuncie.com • Phone: (765) 747-4845

Michael Cline
300 N. High St.
Muncie, IN 47305

January 14, 2020

Dear Michael:

Your position as City Civil Engineer and, by virtue of that office, member of the Board of Sanitary Commissioners of the Muncie Sanitary District are appointed positions of the Mayor of the City of Muncie. The mayor's new appointments began as of January 1, 2020. Your last date of employment and service to this board was December 31, 2019.

We thank you for your service to the City of Muncie. You are directed to contact the City Human Resources Department to be informed of your City benefit status.

Sincerely,

Dan Ridenour
Mayor of the City of Muncie

CC: Human Resources, City of Muncie Controller, Beasley & Gilkison LLP

Sincerely,

Dan Ridenour
Mayor of the City of Muncie