

ORIGINAL

IN THE SUPREME COURT OF OHIO

OHIO STATE BAR ASSOCIATION

Relator,

vs.

GARY ALLAN HEATH

Respondent.

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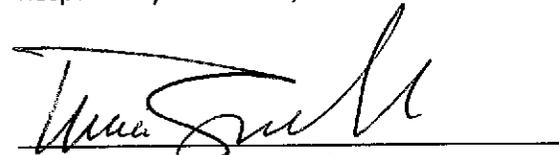
Case No. UPL 07-10

09-0966

MOTION TO STRIKE  
MEMO CONTRA MOTION TO DISMISS

Now comes the Relator, Ohio State Bar Association, and moves this Court to strike Respondent's Motion to Dismiss with Prejudice; such motion is not permitted by Rule XIV of the Rules of Practice of the Supreme Court and upon grounds contained in the following Memorandum in Support.

Respectfully submitted,



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FILED  
AUG 21 2009  
CLERK OF COURT  
SUPREME COURT OF OHIO

FILED  
BOARD ON THE  
AUG 20 2009  
UNAUTHORIZED  
PRACTICE OF LAW

## MEMORANDUM IN SUPPORT

Relator, Ohio State Bar Association moves the Court Strike Respondents Motion to Dismiss with Prejudice and enter a finding of unauthorized practice of law as recommended by the Board.

Respondent's motion is not authorized by the Rules of Practice of the Supreme Court and has no basis in law or fact.

Respondent claims the large number of questions asked and the interest shown by the Justices is cause for dismissal. On the contrary, the questioning directed to Respondent was insightful, well-directed, and managed to elicit responses Relator has sought from the beginning of its investigation.<sup>1</sup> Had Respondent been permitted to read his notes for oral argument, the Court would be no more enlightened regarding the facts of the case. Respondent's stated cause for dismissal is not relevant or just cause for dismissal of this action.

Since the beginning of Relator's investigation, Mr. Heath has shown nothing but contempt for counsel, Relator, and this Court. The latest pleading continues to use the word "alleged" before Relator and Respondent. Identification of the Ohio State Bar Association as the Relator is not an allegation, it is a fact. The use of such language is not that of a simple headlight repairman as Mr. Heath describes himself; this is a tactic used by those who do not recognize the authority of our judicial system. Likewise, Respondent's Motion to Dismiss with Prejudice is merely a tactic to undermine the authority of this Court.

Relator has complied with all rules of procedure in this matter. The fact that Respondent chose to ignore the correspondence from Relator throughout the investigation by Relator and subsequent Board action does not create cause for dismissal at this time.

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<sup>1</sup> It should be noted Respondent's intended topic for oral argument was "subject matter jurisdiction." Thankfully, the Court directed Mr. Heath toward the issues needing discussion.

Respondent's claim that pro bono legal work does not require a license to practice law is wrong. Relator accepts Respondent's claim that he received no compensation from Mr. Miller. However, the evidence of pleadings filed with Ashland Municipal Court, the testimony of Attorney Josiah Mason, and the statements made by Respondent during oral argument lead to but one conclusion; Gary Allan Heath has engaged in the unauthorized practice of law. Dismissal is not warranted in this matter.

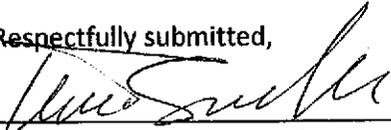
During oral argument and in Respondent's attachments to the Motion to Dismiss, Mr. Heath suggested that no harm arose from his involvement with Mr. Miller and the dispute over the gas well. The evidence does not support Mr. Heath's statements. Attorney Mason stated in deposition that his client, Mrs. Burson, was extremely troubled upon receipt of Mr. Heath's letter demanding over \$4 million in damages. Harm was done. Only after Mrs. Burson's death did the oil rights return to Mr. Miller; no good came of Mr. Heath's efforts. Respondent's claim that no harm was done is false based on the evidence and is not cause for dismissal.

Respondent has leveled serious charges against Relator including labeling this entire action as harassment. While Relator is gratified that Mr. Heath states he will not undertake representation of anyone in the future, Mr. Heath has not acknowledged that preparing documents for a third party to file in court and demanding money from one person on behalf of another is the practice of law. Respondent exhibited no contrition for his actions. The testimony and evidence in this case do not justify dismissal. The Board's recommendation should be accepted and a fine imposed.

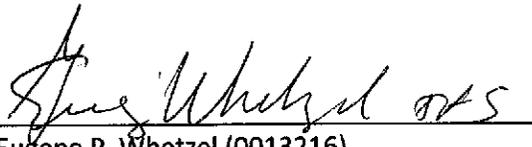
Respondent has continually attempted to hamper the investigation of Relator and use inappropriate pleadings before the Board to circumvent the Rules of this Court and the prohibition of the unauthorized practice of law. The present Motion to Dismiss is yet another tactic used by a person who does not acknowledge the authority of the judicial system in Ohio and seeks to live outside the bounds of established law.

In light of the foregoing, Relator requests the Motion to Dismiss be stricken from the record or denied and the findings and recommendations of the Board be approved.

Respectfully submitted,



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### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing Motion to Strike Respondent's Motion to Dismiss was duly served, via regular US Mail, postage prepaid, this 18<sup>th</sup> day of August, 2009, upon the following:

Gary Allan Heath  
6478 Winchester Blvd. #389  
Canal Winchester, Ohio 43110

Michelle A. Hall, Secretary  
Board on the Unauthorized Practice of Law  
65 South Front Street  
Columbus, Ohio 43215  
Via email only



Tricia A. Sprankle (0070971)