



MAT HECK, JR.
PROSECUTING ATTORNEY

Montgomery County, Ohio
(937) 225-5757
info@mcpo.com

FOR IMMEDIATE RELEASE

Prosecutor Files Writ of Mandamus in Supreme Court

State of Ohio, Ex Rel, Mathias H. Heck, Jr. v. Ohio Public Employment Retirement System, 2018-1034

State of Ohio, Ex Rel, Russell M. Joseph v. Ohio Public Employment Retirement System, 2018-1035

DAYTON, OH (7/24/2018) – Prosecuting Attorney Mat Heck, Jr. announced today the filing of two Complaints for Writs of Mandamus in the Supreme Court of Ohio against the Ohio Public Employment Retirement System (OPERS). The writs were filed on behalf of the Montgomery County Prosecuting Attorney’s office, the Montgomery County Auditor’s office, the Montgomery County Public Defender’s office, the Montgomery County Board of Elections, the Montgomery County Engineer’s office, the Montgomery County Clerk of Courts, the Montgomery County Municipal Courts, and the employees employed by those offices.

At issue is the unequal treatment of county employees relating to what is classified as ‘Earnable Salary’ on which funds are paid into OPERS for employee retirement pensions. Under Ohio law, county public employees are enrolled into the OPERS retirement system and as such, do not participate in Social Security.

Over the past several years, the various county offices have paid the employees part of their compensation through a lump sum payment near the end of the year, dependent upon the county office’s budget savings throughout the year. These funds are instead of higher hourly rates paid throughout the year and are based on merit or to reward longevity of service. The OPERS has improperly excluded the lump sum compensation payments from the calculation of the total ‘earnable salary’ paid to some employees, but not all employees. For some employees, the OPERS has accepted the lump sum compensation payments as being part of the total ‘earnable salary’ but has excluded it for others. The distinction between when it is or is not accepted is arbitrary. The OPERS has provided no basis or explanation for the disparate determinations.

The Writs filed today ask the Supreme Court of Ohio to compel the OPERS to properly designate all compensation as earnable salary, and to accept the employee and employer contributions to the OPERS fund.

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