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IN THE COURT OF COMMON PLEAS
MAHONING COUNTY, OHIO

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State of Ohio,

Plaintiffs,

v.

Anthony M. Cafaro, Sr., *et al.*,

Defendants.

) Case No. 2010 CR 00800

) Judge William H. Wolff, Jr.

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JOINT MOTION OF DEFENDANTS ANTHONY M. CAFARO, SR., FLORA CAFARO, THE CAFARO COMPANY, OHIO VALLEY MALL COMPANY, AND THE MARION PLAZA, INC. SEEKING THE COURT'S ACTION TO ADDRESS APPARENT VIOLATIONS OF GRAND JURY SECRECY

Now come Defendants Anthony M. Cafaro, Sr., Flora Cafaro, The Cafaro Company, Ohio Valley Mall Company, and The Marion Plaza, Inc. (collectively "the Defendants"), by and through the undersigned counsel, and respectfully request intervention by this Court in addressing apparent violations of grand jury secrecy. The order is necessary because of the apparent actions of a grand juror in publicly disclosing matters occurring before the grand jury to *The Vindicator* newspaper and the resulting publication of that information. This Court's prompt action is necessary to protect the Defendants' Sixth Amendment right to a fair trial. A brief in support of this motion is attached.



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**BRIEF IN SUPPORT OF DEFENDANTS' JOINT MOTION SEEKING
THE COURT'S ACTION TO ADDRESS APPARENT VIOLATIONS OF
GRAND JURY SECRECY**

I. PRELIMINARY STATEMENT

The Vindicator's September 19, 2010 edition reprinted an anonymous letter identifying its writer as a grand juror that returned the Indictment in this case. That anonymous letter revealed matters occurring before the grand jury. Immediately following the letter's publication, a website comment to the article was posted by a person identified only as "ytownredux." That posting, as well as repeated other postings by "ytownredux," refers to specific information presented to the grand jury, as well as information concerning the grand jurors' deliberative process. There is strong evidence demonstrating that the author of the anonymous letter to *The Vindicator* may well be the same person identified as "ytownredux" on *The Vindicator* website.

Defendants maintain that the secrecy obligations accorded matters occurring before the grand jury has been, and may well continue to be, breached by a member of the grand jury that returned the Indictment or by a person exposed to matters presented to the grand jury. These breaches of grand jury secrecy threaten the future rights of the Defendants to a fair trial uninfluenced by prejudicial pretrial publicity. Defendants seek the intervention of the Court in addressing these violations of grand jury secrecy by undertaking the targeted inquiries as set forth below in the Requested Relief portion of this brief.

II. STATEMENT OF KNOWN FACTS

A. Grand Juror's Letter to the Media

The September 19th edition of *The Vindicator* contained an editorial titled: "Did special prosecutors go too far?" The editorial began with the announcement that a

reporter covering this matter for *The Vindicator* received a letter from "a member of the Oakhill Grand Jury." See "Did special prosecutors go too far" as reprinted on *The Vindicator's* website, Exhibit 1. The letter, or at least a portion of it, was quoted in the editorial page of *The Vindicator* as follows:

Dear Mr. de Souza:

Thank you for Sunday's column in *The Vindicator*. As a member of the Oakhill Grand Jury, it pains me not to be able to say anything to anyone. I just wanted you to know we did not indict a ham sandwich and that you are exactly right in your analysis. Please keep hitting this hard. I am so afraid that what we did will end up going no where and get lost in "politics as usual" in the Mahoning Valley. We were ordinary people appalled at what undue influence cost the citizens of Mahoning County. Please keep up the good work.

Sincerely. [sic]

A juror

See Exhibit 1.

The letter of the grand juror begins with a statement noting his duty of secrecy, "it pains me not to be able to say anything to anyone[.]" and then continues by disclosing the very information he recognizes he is required by law to keep secret. The grand juror's letter was an attempt to validate the analysis contained in a previous editorial printed in the September 5th edition of *The Vindicator* titled: "Oakhill is not on trial."

The "Oakhill is not on trial" editorial predicted "[h]ow this enterprise operated will be laid out in detail . . . when evidence is presented through discovery" based on the following sentence contained in the bill of particulars pertaining to the charges against Flora Cafaro and Martin Yavorcik: "[t]his is not the first time Anthony Cafaro or other members of the Enterprise [have] made clandestine payments and the State

will seek to offer and introduce other acts evidence.” See “Oakhill is not on trial” as reprinted on *The Vindicator*’s website, Exhibit 2 (emphasis added). The grand juror’s letter, reprinted in the newspaper, vouches for the accuracy of the editorial’s statement that detailed evidence exists about the alleged “enterprise” and how it operated, and that this information, as well as “other acts evidence,” is what the prosecution intends to present in seeking a conviction.

