STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Lauri L. Daroczy, *et al.*

Appellants

Case Nos. 09-RMD-02-0086 *et al.*
(See attached list)

v.

Cuyahoga County Board of Commissioners

Appellee.

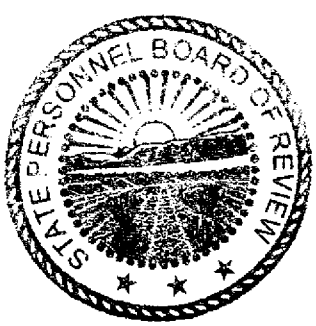
ORDER

This matter came on for consideration upon the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

Appellee filed a Motion for Extension of Time to File Response to Appellant's Objections on May 10, 2010. Such Motion is hereby **GRANTED**.

Having reviewed the Report and Recommendation of the Administrative Law Judge, along with any objections and response to objections to that report which have been timely and properly filed, as well as the entirety of the record, the Board Members adopt the findings and recommendation of the Administrative Law Judge as further elaborated in the attached Opinion.

Wherefore, it is hereby **ORDERED** that these cases be **DISMISSED** as there has been no finding of a reduction in pay of the Appellants' salaries pursuant to section 124.03 of the Ohio Revised Code and administrative rule 124-1-02 of the Ohio Administrative Code.



Lumpe – Aye
Sfalcin – Aye
Tillery – Not Participating

J. Richard Lumpe, *Chairman*

CERTIFICATION

The State of Ohio, State Personnel Board of Review, ss:

I, the undersigned clerk of the State Personnel Board of Review, hereby certify that this document and any attachment thereto constitute (the original/a true copy of the original) order or resolution of the State Personnel Board of Review as entered upon the Board's Journal, a copy of which has been forwarded to the parties this date, June 4, 2010.

Michelle Hussey
Clerk

NOTE: *Please see the reverse side of this Order* ***or*** *the attachment to this Order for information regarding your appeal rights.*

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Lauri L. Daroczy, *et al.*

Appellant

Case Nos. 09-RMD-02-0086 *et al.*
(See attached list)

v.

Cuyahoga County Board of Commissioners

Appellee

OPINION

The record in this case is abundantly clear, and there is no dispute between the parties, that the actions taken by the Appellee on December 25, 2005, did not result in a reduction of pay for any Appellant, as that term is defined under this Board's administrative rule 124-1-02 of the Ohio Administrative Code. Appellants' state in their objections that "Appellants have conceded since the filing of these appeals that each of them received **a net pay rate increase** from 2005 to 2006."

Appellants argue that upon remand of these cases, the Court required this Board to determine what would have happened to the Appellants' salaries if the Appellee did not take the actions it did in December 2005 with regard to the pay of the Appellants. Appellants quote the paragraph in the remand decision that states:

> While the Commissioners argue that the employees all received a salary increase, the evidence does not indicate whether that increase was less than, equal to or greater than the increase the employees would have received without the step change. Therefore, from this evidence, neither we nor the trial court could determine whether the lower step assignments involved a 'reduction in pay' for purposes of R.C. 124.03 and SPBR jurisdiction. (Paragraph 24 Cuyahoga County Brd. of Comm'rs v. Daroczy, et al., (10th Dist. Ct. App. October 28, 2008), Case No. 08AP-123,2008 Ohio 5564.)

This Board cannot presume the actions an appointing authority would have taken if an action that occurred, did not. There is no crystal ball to predict what would have happened and there is no evidence from the Appellee stating what they would have done if they did not take the actions they did. There is evidence in the record that the Appellee sent a letter to all county officials stating it ". . . did not have the financial resources to implement the new pay table and keep employees assigned to their current steps." From that statement, it can be inferred that the Appellee, if they did not implement the changes they did in the Appellants' salaries, would have taken some other action, but there is absolutely no way for this Board to determine what that action would have been nor could this Board determine if that action would benefit or reduce the Appellants' rate of pay. The Court's language quoted above presumes the Appellants would have received an increase without the step change, but the Court cannot presume that. The Appellee could have taken the same action that the State has taken to freeze employees' step increases for a period of two years, thereby giving no increase to the Appellants. The Appellee

could have taken a myriad of actions, such as instituting job abolishments, layoffs, furloughs, etc., none of which would have given any increase in pay to the Appellants.

