

IN THE SUPREME COURT OF OHIO

In re: :
Complaint against :
KENNETH J. LEWIS, ESQ., : No.: 08-2068
Respondent, :
by :
MEDINA COUNTY BAR ASSOCIATION, :
Relator. :

FILED
DEC 18 2008
CLERK OF COURT
SUPREME COURT OF OHIO

RELATOR'S MOTION TO STRIKE RESPONDENT KENNETH J. LEWIS' OBJECTIONS TO FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATIONS OF THE BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE

NOW COMES the Relator, Medina County Bar Association, by and through undersigned counsel and hereby moves this Honorable Court to strike the Respondent Kenneth J. Lewis' Objections to Findings of Fact, Conclusions of Law and Recommendations of the Board of Commissioners on Grievances and Discipline filed in this action on November 25, 2008. Reasons for this motion are more fully set forth below.

For cause, the Relator states that on April 14, 2008, a complaint was filed against the Respondent, Kenneth J. Lewis, alleging that he forged the signature of Berea Municipal Court Judge, Mark L. Comstock, on a Judgment Entry granting Respondent's client occupational driving privileges on a suspended license. On May 12, 2008, the Secretary for the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio (the "Board") appointed the hearing panel in this matter. A hearing on the complaint was held on August 27, 2008. Pursuant to Gov. Bar Rule V(6)(L), the Board considered the matter on October 3, 2008,

and, based on the fraud on the trial court and the Respondent's lack of candor before the hearing panel, recommended that the Respondent be suspended from the practice of law for a period of two years.

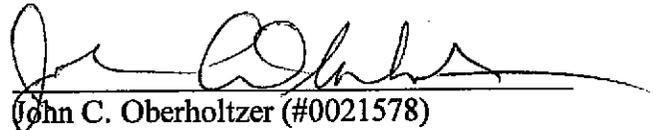
On or about December 2, 2008, the undersigned counsel received a copy of the Respondent's Objections to the findings of fact, conclusions of law and recommendations of the Board. Attached to the Respondent's pleading was a Certificate of Service, which alleged that a copy of the pleading was served, via regular U.S. Mail, on November 25, 2008. Pursuant to Rule 14, Section 2 of the Rules of Practice of the Supreme Court of Ohio, service of a pleading to counsel by mail is effected by depositing the copy with the United States Postal Service for mailing. S.Ct.Prac.R.XIV.

On December 12, 2008, the Relator filed its Response to the Respondent's Objections, but was subsequently informed by the Court that this filing was untimely, as it was not filed within 15 days of November 25, 2008. However, in this case, there is no evidence that the Respondent actually deposited his pleading in the mail on November 25, 2008. Although the Certificate of Service alleges this, the Relator has no actual knowledge that this occurred. The Relator did not receive a copy of the Respondent's Objections until December 2, 2008. Due to the Thanksgiving holiday and the subsequent weekend, there is no way for the Relator to know whether the delay in receiving the pleading was due to holiday-related reasons or a delay on Respondent's part in actually depositing the pleading with the post office. Without evidence to show when the Respondent actually served the Objections on the Relator, there is no way for the Court to know when the 15-day response time began. Accordingly, there is a defect in service of process, and the Respondent's Objections should be stricken as a matter of law.

WHEREFORE, for reasons set forth herein, the Relator, Medina County Bar Association, respectfully requests that this Honorable Court strike the Respondent's Objections to Findings of Fact, Conclusions of Law and Recommendations of the Board of Commissioners on Grievances and Discipline.

WHEREFORE, if this Motion is not taken well by the Court, the Relator respectfully requests that the Court nevertheless accept the Relator's Response to Respondent's Objections filed on December 12, 2008, and allows the Relator an opportunity to be heard at the oral argument on the merits set for January 20, 2009.

Respectfully submitted,

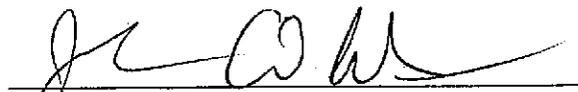


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CERTIFICATE OF SERVICE

A copy of the foregoing *Motion to Strike* was sent by regular U.S. Mail this 16th day of December, 2008 to the following:

Larry H. James, Esq., and
Christina L. Corl, Esq.
Crabbe, Brown & James
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