The grand juror’s letter divulged the existence of such evidence that he would only have learned in his capacity as a grand juror. This evidence has not yet been ruled admissible at trial, is not public in nature, and has not been provided to the Defendants. Information presented during grand jury proceedings is not to be disclosed or commented on by a grand juror. See Ohio Crim. R. P. 6(E). An obligation recognized, yet apparently knowingly flouted by the grand juror who authored the “anonymous” letter to *The Vindicator*.

Importantly, the letter goes even further than confirming the existence of certain information. The letter specifically provides information regarding the deliberations and the vote of the grand jury. The letter, as quoted, concludes with the following statement: **“We [the grand jurors] were ordinary people appalled at what undue influence cost the citizens of Mahoning County.”** See Exhibit 1 (emphasis added). This statement pertains to the feelings and sentiment of the grand jurors during its deliberations. It implies the grand jurors’ vote to charge was not a close one, and that the grand jurors believe those indicted are guilty of the offenses charged. In addition to vouching for the existence of certain information and disclosing the grand jurors’ deliberative process, the grand juror’s letter implores future *petit* jurors to convict: **“I am so afraid that what we did will end up going no where and get lost in ‘politics as usual’ in the Mahoning**

Valley.” *Id.* (emphasis added). This demonstrates an impermissible purpose in the disclosures by the former grand juror: to support the opinions of *The Vindicator’s* deeply biased chief columnist Bertram de Souza and to rally future jurors to convict the defendants that the grand jury charged. This statement also reveals a second level of impropriety as the quotation to the phrase “politics as usual” may be a reference to specific testimony presented before the grand jury.

B. Suspected Commentary By A Grand Juror Or Individual Having Access To Matters Occurring Before The Grand Jury

The reported grand juror letter may not be the only disclosure of matters occurring before the grand jury that returned the Indictment against the Defendants. One of the anonymous internet comments written in reaction to the September 19th *The Vindicator* editorial titled: “Did special prosecutors go too far?” may have been written by the same grand juror that authored the anonymous letter appearing in the article or, if not, clearly by one of a small universe of accountable people who had direct access to the secret information presented to the grand jury. *See Exhibit 1.* The suspect comment is the 4th comment appearing after publication of the editorial on-line and done so under the internet handle “ytownredux.”

Comment 4 was written in part as a response to the first of two comments appearing in the same blog. Comment 1 questioned whether a letter from a grand juror even exists, while comment 2 noted the irony of a grand juror recognizing the secrecy obligation, yet violating it by sending a letter to the media, even if done anonymously. In response to these blog comments, comment 4 states: “**To think that a reporter would make up a letter from a [grand] juror is not impossible, but seriously misguided.**” *See Exhibit 1* (emphasis added). The author of comment 4, “ytownredux,” is intent upon

defending the very authenticity of the grand juror's letter.

Yet, defending the authenticity of the grand juror's letter is not the sole reason to suspect that the author of the grand juror letter and comment 4 are the same individual, or that the author of comment 4 was someone having access to grand jury information. Comment 4 begins with the statement: **"While I appreciate that everyone is entitled to an opinion, and DavidJohn [another internet blogger] certainly deserves his, in most of his comments about Oak Hill he has been wrong, and I would really appreciate it if he would stop until the facts come out."** See Exhibit 1 (emphasis added). This statement implies "ytownredux" is somehow different from the other commentators in that he already knows the facts, presumably because he was a grand juror or exposed to grand jury information.

Comment 4 continues: **"The Special Prosecutors wanted to make sure this was not a waste of anyone's time and presented overwhelming amounts of evidence that was taken into consideration before indictments were given."** See Exhibit 1 (emphasis added). This statement claims to know the qualitative and quantitative amounts of information actually presented to the grand jury, and that such information was considered by the grand jurors prior to voting. Only the grand jurors and individuals who were exposed to the evidence presented to the grand jurors know of the supposed **"overwhelming amounts of evidence"** presented to and considered by the grand jury. Such a representation excludes witnesses who would only know about discrete testimony or documents. This assertion reinforces the reasonable belief that the comment is attributable, alone, to either a grand juror or other individual having access to matters occurring before the grand jury.