The only evidence this Board can base its decision on is the reality of what actually happened and to make a determination as to if that resulted in a reduction of pay to the Appellants under this Board's definition of "reduction in pay". Clearly, there has been no reduction in pay suffered by any Appellant, as all Appellant's received an increase in their pay.

J. Richard Lumpe, *Chairman*

CUYAHOGA COUNTY BOARD OF COMMISSIONERS REMAND CASE NUMBERS

NAME	CASE NO.	ATTORNEYS
Lauri L. Daroczy	09-RMD-02-0086	John W. Herbert and Marc E. Myers
James J. Downing	09-RMD-02-0087	"
Leslie Goggins	09-RMD-02-0088	"
Robert E. Matyjasik	09-RMD-02-0089	"
Richard E. Sarosi	09-RMD-02-0090	"
Richard J. Slosar	09-RMD-02-0091	"
Beth Zone	09-RMD-02-0092	"
Brenda W. Frazier	09-RMD-02-0093	"
Gaylon T. Fletcher	09-RMD-02-0094	"
Dawn Dryer	09-RMD-02-0095	pro se
Steven A. Payne	09-RMD-02-0096	pro se
Janine Babik	09-RMD-02-0097	John W. Herbert and Marc E. Myers
Victoria McManus	09-RMD-02-0098	"
Diana Callahan	09-RMD-02-0099	"
Judith A. Seman	09-RMD-02-0100	"
Ruby D. Ellis	09-RMD-02-0101	"
Jeannette L. Mason	09-RMD-02-0102	"
Desiree Mines	09-RMD-02-0103	"
Rita Carey	09-RMD-02-0104	"
John P. Fitzmaurice	09-RMD-02-0105	"
Maxine G. Nunn	09-RMD-02-0106	"
Tracy Buchheit	09-RMD-02-0107	pro se
Mary J. Coleman	09-RMD-02-0108	John W. Herbert and Marc E. Myers
Jillann T. Dzuban	09-RMD-02-0109	"
Diane M. Elting	09-RMD-02-0110	"
Michael R. Falatach	09-RMD-02-0111	"
Eric Furst	09-RMD-02-0112	"

CUYAHOGA COUNTY BOARD OF COMMISSIONERS REMAND CASE NUMBERS

NAME	CASE NO.	ATTORNEYS
Tammie M. Greer	09-RMD-02-0113	John W. Herbert and Marc E. Myers
Mary M. Gromek	09-RMD-02-0114	"
Christine A. Hearns	09-RMD-02-0115	"
Deborah Hood	09-RMD-02-0116	"
Janice Leone	09-RMD-02-0117	"
Veronica L. Love	09-RMD-02-0118	"
Janis Nosan	09-RMD-02-0119	"
Joann Ohmura	09-RMD-02-0120	"
Marilyn Ospelt	09-RMD-02-0121	"
Linda Rodriguez	09-RMD-02-0122	"
Cresta L. Short	09-RMD-02-0123	"
Amy Slezak	09-RMD-02-0124	"
Janice St. John	09-RMD-02-0125	"
Cynthia D. Ward	09-RMD-02-0126	"
Richard L. Weiler	09-RMD-02-0127	"
Veronica Woods	09-RMD-02-0128	"
Wendy Jones	09-RMD-02-0129	"
Stefanie M. Henderson	09-RMD-02-0130	"
Lisa Stevens-Cutner	09-RMD-02-0131	"
Jeanne Harvan	09-RMD-02-0132	"
Mary L. Boone	09-RMD-02-0133	"
Andrea Hampton	09-RMD-02-0134	"
Vikki L. Csornok	09-RMD-02-0135	"
Andrea Ginter	09-RMD-02-0136	"