

IN THE SUPREME COURT OF OHIO

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Toledo Bar Association

Relator

vs.

Case No. 05-2394

Fred J. Burkholder

Respondent

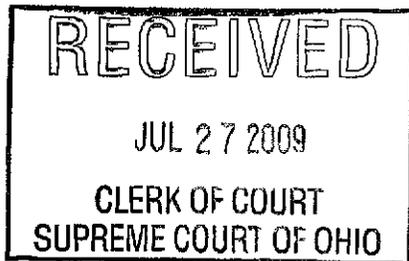
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ON RESPONDENT'S PETITION FOR REINSTATEMENT  
TO THE PRACTICE OF LAW

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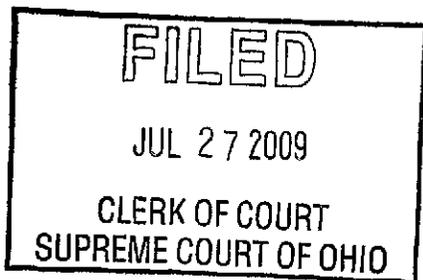
MOTION OF RELATOR TO REFER RESPONDENT'S PETITION TO THE BOARD  
OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE OF THE SUPREME  
COURT OF OHIO FOR HEARING, AND TO CONSOLIDATE WITH RESPONDENT'S  
PETITION FOR REINSTATEMENT ON OHIO STATE BAR ASSOCIATION V.  
BURKHOLDER, CASE NO. 08-2052

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## MOTION

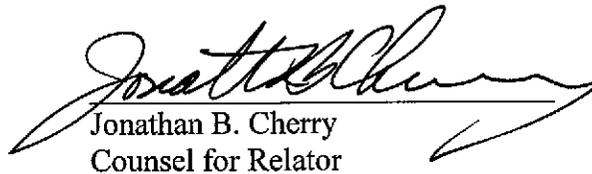
Respondent Fred J. Burkholder is presently in the unusual circumstance of serving a six-month term suspension in the instant case (hereinafter “the TBA case”), while simultaneously serving an indefinite suspension in Ohio State Bar Association v. Burkholder, Case No. 2008-2052 (hereinafter “the OSBA case”). He has applied for reinstatement in both cases, and this Court has referred the OSBA case to the Board of Commissioners for hearing under Gov. Bar Rule V(10)(C). His petition in the TBA case is under Gov. Bar Rule V(10)(A), and would not, in the ordinary course, require a hearing.

The Toledo Bar Association, Relator herein, respectfully suggests that the interests of justice, efficiency, and judicial economy would be served by consolidation of these cases for hearing with the Board. Reinstatement of the Respondent on the TBA case in the short term would accomplish nothing, since his license would remain suspended on the OSBA case until the Board appoints a panel, holds a hearing as required by Gov. Bar Rule V(10)(E), and reports its findings to this Court.

Reinstatement in the TBA case while the OSBA case remains pending invites the possibility of inconsistent or confusing results, which would be avoided by consolidation and a hearing on both cases before an appropriately appointed hearing panel of the Board. At the same time, all parties with an interest in Respondent’s possible reinstatement might be appropriately heard in a reasonable and organized way, at a single hearing, so that a global exploration of common issues and a proposed resolution of those issues might be presented to this Court.

Relator has been authorized to report to the Court that neither the Ohio State Bar Association nor Respondent has any objection to the requested consolidation and referral for hearing.

For the foregoing reasons, Relator respectfully moves that the Court refer Respondent's application for reinstatement to the Board for hearing and consolidate the matter with OSBA v. Burkholder.

  
Jonathan B. Cherry  
Counsel for Relator

**Certificate**

I hereby certify that a copy of the foregoing motion was served by ordinary mail and fax transmission to James S. Adray at the mailing address set forth in the record, and that a copy has also been served by ordinary mail upon Eugene P. Whetzel, General Counsel, Ohio State Bar Association, 1700 Lake Shore Drive, P.O. Box 16562, Columbus, Ohio 43216-6562, and upon Jonathan Marshall, Secretary, Board of Commissioners on Grievances and Discipline, 65 S. Front St., 5<sup>th</sup> Floor, Columbus, OH 43215-3431, this 23<sup>d</sup> day of July, 2009.

  
Counsel for Relator