Importantly, the grand jury that returned the Indictment in this matter was not a special grand jury considering information relating only to the Defendants. The grand jury for the term beginning January 2010 was a general grand jury receiving information on a varied number of other matters requiring presentation before a grand jury sitting in Mahoning County. The comment further implies that "ytownredux" understood the presentation of grand jury information for this matter was substantially different than other matters presented to the grand jury for the term of January 2010. For "ytownredux" to claim to know the information presented to the grand jury and that such information was considered by the grand jury during its deliberations, necessarily suggests that the author of comment 4 may have been a grand juror, or exposed to the work of the grand jurors.

The most compelling example of "ytownredux's" claimed knowledge is when he states: "[a] definition of corrupt is pretty straightforward, and while you can offer lot's of 'grey' areas, in this case there was not so much. Why don't you take a little time and read all of the transcripts from the depositions on the OakHill Case. They should provide a lot of light if you just pay attention this time." See Exhibit 1 (emphasis added). Importantly, the first portion of the comment uses the past tense, "in this case there was not so much." The only portion of this matter that has concluded is presentment to the grand jury. Accordingly, "ytownredux" is suggesting that in the case presented to the grand jury the alleged corruption was clear and did not fit into "grey areas." The second portion of the comment suggests "ytownredux" has read all the deposition transcripts from the taxpayer lawsuit filed in 2006 by Ohio Valley Mall Company against the Mahoning County Commissioners and others. Not all depositions in the Oakhill case were filed with the clerk of court or otherwise made public. However,

as the grand jury returned charges of perjury relating to several of the deposition transcripts, the grand jury necessarily was provided access to deposition transcripts and read them. If "ytownredux" in fact read civil deposition transcripts, those transcripts most reasonably would have been furnished to him in his capacity as a grand juror or as an individual participating in the presentation of information to the grand jury.

A review of earlier internet postings by "ytownredux" further supports the belief that he was a grand juror or exposed to matters occurring before the grand jury:

- **"... [A]nd yes I toured the entire Oak Hill site and saw the pictures of Garland." See comments posted by "ytownredux," Exhibit 3, at "ytownredux" comment to *The Vindicator* article titled, "Legal analysts predict long, complex court battle," August 25, 2010 at 3:10 PM (emphasis added). The grand jurors returning the Indictment in this matter were provided a tour of the Oak Hill building and accompanied by Mahoning County Deputy Gary Snyder. Also "ytownredux" asks "Have you toured Oakhill?" in a comment posted on July 31, 2010 at 10:37 AM. See Exhibit 3 at "ytownredux" comment to *The Vindicator* article titled, "Probe of Oakhill followed complex, long path" July 31, 2010 at 10:37 AM.**
- **"... but simply going from the evidence that I have seen that leads me to believe that Anthony [Cafaro] is about shoulder deep in this..." See Exhibit 3 at "ytownredux" comment to *The Vindicator* article titled, "Legal analysts predict long, complex court battle," August 25, 2010 at 3:10 PM (emphasis added).**

- **“The special prosecutors were very fair and balanced with the Grand Jury.”** See Exhibit 3 at “ytownredux” comment to *The Vindicator* article titled, “Oakhill-case lawyers seeking more details,” August 25, 2010 at 7:50 AM.
- **“I think the prosecutors deserve a lot of time to have to write out every meeting that took place.”** See Exhibit 3 at “ytownredux” comment to *The Vindicator* article titled, “Oakhill-case lawyers seeking more details,” August 24, 2010 at 7:54 AM (emphasis added). It should be noted that the Mahoning County prosecutors prepared a detailed chronology of communications among the defendants that was relied on by the Mahoning County officials supporting the purchase of the Oakhill building in the trial of the taxpayer lawsuit and, presumably, this very same evidence was presented to the grand jury.
- **“There is of course truth in that, but how many get to lobby in person in your own business office, more than dozens of times?”** See Exhibit 3 at “ytownredux” comment to *The Vindicator* article titled, “Legal analysts predict long, complex court battle,” August 22, 2010 at 8:06 AM (emphasis added). This comment discloses that its author was exposed to information revealing the number and specific location of meetings between the Defendants, and the fact that certain of the meetings involving the public officials and Anthony Cafaro, Sr. occurred at the Cafaro building.
- **“The Grand Jury is not stupid people, there were 5 months out of these people’s lives that they considered everything that was**

presented. They were not led by anybody, but took time and listened to all evidence that was presented *and thought (unanimously at that,) that what they heard was criminal and should be brought to trial. Get over it.* See Exhibit 3 at "ytownredux" comment to *The Vindicator* article titled, "73 charges focus on public-private conflicts," July 31, 2010 at 10:23 AM (emphasis added).

