

ORIGINAL

Supreme Court of Ohio  
65 S. Front Street  
Columbus, Ohio 43215-3431

OHIO STATE BAR ASSOCIATION

Case No. 2004-2150

Relator

v.

John Allen, et al.

Respondents

**Demand/Motion to Strike and Dismiss**

John Allen timely files this Demand/Motion to Strike and Dismiss.

Relator has filed a Brief in Opposition to Respondent's Motion to Dismiss.

Respondent now sets the record straight:

The only statutory penalty for the unauthorized practice of law is section 4705.99 of the Ohio Revised Code (ORC). Said section imposes a penalty for violation of division (A)(1) or (2) of section 4705.07 as illustrated in Exhibit A, attached hereto and made a part hereof.

Respondent, John Allen, has never held himself out in any manner as an attorney at law and there is no proof of record that he has.

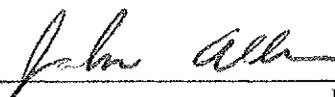
Respondent, John Allen, has never represented orally or in writing, directly or indirectly, the he is authorized to practice law and there is no proof of record that he has.

Therefore, the law imposes no penalty against Respondent, John Allen.

Wherefore, John Allen demands that this Court strike Relator's Brief in Opposition and dismiss this frivolous action.

All Rights Reserved,

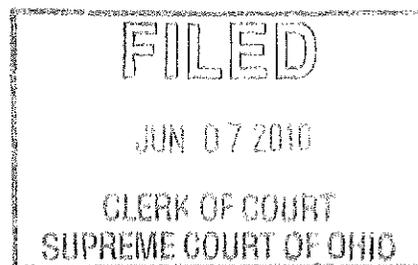
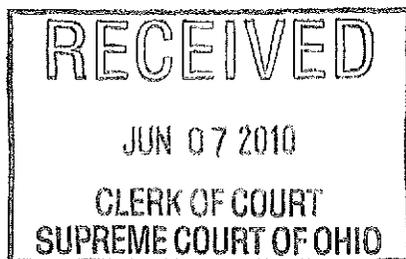
Dated: June 4, 2010

  
\_\_\_\_\_  
John Allen

A true and correct copy of the foregoing has been served on the above date via First Class mail upon the following:

Jeffrey J. Fanger  
600 Superior Ave. E.  
Suite 1300  
Cleveland, OH 44114

Eugene P. Whetzel  
1700 Lake Shore Drive  
Columbus, OH 43204



# **4705.99 Penalty.**

Whoever violates division (A)(1) or (2) of section 4705.07 of the Revised Code is guilty of a misdemeanor of the first degree.

Effective Date: 09-30-1997; 09-15-2004

*Exhibit A*

## 4705.07 Unauthorized practice.

*Exhibit B*

(A) No person who is not licensed to practice law in this state shall do any of the following:

- (1) Hold that person out in any manner as an attorney at law;
- (2) Represent that person orally or in writing, directly or indirectly, as being authorized to practice law;
- (3) Commit any act that is prohibited by the supreme court as being the unauthorized practice of law.

(B)(1) The use of "lawyer," "attorney at law," "counselor at law," "law," "law office," or other equivalent words by any person who is not licensed to practice law, in connection with that person's own name, or any sign, advertisement, card, letterhead, circular, or other writing, document, or design, the evident purpose of which is to induce others to believe that person to be an attorney, constitutes holding out within the meaning of division (A)(1) of this section.

(2) Only the supreme court may make a determination that any person has committed the unauthorized practice of law in violation of division (A)(3) of this section.

(C)(1) If necessary to serve the public interest and consistent with the rules of the supreme court, any person who is authorized to bring a claim before the supreme court that alleges the unauthorized practice of law in violation of division (A)(3) of this section may make a motion to the supreme court to seek interim relief prior to the final resolution of the person's claim.

(2) Any person who is damaged by another person who commits a violation of division (A)(3) of this section may commence a civil action to recover actual damages from the person who commits the violation, upon a finding by the supreme court that the other person has committed an act that is prohibited by the supreme court as being the unauthorized practice of law in violation of that division. The court in which that action for damages is commenced is bound by the determination of the supreme court regarding the unauthorized practice of law and shall not make any additional determinations regarding the unauthorized practice of law. The court in which the action for damages is commenced shall consider all of the following in awarding damages to a person under division (C)(2) of this section:

(a) The extent to which the fee paid for the services that constitute the unauthorized practice of law in violation of division (A)(3) of this section exceeds the reasonable fees charged by licensed attorneys in the area in which the violation occurred;

(b) The costs incurred in paying for legal advice to correct any inadequacies in the services that constitute the unauthorized practice of law in violation of division (A)(3) of this section;

(c) Any other damages proximately caused by the failure of the person performing the services that constitute the unauthorized practice of law to have the license to practice law in this state that is required to perform the services;

(d) Any reasonable attorney's fees that are incurred in bringing the civil action under division (C)(1) or (2) of this section.

(3) Divisions (C)(1) and (2) of this section apply, and may be utilized, only regarding acts that are the unauthorized practice of law in violation of division (A)(3) of this section and that occur on or after the effective date of this amendment.

Effective Date: 09-30-1997; 09-15-2004