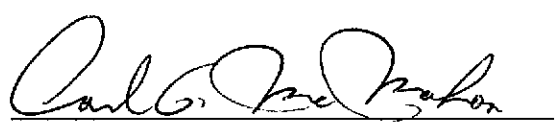
IN THE SUPREME COURT OF OHIO

Cleveland Bar Assoc.	)	Case No. 06-2260
	)	
Relator	)	
	)	
-vs-	)	
	)	**RESPONDENT'S MOTION**
Carl G. McMahon,	)	**FOR RECONSIDERATION**
	)	
Respondent	)	

Now comes the Respondent, Carl G. McMahon, *pro se*, and moves this Court to reconsider the imposition of its sanction suspending Respondent from the practice of law for six (6) months without stay.

The reasons for this motion are set forth in the following Memorandum which is herein incorporated.

Respectfully submitted,



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MEMORANDUM

In this grievance proceeding, the Panel recommended a public reprimand; the Board of Grievances recommended a six (6) month suspension with the six (6) months stayed; and the Supreme Court ordered a six (6) month suspension without stay. Acting *pro se*, I request the Court's reconsideration for the following reasons:

In the more than 30 years of my legal practice in the State of Ohio, it has never been my intent, desire or practice to mislead, let alone lie, to anyone: not to any client, opposing counsel, adjuster, or court. What happened in this matter that led to these proceedings was an aberration, bizarre, and illogical.

I've practiced law in this state for over 30 years, and have been involved with thousands of personal injury cases as well as other matters. I've worked with hundreds of clients, insurance adjusters, lawyers, judges and court personnel. Over all those years and with all those inter-relationships, I had never once had a grievance filed against me or any complaint lodged by any adjuster, judge, or anyone else. What happened in this instance was an aberration.

It was also bizarre. Some time after writing the letter, I received a call from the insurer's staff counsel. He advised me that the adjuster was upset because I had misrepresented what

occurred regarding her insured. I had no idea to what the attorney, or the adjuster, was referring. I remembered sending the letter, but I did not recall any misrepresentation. I recalled setting forth the oft occurring scenario: the ticketed driver pleads no contest, a recitation of the facts follows, and the judge enters a finding of guilty. When I retrieved the letter from the file, I was alarmed at reading it. It wasn't cast, as intended and recalled, as a "re-enactment" of the possible/probable scenario, but read, instead, as a statement of fact. What I had written was neither what I intended nor recollected.

Furthermore, what I had done was most illogical. First, I represented a fault-free passenger in an accident in which both drivers were insured. It made no difference which driver was at fault. There was no logical basis for me to seek to blame one driver rather than the other driver. Second, there is no way that I believed that the adjuster would simply "accept" my scenario: the adjuster would herself, or through staff counsel, obtain and review the traffic court proceedings that I referenced.

So why did I write a letter in a manner not intended and not recalled? I certainly repeatedly have asked myself that question. I do not know for sure the answer; however, I feel that my only recent objectivity provides the most likely answer.

I was in deep grief over my mother's passing, and I believe, I was lashing out, projecting anger, etc. I had not felt such at any prior time, including when my father passed not too long before my mother.

This does not excuse the letter as in fact written. I have never disavowed the fact that I did write it, and that it was seriously grievous conduct. There is no excuse for fabrication or the distortion of truth. I do have sincere remorse and serious regret for having sent the letter. However, I do believe that given all the foregoing, that my conduct more readily fits into the category of cases that have found the attorney's apparent intentional conduct to be more of a mistake and an isolated incident (e.g., *Disciplinary Counsel v. Agopian*, 112 Ohio St.3d 103, 2006 Ohio 6510), rather than a clearly intended deception to compel another's reliance thereon for the attorney's personal gain (*Cincinnati Bar v. Florez*, 98 Ohio St.3d 448, 203 Ohio 1730). (There was no reliance in this case: The adjuster, as would be expected, readily reviewed the referenced proceedings and found that the recited discourse did not occur.)

I also regret not having appeared and presented oral rebuttal argument before this Court. I should have taken the opportunity so that I personally could respond to any of the Court's questions, and the Court could see and "sense" me, to

have the opportunity to appreciate my sincerity, honesty, and candor regarding all of the foregoing representations. So why didn't I appear when I had the opportunity to do so? That question I can knowingly answer. I then was not emotionally equipped or ready. However, I welcome and appreciate any opportunity the Court would extend for me to do so in, for example, ordering an oral hearing on the within motion.

I am filing this motion pro se. I want this motion to be my personal representations and pleading to this Court, and to allow the Court to see me for who I am, as a person and an advocate: One whose serious error is not reflective of my life or 30 years of practice, and is not apt to be repeated. An error that was more of a mistake than an intentional misrepresentation propounded to induce another's actions for my personal benefit.

My prayer is for the Court to grant my motion, and upon reconsideration, to stay the six month suspension that was previously ordered. In the alternative, as this is a first offense, would the Court consider utilizing my legal training and ordering community service, e.g., with the Cleveland Legal Aid Society, in lieu of suspension.

WHEREFORE, Respondent requests that his Motion for Reconsideration be granted.

Respectfully submitted,

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CERTIFICATE OF SERVICE

A copy of the foregoing Motion for Reconsideration has been sent by regular U.S. mail, postage prepaid, on this 20th day of August, 2007 to: Jennifer S. Roach and Samer M. Musallam, attorneys for Relator, located at Thompson Hine LLP, 3900 Key Center, 127 Public Square, Cleveland, OH 44114-1291.

Carl G. McMahon, Pro Se