It is probable, that "ytownredux" may be the same grand juror who wrote the letter to *The Vindicator* or is otherwise an individual having access to grand jury information. "[Y]townredux" is a prolific commentator on *The Vindicator's* website, especially on matters concerning the work of the Special Prosecutors in the Oakhill matter. Read as a whole, it is improbable that the commentator is simply fabricating the extent of his personal knowledge regarding secret grand jury proceedings and evidence. Likewise, it is predictable, given the sequence of writings available through *The Vindicator* website that "ytownredux" will again make disclosures highly prejudicial to the Defendants in this case and in violation of obligations of grand jury secrecy. Accordingly, this Court must necessarily act to prevent any further disclosure of grand jury information to protect the integrity of Defendants' Sixth Amendment right to a fair trial and to vindicate the historic and codified obligations and values of grand jury secrecy.

C. Defendants Have Made A *Prima Facie* Showing That Grand Jury Secrecy Requirements Violated

In determining whether a *prima facie* case has been made that grand jury secrecy requirements were violated: (1) "there must be a clear indication that media reports disclose information about 'matters before the grand jury[:;]'" and (2) the disclosure "the

[report] must indicate the source of the information revealed to be one of those proscribed[.]” *United States v. Flemmi* (D. Mass. 2000), 233 F. Supp.2d 113, 117-18, citing *In re Grand Jury Investigation*, 610 F.2d 202, 216-17 (5th Cir. 1980) (“*Lance*”). As demonstrated above, the letter from the “Grand Juror” and comments published by “ytownredux” clearly disclose matters occurring before the grand jury, including the vote and sentiment of the grand jurors disclosed during deliberations. Furthermore, the letter clearly identifies itself as having been written by a “grand juror.” While the “ytownredux” comments do not explicitly state they were written by a grand juror, the information disclosed in the comments clearly indicate that the author was either a grand juror or a person exposed to grand jury information, and warrants further investigation. *Flemmi*, 233 F. Supp 2d at 118-19 (court found it could not properly end the inquiry regarding the source of information published in an article, so ordered affidavits of those exposed to grand jury information affirming or denying communication with the media).

In light of the *prima facie* showing of violations of grand jury secrecy requirements, the relief requested below is necessary to vindicate the historical and important duties of grand jury secrecy blatantly violated and is limited “to the extent necessary to stop the publicity and [identify] the offenders.” *United States v. Eisenberg* (11th Cir. 1983), 711 F.2d 959, 966. The relief requested is consistent with that found appropriate in *Eisenberg* and *Flemmi*. *Eisenberg* required the government to report to the court: (1) to whom instructions against extra-judicial publicity were given; (2) the substance of the instructions; and (3) the response of those to whom they were given, as well as supplying affidavits of those privy to grand jury information detailing their communications with the media and news media representatives. *Id.* at 962.

Furthermore, the requested relief is consistent with *Eisenberg* explicitly placing no restrictions on the district court's ability to order an investigation into alleged violations of grand jury secrecy requirements, and its determination that circumstances may exist where a district court could seek the appointment of special counsel to assist the court in determining the accuracy of the alleged violations. *Id.* at 966; *see also In re Special Grand Jury Investigation Concerning Organic Technologies* (1999), 84 Ohio St.3d 304, 305 ("*Eisenberg* has been adopted by both state and federal courts as the model for establishing Crim. R. 6 hearing procedures.>").

III. LAW AND ARGUMENT

In discussing the secrecy of the Grand Jury the Supreme Court of Ohio has stated the following:

R.C. 2939.06 imposes an oath and obligation of secrecy upon grand jurors. R.C. 2939.07 serves as a reiteration of the General Assembly's mandate in this regard. **Additionally, divulgence of the secret proceedings of a grand jury affronts the dignity and authority of the court under the supervision of which the grand jury was impaneled, unless such person is called upon by the court to make such a disclosure.**

In re Klausmeyer (1970), 24 Ohio St. 2d 143, 145 (emphasis added).

The oath required from each grand juror is found at R.C. §2936.06, and in relevant part states:

Do you solemnly swear or affirm . . . **that you will keep secret all proceedings of the grand jury unless you are required in a court of justice to make disclosure . . . as you shall answer unto God or under the penalties of perjury?** (emphasis added).

