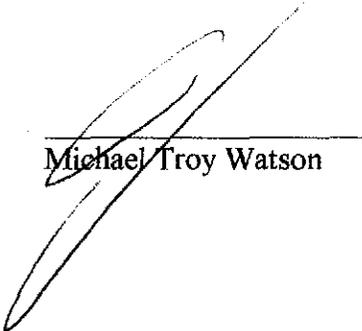




**PROOF OF SERVICE**

A true copy of the foregoing document has been sent by regular U.S. Mail with proper postage this 23 day of 5, 2007 to:

Robert Berger  
Assistant Disciplinary Counsel  
250 Civic Center Drive, Suite 325  
Columbus, Ohio 43215

  
\_\_\_\_\_  
Michael Troy Watson

IN THE SUPREME COURT OF OHIO

DISCIPLINARY COUNSEL	)	CASE NO.: 05-398
	)	
PETITIONER,	)	
	)	
VS.	)	
	)	
MICHAEL TROY WATSON	)	<u>RESPONDENT'S DEMAND FOR</u>
	)	<u>ORAL ARGUMENT AND</u>
RESPONDENT.	)	<u>REVIEW BEFORE THE FULL</u>
	)	<u>PANEL OF THE</u>
	)	<u>SUPREME COURT</u>

Now comes the Respondent, Michael Troy Watson, (Pro Se) and respectfully demands that this Honorable Court schedule this matter for Oral Argument and review before the Full Panel of the Supreme Court with regard to the determinations of this Honorable Court of May 10, 2007 a copy of which is attached hereto and incorporated by reference herein as Exhibit "A".

The Respondent states that the Supreme Court of Ohio has issued its Order on May 10, 2007 based on faulty information and is in error in the findings and determinations issued contrary to prior determinations of the Court.

THE STANDARD FOR FINDING  
AGAINST THE RESPONDENT IS "CLEAR AND CONVINCING"

Outside of the other elements within this case the burden is upon the Relator.

"In disciplinary proceedings the Relator bears the burden of proving the facts necessary to establish a violation. The Complaint must allege the specific misconduct that violates the Disciplinary Rules and Relator must prove such misconduct by clear and convincing evidence." (Emphasis added.) *Ohio State Bar Assn. V. Reid* (1999), 85 Ohio St.3d 3

**FINDLAY/HANCOCK CTY. BAR ASSOCIATION V. FILKINS,  
90 OHIO St.3d 1 (2000)"**

The burden upon the Relator is not as high as "beyond a reasonable doubt" as is the standard in a criminal case. However, the standard of clear and convincing evidence is more than a mere preponderance of the evidence. A review of those circumstances and the evidence before this Honorable Supreme Court of Ohio requires that the Relator establish in each of your minds a "firm belief or conviction" as to those facts that are sought to be established.

"The standard of "clear and convincing evidence" is defined as "that measure or degree of proof which is more than a mere preponderance of the evidence, 'but not to the extent of such certainty as is required 'beyond a reasonable doubt' in criminal cases, and which will produce in the mind of the trier of fact a firm belief or conviction as to the facts sought to be established." *State v. Schiebel* (1990), 55 Ohio St. 3d 71, 74, citing *Cross v. Ledford* (1954), 161 Ohio St. 469." STATE V. PURSER, 153 Ohio App. 3d 144 (2203)"

Circumstances similar to those that are before this Honorable Supreme Court of Ohio have been previously dealt with by the Supreme Court. The Ohio Supreme Court has by precedent given itself a basis upon which to consider the evidence presented.

“In disciplinary proceedings, the Relator bears the burden of proving the facts necessary to establish a violation. The Complaint must allege the specific misconduct that violates the Disciplinary Rules and Relator must prove such misconduct by clear and convincing evidence.” (Emphasis added.) *Ohio State Bar Assn. v. Reid* (1999), **85 Ohio St.3d 327, 708 N.E.2d 193**, at paragraph two of the syllabus. While the Board of Commissioners on Grievances and Discipline makes recommendations to this court, it is this court that renders the final determination of the facts and conclusions of law in disciplinary proceedings. *Id.* at paragraph one of the syllabus.

