

IN THE SUPREME COURT OF OHIO

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

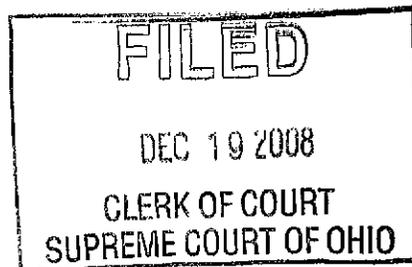
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**RESPONDENT KENNETH J. LEWIS' MEMORANDUM IN  
OPPOSITION TO RELATOR'S MOTION TO STRIKE**

Now comes Respondent Kenneth Lewis, by and through counsel, and for his Memorandum Contra to Relator's Motion to Strike Respondent's Objections to Findings of Fact, Conclusions of Law and Recommendations of the Board of Commissioners on Grievances and Discipline, states as follows:

Relator moves to strike Respondent's Objections to Findings of Fact, Conclusions of Law and Recommendations of the Board of Commissioners on Grievances and Discipline apparently because Relator failed to file its own brief on time. As the basis for Relator's Motion to Strike, Relator states, "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 fifteen (15) day response time began."

Relator's allegations regarding this Motion to Strike are completely without merit. An examination of the Order to Show Cause issued by the Ohio Supreme Court on November 6, 2008 clearly demonstrates that Respondent's Answer Brief was due to be filed "...on or before 15 days after any brief in support of objections has been filed." The Court's Order to Show Cause makes no



mention whatsoever regarding "service" of Respondent's Brief, it relates only to the filing date. (Ohio Supreme Court Order to Show Cause, Nov. 6, 2008, Exhibit A).

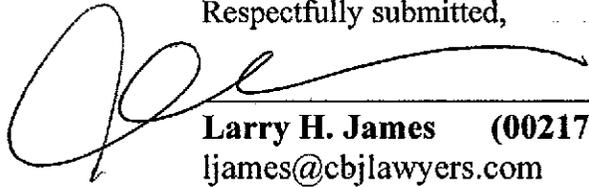
As stated by Relator in its Motion to Strike, Relator received Respondent's Brief on **December 2, 2008**. At the time of receipt, Relator still had in excess of one (1) week to file its brief within the time prescribed by the Court's Order to Show Cause. Once again, the Court's Order to Show Cause refers only to "filing" of briefs with the Court, not the service of those briefs. Relator's objections regarding the time of service of Respondent's Brief is totally without merit. Even at the time of receipt (assuming there was some problem with the service of this brief, which there was not), Relator still had in excess of one (1) week to file its brief and failed, without excuse, to do so.

Relator, at the time of receipt of Respondent's brief, could easily have moved this Court for an extension to respond, and Respondent would not have objected. Respondent is at a loss as to why he should be penalized after timely filing his brief, simply based upon the fact that the Relator failed to comply with this Court's Order.

In addition, attached with this Memorandum Contra, please find the Affidavit of Crabbe, Brown & James employee Margie Miller, certifying that she did, in fact, place Relator's Brief in the U.S. Mail on November 25, 2008. Therefore, Relator's claim that there is no evidence that the brief was mailed on November 25, 2008 is similarly without merit.

WHEREFORE, Respondent Kenneth Lewis respectfully requests this Honorable Court to deny the 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, deny the Relator the opportunity to file an Answer Brief to this matter, and deny Relator the opportunity to participate in oral argument.

Respectfully submitted,



**Larry H. James (0021773)**

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**Christina L. Corl (0067869)**

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Crabbe, Brown & James

500 South Front Street

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Columbus, OH 43215

Tel: (614) 229-4567

Fax: (614) 229-4559

*Counsel for Kenneth J. Lewis, Respondent*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing was served, via regular U.S. Mail, this **18th day of December, 2008**, to the following:

Kelly O'Kell, Esq.

44 Public Square

Arcade Victoria Suite 5

Medina, OH 44256

*Counsel for Relator, Medina Bar Association*

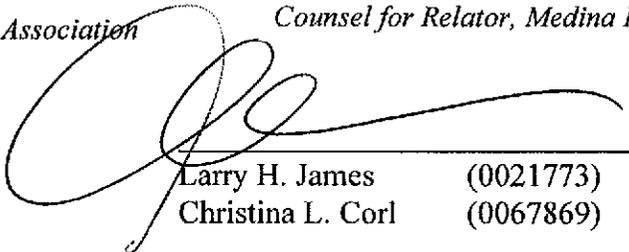
John C. Oberholtzer, Esq.