In answering the question posed by the oath, each juror swears a promise not to divulge the proceedings of the grand jury. In addition to swearing to keep the

proceedings of the grand jury confidential:

[t]he grand jurors, after being sworn, shall be charged as to their duty by the judge of the court of common pleas, who shall call their attention particularly to the obligation of secrecy which their oaths impose, and explain to them the law applicable to such matters as may be brought before them.

R.C. §2939.07 (emphasis added).

In addition to each grand juror being sworn to secrecy, reiterated by a judicial charge, Rule 6(E) of the Ohio Criminal Rules of Procedure dictates grand jury secrecy, and in relevant part states:

Deliberations of the grand jury and the vote of any grand juror shall not be disclosed. . . . A grand juror, prosecuting attorney, interpreter, stenographer, operator of a recording device, or typist who transcribes recorded testimony, may disclose matters occurring before the grand jury, other than the deliberations of a grand jury or the vote of a grand juror, but may disclose such matters only when so directed by the court (emphasis added).

For a grand juror to disregard the requirement of secrecy and repeatedly disclose grand jury proceedings requires the grand juror to disregard his oath, ignore the charge given by the court, and violate Criminal Rule 6(E). Furthermore, regardless of the capacity in which an individual learns of matters occurring before the grand jury, such as in an individual's capacity as prosecuting attorney or court reporter, disclosure of grand jury matters is prohibited by Criminal Rule 6(E) absent a court order. Such disregard of grand jury secrecy requirements "affronts the dignity and authority of the court . . ." *In re Klausmeyer*, 24 Ohio St.2d at 145. Such willful violation of grand jury secrecy requirements puts at risk a defendants' Sixth Amendment right to a fair trial.

As noted by the Ohio Supreme Court:

In *Sheppard [v. Maxwell]* (1966), 384 U.S. 333, the

Supreme Court was greatly distressed by the disclosure to the news media of information which did not and could not constitute component evidence at trial. The prejudicial effects of such disclosures and the dissemination thereof effectively foreclosed any possibility that the criminal defendant therein could receive a fair trial before an impartial jury.

State ex rel. Vindicator Printing Co. v. Watkins (1993), 66 Ohio St.3d 129, 138.

United States v. Flemmi, supra, concerned the filing of a motion to dismiss, and alternatively for sanctions for the government's alleged violations of Fed. R. Crim. P. 6(e) and a local rule of court arising from an unauthorized disclosure of grand jury information. The motion was based on an article appearing in *The Boston Globe* containing detailed information presented to the grand jury. *Flemmi* found that the article was susceptible to the interpretation that it reported on evidence not part of the public record, yet presented to the grand jury or investigators acting as the grand jury's agents. *Flemmi* further noted that depending on the source of the information, such information may in fact be inadmissible at trial. Chief Judge Wolf concluded, in *Flemmi*, that the information in the article frustrated of grand jury secrecy requirements. Ensuring grand jury information is not leaked to the press is a court's obligation and response to the Supreme Court's direction in *Sheppard* that:

The courts must take such steps by rule and regulation that will protect their processes from prejudicial outside interferences. Neither prosecutors, counsel for defense, the accused, witnesses, court staff nor enforcement officers coming under the jurisdiction of the court should be permitted to frustrate its function.

Id. at 116, quoting *Sheppard*, 384 U.S. at 363. Chief Judge Wolf thereafter required that those with access to grand jury materials execute sworn affidavits that they were not responsible for the communications to the media.

Not only do violations of grand jury secrecy harm the integrity of the court, but such deliberate violations also pose a clear and present threat to the accused's constitutional guarantee to a fair trial. The letter written by an individual claiming to be a grand juror who returned the Indictment against the Defendants is highly prejudicial. The letter validates a reporter's opinion that the Special Prosecutors intend to utilize "other acts evidence" regarding alleged "clandestine payments" by the Defendants to establish how the alleged criminal enterprise operated. By vouching for the editorial's opinion, the letter validates the existence of "other acts" evidence. The letter also asserts that the entire grand jury was "appalled" at the "undue influence" they determined existed. As information presented to the grand jury included material that may never be presented to the trial jury, the grand juror's comments, now and in the future, serve only to taint the venire pool into believing that evidence presented to the grand jury was excluded from trial. It may also reinforce in the minds of *The Vindicator's* readers the underlying notion that this grand jury acted differently than others, taking five months to assess the entire universe of evidence, and that therefore the accusations should be accorded great weight; whereas the law requires, to the contrary, that they receive no weight at all.

