

THE SUPREME COURT OF OHIO

AKRON BAR ASSOCIATION

\*

CASE NO. 2009-1522

Relator

\*

Board of Commissioner's  
Case No. 08-036

v.

\*

MICHELLE SMITHERN

\*

Respondent

\*

---

RELATOR'S RESPONSE TO OBJECTION TO THE RECOMMENDATION OF THE  
BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE OF THE SUPREME  
COURT OF OHIO

---

NATHAN A. RAY  
Registration #0045170  
137 South Main Street, Suite 201  
Akron, Ohio 44308  
330-253-7171  
330-253-7174 (fax)  
[burdon-merlitti@neo.rr.com](mailto:burdon-merlitti@neo.rr.com)

CHARLES E. GRISI  
Registration #0002599  
1030 Key Building  
159 South Main Street  
Akron, Ohio 44308  
(330) 535-8171  
(330) 535-0106 (fax)  
[cegrisi@grisilaw.com](mailto:cegrisi@grisilaw.com)

Counsel of Record for Relator

Counsel of Record for Respondent

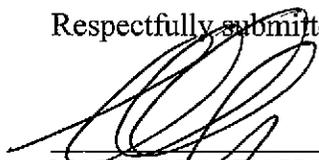
FILED  
OCT 08 2009  
CLERK OF COURT  
SUPREME COURT OF OHIO

RECEIVED  
OCT 08 2009  
CLERK OF COURT  
SUPREME COURT OF OHIO

The Relator, Akron Bar Association, by and through counsel hereby submits their reply to the objections filed by Respondent, Michelle Smithern, to the report of the Board of Commissioners and submits that the Board's determination was correct as follows:

1. The recommendation of the Board as to indefinite suspension is not too harsh under the facts and circumstances of the case;
2. The recommendation of the Board as to indefinite suspension is not too harsh in comparison to other cases in which indefinite suspension has been imposed for like conduct;
  - A. The Court has stayed portions of a sanction in cases only when it was warranted.
  - B. The sanction of a two year suspension with eighteen (18) months stayed is clearly not warranted in this case.
  - C. The conduct in this case is of such an egregious nature that an indefinite suspension is the appropriate sentence.
3. The recommendation of the Board to impose an indefinite suspension in this case is based upon the Board's full review of this case and is appropriate given the Respondent's conduct in this case;

Respectfully submitted,

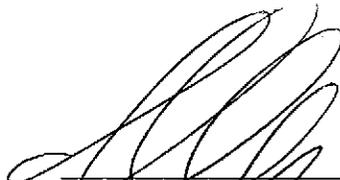


---

NATHAN A. RAY #0041570  
Attorney for Relator, Counsel of Record  
137 South Main Street, Suite 201  
Akron, Ohio 44308  
330-253-7171

PROOF OF SERVICE

4<sup>th</sup> 2 I hereby certify that a copy of the foregoing has been mailed by regular U.S. Mail this day of October, 2009, to Charles Grisi, Attorney for Respondent, 159 South Main Street, 1030 Key Building, Akron, Ohio 44308; Jonathan W. Marshall, Secretary, Board of Commissioners on Grievances and Discipline, 65 South Front Street, 5<sup>th</sup> Floor, Columbus, Ohio 43215; Jonathan E. Coughlan, Office of Disciplinary Counsel, The Supreme Court of Ohio, 250 Civic Center Drive, Suite 325, Columbus, Ohio 43215-7411

  
\_\_\_\_\_  
NATHAN A. GRAY  
Attorney for Relator