This is a difficult case to decide because it relies solely on the credibility of the witnesses for proof. Upon independent review of all the evidence in this case, we agree with the board that there is insufficient evidence to prove (1) that respondent violated DR 7-102(A) (3) and (5) (he lied or concealed information), and (2) that respondent violated DR 7-102(A) (4) and (8) (he used signals to influence his client’s testimony). However, contrary to the board’s findings, we find that Relator did not prove by clear and convincing evidence that (1) respondent violated DR 7-102(A) (6) and (7) (he instructed his client to lie) or (2) that respondent violated DR 4-101(B) (2) (he used client confidences to the disadvantage of the client).

We find that there is evidence in the record that undermines the credibility of Traci Mackey’s testimony. In addition, we find that there is no evidence to corroborate her testimony, while there are multiple credible witnesses whose testimony supports Respondent.

**FINDLAY/HANCOCK CTY. BAR ASSOCIATION V. FILKINS, 90 Ohio St. 3d 1 (2000)**”

The important element of the Supreme Court’s instruction to all Disciplinary Panels is that “when” there is evidence in the record that undermines the credibility of a Complainant’s testimony, and there is no evidence to corroborate the testimony as well as several witnesses that contradict the testimony, then there is a failure of the Relator to have met his burden of the clear and convincing standard of evidence. This mandates a dismissal on all counts herein before this Supreme Court of Ohio for which this standard is not been met.

“In disciplinary proceedings, the Relator bears the burden of proving by clear and convincing evidence the facts necessary to establish a violation. *Id.* at 331, 708 N.E. 2d at 197, citing Gov. Bar R. V(6) (J) and Disciplinary Counsel v. Jackson (1998), 81 Ohio St. 3d 308, 310, 691 N.E. 2d 262, 263. “Clear and convincing evidence’ (is) ‘that measure or degree of proof which is more than a mere “preponderance of the evidence, “but not to the extent of such certainty as is required “beyond a reasonable doubt” in criminal cases, and which will produce in Page 182 the mind of the trier of facts a firm belief or conviction as to the facts sought to be established.”” Ohio State Bar Assn. v. Reid, 85 Ohio St. 3d at 331, 708 N.E. 2d at 197, quoting Cross v. Ledford (1954), 161 Ohio St. 469, 53 O.O. 361, 120 N.E. 2d 118, paragraph three of the syllabus. OFFICE OF DISCIPLINARY COUNSEL v. FURTH, 93 Ohio St. 3d 173 (2001)”

“It is fundamental that in disciplinary proceedings, the Relator must prove the facts necessary to establish an ethical violation by clear and convincing evidence. *Ohio State Bar Assn. v. Reid* (1999), 85 Ohio St. 3d 327, 708 N.E. 2d 193, paragraph two of the syllabus. Under this stringent standard, the Relator must produce sufficient evidence to establish in the mind of the trier of fact a “firm belief or conviction of the facts sought to be established.” *Cross v. Ledford* (1954), 161 Ohio St. 469, 53 O.O. 361, 120 N.E. 2d 118, paragraph three of the syllabus.”

It is with this standard in mind that a review the specifics of this matter.

There are always two sides or more to each element of presentation. You have the allegations of the Relator in his own interpretation thereof and you have the actual testimony of the Respondent. **THERE IS NO TESTIMONY OF ANYONE CLAIMING TO BE REPRESENTED IN THIS MATTER EXCEPT THE RESPONDENT REPRESENTING HIS OWN INTERESTS!!!**

*The practice of law includes the conduct of litigation and those activities which are incidental to appearances in court. We held in Land Title Abstract & Trust Co. V. Dworken (1934),*

129 Ohio St. 23, 1 O.O. 313, 193 N.E. 650, paragraph one of the syllabus, *The practice of law \*\*\* embraces the preparation of pleadings and other papers incident to actions and special proceedings and the management of such actions and proceedings on behalf of clients before judges and courts\*\*\*.* Further, *we advice and counsel, and the preparation of legal instruments and contracts by which legal rights are secured\*\*\*.* Id. at 28, 1 o.o. at 315, 193 N.E. at 362. Finally we said, *"It seems too obvious to permit my discussion that a corporation may not be authorized to practice law."* Id., 129 Ohio St. at 29, 1 o.o. at 315, 193 N.E. at 653.