The commentary of a grand juror, or one exposed to matters occurring before the grand jury, as to the guilt of an accused is highly prejudicial to the administration of justice, to historic values of grand jury secrecy, and to the future rights of a defendant to a fair trial uninfluenced by prejudicial pretrial publicity. If a trial jury were informed that the grand jurors were convinced during their deliberations that the prosecution produced sufficient evidence not merely to charge but also to convict, a *petit* juror may unduly rely on such information. It is for this very reason that while disclosure of certain matters occurring before the grand jury may be disclosed when so directed by the court,

disclosure of grand jury deliberations and the vote may never be disclosed. *See Ohio Crim. R. P. 6(E)*. Accordingly, the grand juror's letter, while not disclosing precise specifications of the information presented to the grand jury, represents the most dangerous of all disclosures as it reveals the sentiment the grand jurors displayed during their deliberations.

IV. REQUESTED RELIEF

A court's inherent authority over grand juries is well recognized. *In re United States* (1st Cir. 2006), 441 F.3d 44, 57 citing *McNabb v. United States* (1943), 318 U.S. 332, 340-41. A court may remedy misconduct which violates rules ensuring the integrity of the grand jury's functions. *Id.*, citing *United States v. Williams* (1992), 504 U.S. 36, 46.

The requested relief is sought because Defendants cannot investigate the proceedings of the grand jury on their own. Furthermore, this Court must provide the requested relief because all of the Mahoning County Common Pleas Judges have recused themselves from their involvement in this matter.

The relief sought from this Court is as follows:

1. Appoint a disinterested neutral member of the bar pursuant to R.C. §2733.07, as the Mahoning County Prosecutor's Office and the Judges of the Mahoning County Court of Common Pleas have recused themselves from this entire matter, to conduct an independent investigation that would include as its objectives the identification of the person or persons responsible for the communications to *The Vindicator* on September 19, 2010 as quoted above to determine if an action should be brought or prosecuted. In particular, the appointed special investigator would have

the responsibility to:

- (a) Retrieve or subpoena from *The Vindicator* and its reporter Bertram de Souza, the original grand juror letter (and its envelope) referenced in Mr. de Souza's September 19, 2010 column, as well as any other documents provided by the anonymous grand juror. This information will then be presented to the Court for inspection. While a newspaper journalist is protected from disclosing his source of information under R.C. §2739.12, the protection does not extend to the disclosure of physical items, especially physical items already made public. *See State ex rel. Nat'l Broadcasting Co., Inc. v. Court of Common Pleas of Lake Cty.* (1990), 52 Ohio St. 3d 104, 111; *Forest Hills Utility Co. v. City of Heath* (1973), 37 Ohio Misc. 30, 35 (the privilege applies only to sources and not to inanimate objects); and
- (b) Obtain or subpoena from *The Vindicator*, or the vendor servicing its internet website for the posting of public comments, any identifying information for the author of Comment 4 who utilizes the internet handle "ytownredux" for inspection by the Court to determine if "ytownredux" was a member of the grand jury for the January 2010 term or an individual who was exposed to matters occurring before the grand jury. *See Eisenberg*, 711 F.2d at 966 ("We can conceive of circumstances where a district court could seek the appointment of a special counsel to assist the court in determining whether Rule 6(e) violations had occurred.").

2. Order, for the Court's *in camera* inspection, preparation of the transcripts of those grand jury proceedings having to do with: (a) the oath given to the grand jurors; (b) the charge to the grand jurors provided pursuant to R.C. §2939.07; and (c) any instructions relating to the requirement of secrecy provided to the grand jurors over the course of the grand jury proceedings.
3. Instruct the offending grand juror or person exposed to grand jury information of their continuing secrecy obligations under the law as it relates to matters occurring before the grand jury.
4. Take such other further steps as the Court deems necessary and appropriate to ensure that no further disclosures of matters occurring before the grand juror are disclosed absent an order from this Court and to assure that any willful prior disclosure is appropriately addressed by the Court.

V. CONCLUSION

Therefore, Defendants Anthony M. Cafaro, Sr., Flora Cafaro, The Cafaro Company, Ohio Valley Mall Company, and The Marion Plaza, Inc. request their motion seeking the Court's action in addressing apparent grand jury secrecy violations be granted as the interest of justice so requires, and that the Court further pursue the suggested relief which the Defendants have indentified in their motion.

Respectfully submitted,

George A. Stamboulidis

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