

IN THE SUPREME COURT OF OHIO

Richard Ruffier III,) Case No. 07-1496
)
Realtor,) Original Action in Prohibition
)
v.)
)
Judge Gary Byers,)
)
Respondent.)

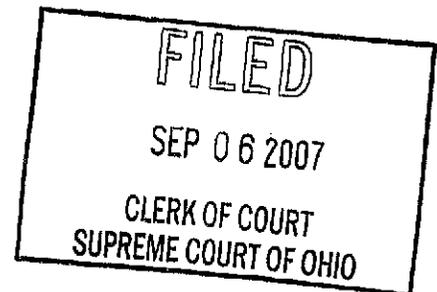
**MOTION FOR EXTENSION OF TIME TO MOVE OR PLEAD
TO THE COMPLAINT FOR A WRIT OF PROHIBITION**

J. Michael Salmon (0064258) (Counsel of Record)
Salmon Law Office
8263 Woodbrier Lane
Grand Rapids, Ohio 43522
419-260-0263
mksalmon@adelphia.net

COUNSEL FOR RELATOR, RICHARD RIFFIER III

Neema M. Bell (0037730)
SHUMAKER, LOOP & KENDRICK, LLP
North Courthouse Square
1000 Jackson Street
Toledo, Ohio 43604
Telephone: (419) 241-9000
Fax: (419) 241-6894
E-Mail nbell@slk-law.com

COUNSEL FOR RESPONDENT JUDGE GARY BYERS

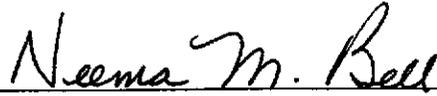


Pursuant to Sup. Ct. P. R. XIV, Sec. 3(B)(2)(b), Respondent, The Honorable Gary Byers, by and through counsel hereby moves this Court for a first extension of time up to and including September 17, 2007, within which to respond to Relator, Richard Ruffier, III's Complaint for a Writ of Prohibition. Respondent has been unable to obtain a definitive stipulation for an extension of time from Relator's counsel, but good cause exists to grant the requested extension.

By way of background, Respondent's counsel spoke with Relator's counsel on August 29, 2007, and an agreement was reached between them that moots the relief Relator seeks by his Complaint. The parties therefore agreed that the Complaint would in fact be dismissed by Relator immediately upon his counsel's return on September 4, 2007, from his then impending vacation. Relator agreed that the motion to dismiss would be filed with this Court no later than September 4, 2007. Relator has provided Respondent's counsel, by e-mail, with an unfiled, Motion to Dismiss. A copy of the e-mailed Motion to Dismiss is attached and labeled Exhibit A.

Counsel also agreed that Relator would stipulate to a 20 day extension of time within which Respondent could prepare an appropriate response to the Complaint, if such an extension became necessary. Despite these agreements and multiple attempts to communicate directly with Relator's counsel, Respondent's counsel has been unable to speak directly with Relator's counsel to definitively confirm either the filing of the Motion to Dismiss or the stipulation of a twenty-day extension to prepare and file Respondent's response, if ultimately needed. Therefore, in an abundance of caution so as not to permit his time to move or plead to the Complaint to expire, Respondent hereby requests an extension up to and including September 17, 2007, to prepare and file an appropriate response to Relator's Complaint for a Writ of Prohibition. A proposed form of Entry accompanies and is lodged with this Motion.

Respectfully submitted,

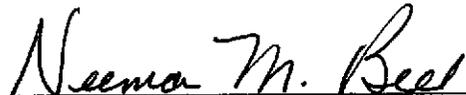


Neema M. Bell (0037730)
SHUMAKER, LOOP & KENDRICK, LLP
North Courthouse Square
1000 Jackson Street
Toledo, Ohio 43604
Telephone: (419) 241-9000
Fax: (419) 241-6894
E-Mail nbell@slk-law.com

Attorneys for Respondent

CERTIFICATE OF SERVICE

I hereby certify that a copy for the foregoing Motion for Extension of Time to Move or Plead to the Complaint for a Writ of Prohibition was sent via ordinary U.S. mail to J. Michael Salmon, Esquire, Attorney for Relator, Salmon Law Office, 8263 Woodbrier Lane, Grand Rapids, Ohio 43522 this 5th day of September, 2007.



Neema M. Bell
SHUMAKER, LOOP & KENDRICK, LLP

Attorney for Respondent

Bell, Neema M.

From: mksalmon@adelphia.net
Sent: Wednesday, September 05, 2007 9:03 AM
To: Bell, Neema M.
Subject: RE: dismissal of Complaint for a Writ of Prohibition Case No. 07-1496

Attachments: motion to dismiss.wpd



motion to
niss.wpd (16

I am having problems with my fax line. I am attaching the motion as a word-perfect document. If you have any problems, please call me.

--
J. Michael Salmon
419-260-0263
9-5-2007

Exhibit A

IN THE SUPREME COURT OF OHIO

Case No.: 07-1496

Richard Ruffier III
6401 Jeffers
Swanton, Ohio 43558

Relator,

v.

Judge Gary Byers
Maumee Municipal Court
400 Conant Street
Maumee, Ohio 43537-7136

Respondent

**MOTION TO DISMISS WITHOUT
PREJUDICE COMPLAINT FOR WRIT
OF PROHIBITION**

J. Michael salmon
SALMON LAW OFFICE
P.O. Box 461
Neapolis, Ohio 43547-0461
Tel: 419-260-0263
e-mail: mksalmon@adelphia.net

Now comes Relator, Richard Ruffier III, by and through his attorney, J. Michael Salmon, of Salmon Law Office, and moves this Court to Dismiss, without prejudice, the Complaint for Writ of Prohibition filed on August 13, 2007. Respondent has complied with the dictates of ORC 2701.031 by forwarding the Affidavit of Disqualification to Judge Puffenburger, Presiding Judge of the Lucas County Common Pleas Court. In addition, Respondant, through legal counsel, Neema M. Bell, has promised to further comply with all aspects of ORC 2701.031, in particular promising not to determine a matter that affects Relator's substantive rights. Relator agrees that Judge Byers retains

authority to reschedule pre-trial hearings while this matter is pending before Judge Puffenberger.

Respectfully submitted,
SALMON LAW OFFICE

J. Michael Salmon, Esq. (0064258)

CERTIFICATION

This is to certify that the above Motion was via e-mail to Neema Bell, counsel for Respondent, at NBell@slk-law.com on this 5th day of September, 2007.

J. Michael Salmon