39 Public Square, Suite 201

P.O. Box 220

Medina, OH 44258

*Counsel for Relator, Medina Bar Association*



Larry H. James (0021773)

Christina L. Corl (0067869)

FILED

# The Supreme Court of Ohio

NOV 06 2008

CLERK OF COURT  
SUPREME COURT OF OHIO

Medina County Bar Association,  
Relator,

Case No. 08-2068

v.

Kenneth J. Lewis,  
Respondent.

## ORDER TO SHOW CAUSE

The Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio has filed a Final Report in the office of the clerk of this court. This Final Report recommended that pursuant to Rule V(6)(B)(3) of the Supreme Court Rules for the Government of the Bar of Ohio the Respondent, Kenneth J. Lewis, Attorney Registration Number 0073002, be suspended from the practice of law for two years. The Board further recommends that the costs of these proceedings be taxed to the respondent in any disciplinary order entered, so that execution may issue. Upon consideration thereof,

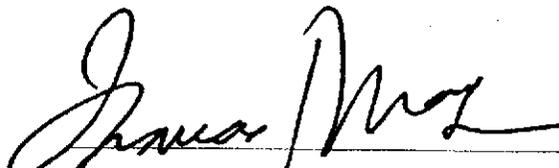
It is ordered by the court that the respondent show cause why the recommendation of the Board should not be confirmed by the court and the disciplinary order so entered.

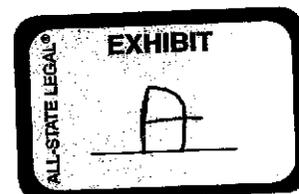
It is further ordered that any objections to the findings of fact and recommendation of the Board, together with a brief in support thereof, shall be due on or before 20 days from the date of this order. It is further ordered that an answer brief may be filed on or before 15 days after any brief in support of objections has been filed.

After a hearing on the objections or if no objections are filed within the prescribed time, the court shall enter such order as it may find proper which may be the discipline recommended by the Board or which may be more severe or less severe than said recommendation.

It is further ordered, sua sponte, that all documents filed with this court in this case shall meet the filing requirements set forth in the Rules of Practice of the Supreme Court of Ohio, including requirements as to form, number, and timeliness of filings and further that unless clearly inapplicable, the Rules of Practice shall apply to these proceedings.

It is further ordered, sua sponte, that service shall be deemed made on respondent by sending this order, and all other orders in this case, by certified mail to the most recent address respondent has given to the Office of Attorney Services.

  
THOMAS J. MOYER  
Chief Justice



IN THE SUPREME COURT OF OHIO

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

AFFIDAVIT OF MARGIE MILLER

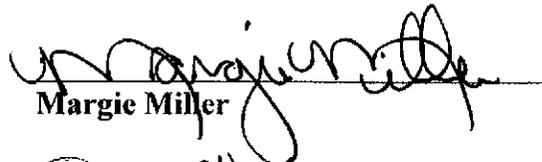
I, Margie Miller, being duly sworn, deposed and state that if called, I can testify of personal knowledge as follows:

- 1. That on November 25, 2008, I personally placed Respondent Kenneth J. Lewis' Objections to Findings of Fact, Conclusions of law and Recommendations of the Board of Commissioners on Grievances and Discipline in the regular U.S. mail, addressed to the following persons:

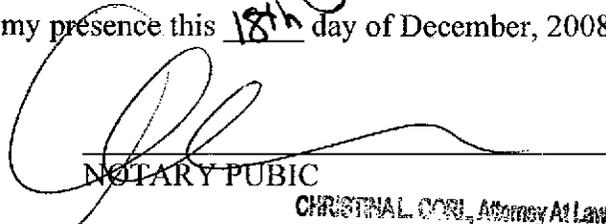
Kelly O'Kell, Esq.  
44 Public Square  
Arcade Victoria Suite 5  
Medina, OH 44256

John C. Oberholtzer, Esq.  
39 Public Square, Suite 201  
P.O. Box 220  
Medina, OH 44258

- 2. Further Affiant sayeth naught.

  
Margie Miller

Sworn to before me and subscribed in my presence this 18<sup>th</sup> day of December, 2008.

  
NOTARY PUBLIC

Commission Expires: \_\_\_\_\_  
CHRISTINA COOK, Attorney At Law  
NOTARY PUBLIC - STATE OF OHIO  
My commission has no expiration date  
Sec. 147.03 R.C.

