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September 15, 2021

Settlement Communication pursuant to Evidence Rule 408

Attorney General David Yost
Rhodes Tower
Columbus, OH 43215
Attention: Julie Pfeiffer
Via email julie.pfeiffer@ohioago.gov

Re: Our clients Candy Bowling, Shawnee Huff, David Willis, Sebastian Nash, Zachary Dunn, James Parker, Sarah Russell, and the putative Class of Ohioans eligible to receive Federal Pandemic Unemployment Benefits (“FPUC Benefits”)

Dear General Yost:

We write today to supplement our letter of September 3, 2021. We have received additional information that should make it easier for the Governor and Director of ODJFS to reconsider the possibility of agreeing to revoke the governor’s ultra vires decline of FPUC benefits from July 1 through September 6.

Attached please find a copy of an email that was sent to and received by ODJFS from the United States Department of Labor. In the attached email the Department of Labor indicates its willingness to accept a decision by a state governor to rescind the decision to decline benefits and sets modest requirements for the implementation of such a rescission.

This would mean the Governor could follow the law as enumerated in the 10th District Opinion and the state would be completely indemnified by the Federal Government for the payment of the benefit in question in the pending litigation. Should the Federal Government’s position change in the future and should we be successful in our efforts on behalf of our clients the State of Ohio would be at risk for potentially up to \$900 Million.

Sincerely,

Marc Dann