**AKRON BAR ASSN. V. GREENE**, 77 Ohio St. 3d 279 (1997)  
*The practice of law is not limited to the conduct of cases in court. It embraces the preparation of pleadings and other papers incident to actions and special proceedings and the management of such actions and proceedings on behalf of clients before judges and courts, and in addition conveyancing, the preparation of legal instruments of all kinds, and in general all advice clients and all action taken for them in matters connected with the law.*

**ABSTRACT & TR. CO. V. DWORKEN**, 129 Ohio St. 23 (1934)

*The court of Appeals found that the defendants were each engaged in certain practices which were denominated the unauthorized and unlawful practice of law, and entered an order perpetually enjoining each of them from doing any of the following:*

*"1. Furnishing opinions in statements of title and/or certificates of title, and otherwise, as the condition of the title to real estate, when defendant does not insure, or guarantee such title or the validity and due execution of securities prepared by it.*

*"2. Drawing, preparing or advising in relation to the preparation of deeds, mortgages, releases, leases, affidavits, contracts and other documents, pertaining to real estate conveyances to transactions for the benefit of others, where defendant has no direct or primary interest as principal or loan agent.*

*"3. Counseling or advising patrons or prospective patrons on legal matters or procedure in litigation or proposed litigation involving title to real estate, when defendant is not an insurer of the title or guarantor of the validity and due execution of the securities involved.*

*"4. Preparing, drafting or advising in the preparation or drafting of escrow instructions which express or purport to set forth either an agreement between the buyer and the seller, or the rights and liabilities of the parties thereto, other than the provisions necessary for the protection of defendant as escrow agent. Nothing herein shall be construed to prevent defendant from furnishing mere clerical service in recording the actual dictation of the buyer and/or seller.*

*"5. Furnishing opinions in foreclosure certificates or otherwise, stating whether the necessary or proper parties have been named as defendants.*

*"6. Soliciting patronage under any representation, either in writing, orally or otherwise, that defendant will furnish legal services or legal advice to any patron.*

*"7. Conducting a legal department for the benefit of others."*

**ABSTRACT & TR. CO. V. DWORKEN, 129 Ohio St. 23 (1934)**

*The practice of law is "as generally understood, the doing or performing services in a court of justice, in any matter depending therein, throughout its various stages, and in conformity with the adopted rules of procedure. But in a larger sense it includes legal advice and counsel, and the preparation of legal instruments and contracts by which legal rights are secured, although such matter may or may not be depending in a court." 49 Corpus Juris, 1313, Section 5.*

*This view is supported by substantial authorities, among the cases being People v. Alfani, 227 N.Y. 334, 125 N.E. 671, where it is held as follows:*

*The practice of law is not limited to the conduct of cases in courts. It embraces the preparation of pleadings and other papers incident to actions and special proceedings and the management of such actions and proceedings on behalf of clients before judges and courts, and in addition conveyancing, the preparation of legal instruments of all kinds and in general all advice to clients and all action taken for them in matters connected with law. An attorney-at-law is one who engages in any of these branches of the practice of law."*

*A very terse definition of the practice of law is announced in the case of People v. Title Guaranty & Trust Co., 180 App. Div. 648 168 N.Y. Supp., 278, 36 N.Y. Cr. Rep., 210, as Follows:*

*“The practice of the law, as the term is now commonly used embraces much more than the conduct of litigation. The greater, more responsible and delicate part of a lawyer’s work is in other directions. Drafting instruments creating trusts, formulating contracts, drawing wills and negotiations, all require legal knowledge and power of adaption of the highest order. Beside theses employments, mere skill in trying law suits, where ready wit natural resourses often prevail against profound knowledge of the law, is a relatively unimportant part of a lawyer’s work.”*  
**ABSTRACT & TR. CO. V. DWORKEN**, 129 Ohio St. 23 (1934)

*The court has repeatedly defined what constitutes the “practice of law” In Land Title Abstract & Trust Co. V. Dworken (1934), 129 Ohio St. 23, 1 o.o. 313, 193 N.E. 650 at paragapgh one of syllabus, the court said that the practice of law “embraces the preparation of pleadings and other papers incident to actions and proceedings on behalf of clients \*\*\* and ingeneral all advice to clients and all action taken for them in matters connected with law.” (Emphasis added.) In Akron Bar Assn. v. Greene (1997), 77 Ohio St. 3d 279, 280 673 N.E. 2d 1307, 1308, we also indicated that the practice of law “includes the conduct of litigation and those activities which are incidental to appearances in court.”*  
**DISCIPLINARY COUNSEL V. ZINGARELLI**,  
**89 Ohio 3d 210 (2000)**

Clearly there is no merit to proceeding to prosecute the Respondent on these issues. **NOTHING IN LAW PROHIBITS RESPONDENT FROM REPRESENTING HIMSELF!!!**

