

NO. \_\_\_\_\_

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

STATE OF WEST VIRGINIA  
ex rel. REV. JIM LEWIS and  
JOHN COONEY,

Petitioners,

vs.

ORIGINAL MANDAMUS

WEST VIRGINIA ECONOMIC  
DEVELOPMENT GRANT COMMITTEE;  
WEST VIRGINIA ECONOMIC  
DEVELOPMENT AUTHORITY;  
CITY OF CHARLESTON; KANAWHA  
COUNTY COMMISSION; CITY OF  
HUNTINGTON; and OHIO COUNTY  
COMMISSION,

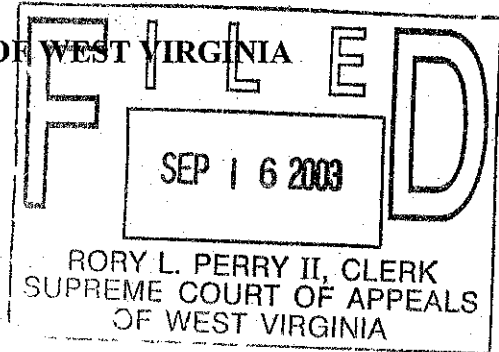
Respondents.

**MOTION FOR TAKING EVIDENCE**

The petitioners hereby move for the taking of evidence prior to the submission of this case upon the following grounds:

1. The issues of the respondents' compliance with the various requirements of the new *W. Va. Code* § 29-22-18a(d) (2003) and the *W. Va.* and *U. S. Constitutions* in this matter are largely factual in nature, and such evidence is essential to effect and protect petitioners' rights to due process of law.

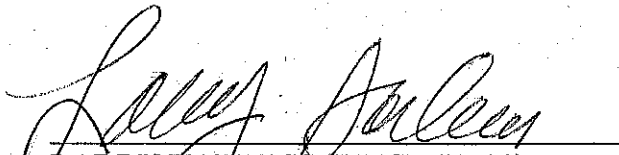
2. By such cases as *Boner v. Kan. Co. Bd. of Ed.*, 475 S.E.2d 176 (W. Va. 1996), such evidence may expeditiously be taken under this Court's Rule 14, or by direct referral to a Circuit Judge. *WVCAG v. W. Va. Econ. Dev. Grant Comm.*, 580 S.E.2d 869 (W. Va. 2003).



3. The petitioners respectfully submit that the omission or restriction of such evidence in this matter would violate their rights to due process of law under the *W. Va. Const.*, Art. III, § 10, and the *U. S. Const.*, Amend. 14. See, e.g., *SER Hoover v. Smith*, 482 S.E.2d 124 (W. Va. 1996), and *Hannah v. Larche*, 363 U.S. 420, 442 (1960).

Respectfully submitted,

**STATE OF WEST VIRGINIA**  
**ex rel. REV. JIM LEWIS and**  
**JOHN COONEY,**

  
\_\_\_\_\_  
**LARRY HARLESS (WVSB #1528)**  
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**CERTIFICATE OF SERVICE**

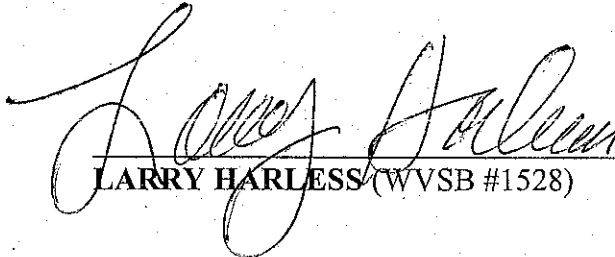
I hereby certify that this Motion For Taking Evidence was served by first-class mail on  
September 16, 2003, upon the following:

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