IN THE SUPREME COURT OF OHIO

OFFICE OF DISCIPLINARY COUNSEL,	:	
Relator	:	
	:	Case no.: 2008-0820
	:	
	:	
PHILLIP P. TAYLOR,		
	:	
Respondent		
	:	

RESPONDENT PHILLIP P. TAYLOR'S MOTION TO STRIKE OBJECTIONS AND BRIEF OF RELATOR

ALTERNATIVE MOTION TO PERMIT ORAL ARGUMENT

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FILED
JUL 07 2008
CLERK OF COURT
SUPREME COURT OF OHIO

Now comes Respondent, Phillip P. Taylor, by and through counsel, and herein moves this Honorable Court, pursuant to Supreme Court of Ohio Rule of Practice Rule XIV, §2(D)(1)-(2) for an order striking Relator's Objections and Brief in Support to the Board of Commissioners on Grievances and Discipline's Findings of Fact, Conclusion of Law and Recommended Sanction (hereinafter "Relator's Brief") entered in the instant matter.

In the alternative, Mr. Taylor would move this Honorable Court for an order permitting him, by and through counsel to participate in argument before this Honorable Court, currently scheduled for July 22, 2008, for the reasons set forth in the following.

The instant motion is placed before this Honorable Court on the ground that due to counsel for Relator's failure to serve undersigned counsel with Relator's Brief until June 20, 2008, said counsel was effectively deprived of four days of time in which to respond to the positions advocated therein. While counsel for Mr. Taylor became aware of the fact that Relator's Brief was filed with this Honorable Court on June 16, 2008, and that pursuant to the terms of the Order to Show Cause entered May 7, 2008, any reply would have been due on July 1, 2008, it is beyond cavil that in a matter such as this, having potentially serious and detrimental impact on Mr. Taylor's licensure and his concomitant ability to earn a living, a mere eleven days' to prepare and timely file a meaningful reply is insufficient.

Notwithstanding these facts, and as this Honorable Court may be aware, counsel for Mr. Taylor prepared and transmitted a reply to Relator's Brief, being received by the Office of the Clerk on July 3, 2008. Counsel for Mr. Taylor transmitted same under the reasonable (based on their experience) and good-faith belief that said reply would be due within the timelines prescribed for merit briefs filed with this Honorable Court, i.e., 20 days; knowing that if that timeline applied, Mr. Taylor's reply would be due no later than July 9, 2008.

On July 3, 2008, and via a series of telephone conversations had with personnel at the Office of the Clerk, it was learned by counsel for Mr. Taylor that Mr. Taylor's reply brief could not be accepted for filing because it was untimely. Counsel for Mr. Taylor was thereupon informed that for computation of time purposes, the date of filing for Relator's Brief controlled, not the date of receipt by counsel for Mr. Taylor, and further, pursuant to this Honorable Court's Order to Show Cause entered May 7, 2008, said reply would have been due on July 1, 2008.

In light of these facts, counsel for Mr. Taylor would posit that in light of their not being in receipt of Relator's Brief until June 20, 2008 (despite its being filed and mailed to counsel on June 16, 2008) that Ohio S.Ct. Prac. R. XIV, §2(D)(2) applies herein. This position rests not only on the facts as set forth herein, but also on the proposition that given the nature of these proceedings, Mr. Taylor ought to be afforded the opportunity to be heard, and that the interests of justice would dictate that an amendment to the briefing schedule previously set forth be entered, retroactively permitting the filing of Mr. Taylor's reply to Relator's Brief on July 3, 2008, the date on which it was actually received by the Office of the Clerk.

In the alternative, and in the event that this Honorable Court denies Mr. Taylor's motion to strike, Mr. Taylor requests, via counsel that he be permitted to participate in the oral argument currently set for July 22, 2008 before this Honorable Court. Again, and while the substance of these proceedings, from an equitable perspective, would all-but-dictate some manner of an opportunity to be heard, counsel, for this same reason, request that this Honorable Court allow an exception to S.Ct. Prac. R. IX, §3 and permit him to argue his position relative to those posited in Relator's Brief. In the view of counsel for Mr. Taylor, principles of fairness and equity demand nothing less.

WHEREFORE, Respondent Philip P. Taylor prays that this Honorable Court will find the instant motion to be well-taken, and thereupon issue an order striking Relator's Brief, and pursuant to S.Ct. Prac.R. XIV, §2(D)(2), permitting the filing of Mr. Taylor's reply to same, received by the Office of the Clerk on July 3, 2008, and further allowing him to participate in the oral argument currently set in the instant matter for July 22, 2008. In the alternative, Mr. Taylor prays that this Honorable Court permit an exception to S.Ct. Prac. R. IX, §3, allowing him, via counsel, to participate in oral argument on the date as set forth above.

Respectfully submitted,

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CERTIFICATE OF SERVICE

A copy of the foregoing has been served, via regular U.S. Mail, upon Jonathan E. Coughlan, Esq., and Heather L. Hissom, Esq., Counsel for Relator, at the Office of Disciplinary Counsel of The Supreme Court of Ohio, 250 Civic Center Drive, Suite 325, Columbus, Ohio 43215-7411, this 3rd day of July, 2008.

RICHARD S. KOBLENTZ
CRAIG J. MORICE

COUNSEL FOR RESPONDENT