The court has repeatedly defined what constitutes the “practice of law”. In **Land Title Abstract & Trust Co. V. Dworken (1934)**, **129 Ohio St. 23**, **1 O.O 313**, **193 N.E. 650**, at paragraph one of the syllabus, the court said that the practice of law “embraces the preparation of pleadings and other papers of incident to actions and proceedings and the management of such actions and proceedings on behalf of clients\*\*\* and in general **all advice to clients and all action taken for them in matters connected with the law**” (Emphasis added.) In **Akron Bar Assn. v. Greene (1997)**, **77 Ohio St. 3d 279**, **280, 673 N.E. 2d 1307**, **1308**, we also indicated that the

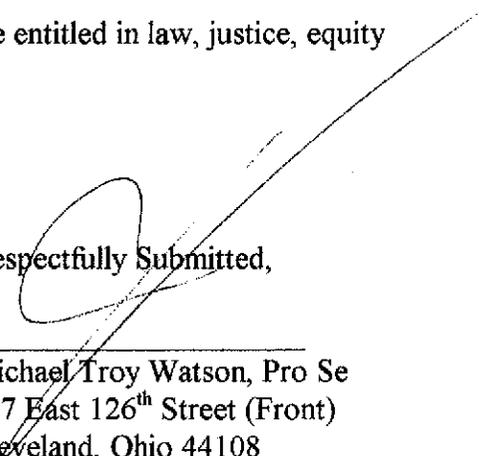
practice of law, "includes the conduct of litigation and those activities which are incidental to appearance in court."  
**Disciplinary Counsel v. Zingarelli, 89 Ohio St. 3d 210 (2000)**

**"ON BEHALF OF OTHERS IS MANDATORY AND THERE IS NO EVIDENCE OF THIS REQUIRED ELEMENT."**

The Respondent respectfully submits that the Supreme Court has issued this Order contrary to the law, precedent and rules as previously established by the Supreme Court of Ohio to be more fully addressed in the Motions to be filed concurrent with this request and/or otherwise on relevant presentations of Respondent.

**WHEREFORE**, Respondent respectfully demands that this Honorable Court issue an Order commanding that all issues herein pending be scheduled for Full Oral Hearing and review before the Full Panel of this Honorable Supreme Court of Ohio and any and all other relief to which the Respondent may be entitled in law, justice, equity and/or in his best interest.

Respectfully Submitted,

  
\_\_\_\_\_  
Michael Troy Watson, Pro Se  
717 East 126<sup>th</sup> Street (Front)  
Cleveland, Ohio 44108  
(216) 322-4183

# EXHIBIT "A"

# The Supreme Court of Ohio

FILED

MAY 10 2007

MARCIA J. MENGEL, CLERK  
SUPREME COURT OF OHIO

Disciplinary Counsel,  
Relator,  
v.  
Michael Troy Watson,  
Respondent.

Case No. 05-398

## ORDER

On December 7, 2005, this court permanently disbarred respondent, Michael Troy Watson. On April 3, 2006, relator, Disciplinary Counsel filed a Motion for an Order to Appear and Show Cause, requesting the court to issue an order directing respondent to appear and show cause why he should not be found in contempt for continuing to practice law in violation of the court's December 7, 2005 order. On May 11, 2006, this court granted that motion and ordered respondent to file a written response on or before May 31, 2006. Respondent did not file a response. The court then ordered respondent to appear before the court on August 8, 2006. Respondent appeared as ordered.

On August 21, 2006, the court issued an order remanding this case to the Board of Commissioners on Grievances and Discipline to appoint a master commissioner to hear the matter. On April 19, 2007, the board filed findings of fact with the court. Upon consideration thereof,

The court finds that respondent engaged in the practice of law after he was disbarred on December 7, 2005. The court further finds respondent in contempt of the court's order for engaging in this unauthorized practice of law after he was disbarred. It is ordered by the court that respondent is sentenced to 90 days in jail; with the jail time suspended on the condition that respondent commits no further contempt of the December 7, 2005, order of disbarment.

It is further ordered that respondent is fined \$10,000 with \$9,500 of that fine suspended on condition that respondent commit no further acts constituting the unauthorized practice of law. Respondent is ordered to pay the remaining \$500 balance of the fine by certified check or money order to the clerk of this court on or before thirty days from the date of this order. If respondent fails to pay said fine on or before thirty days from the date of this order, the matter will be referred to the Office of the Attorney General for collection.

  
THOMAS J. MCYER  
Chief Justice