

**ORIGINAL**

**CASE NO. 2007-1581**

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**IN THE SUPREME COURT OF OHIO**

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**CLEVELAND BAR ASSOCIATION,**

**Relator,**

**v.**

**LUANN MITCHELL,**

**Respondent.**

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**RELATOR'S MOTION TO STRIKE  
RESPONDENT'S AFFIDAVIT OF COMPLIANCE AND APPLICATION FOR  
REINSTATEMENT**

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Tel: (216) 486-0024  
Respondent

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*Counsel of Record*  
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Attorneys for Relator  
Cleveland Bar Association

**RECEIVED**  
JUN 29 2010  
CLERK OF COURT  
SUPREME COURT OF OHIO

**FILED**  
JUN 28 2010  
CLERK OF COURT  
SUPREME COURT OF OHIO

## MOTION TO STRIKE

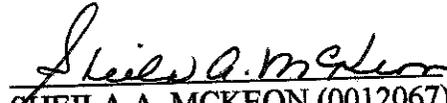
Relator, Cleveland Bar Association (n/k/a Cleveland Metropolitan Bar Association), submits its Motion to Strike Respondent's Affidavit of Compliance and Application for Reinstatement, filed on March 22, 2010 and filed again on May 21, 2010 pursuant to Sect. R XIV, Section 2 (D)(1). Relator requests that both filings by Respondent be struck from the record for failure of Respondent to serve either document on counsel for Relator.

Respondent never served either Affidavit of Compliance and Application for Reinstatement on Relator, despite the certificates of service attached to the documents. See, Affidavit of Sheila A. McKeon attached as Exhibit A and Affidavit of Timothy J. Fitzgerald attached as Exhibit B.

The undersigned counsel for Relator checked the court docket and learned that on March 22, 2010, Respondent filed an *Affidavit of Compliance, Application for Reinstatement and Reply to Motion to Show Cause*. Counsel for Relator were not served with this document. The court docket also shows that on May 21, 2010, Respondent filed another document entitled *Affidavit of Compliance, Application for Reinstatement and Reply to Motion to Show Cause attaching Omitted [sic] Exhibit*. Once again, Respondent failed to serve counsel for Relator with this document. See, Exhibits A and B.

Given the fact that Respondent failed to serve the documents on Relator, thus depriving it of the opportunity to file a timely response to Respondent's request for reinstatement, Relator moves this court for an order striking both filings from the record in this matter.

Respectfully submitted,

  
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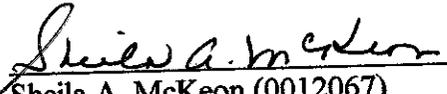
And

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*Attorneys for Relator  
Cleveland Bar Association*

**CERTIFICATE OF SERVICE**

A copy of the foregoing was served upon Luann Mitchell, P. O. Box 08531, Cleveland, Ohio 44108 this 25 day of June 2010 by regular U.S. mail.

  
Sheila A. McKeon (0012067)  
Timothy J. Fitzgerald (0042734)  
*Attorneys for Relator  
Cleveland Bar Association*

CASE NO. 2007-1581

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**STATE OF OHIO** :

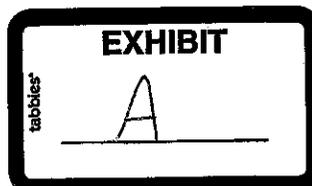
**SS: Affidavit of Sheila A. McKeon**

**COUNTY OF LUCAS** :

Sheila A. McKeon, being duly sworn according to law, deposes and says as follows:

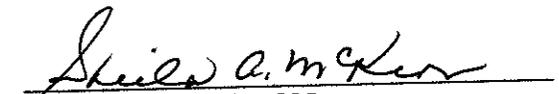
1. I am over 18 years of age and am licensed to practice law in the State of Ohio. I am one of the attorneys representing Relator, the Cleveland Bar Association (n/k/a Cleveland Metropolitan Bar Association), in this matter and have personal knowledge of the information contained in this affidavit. I

2. By checking this Court's online docket, I learned that on March 22, 2010, Respondent filed an Affidavit of Compliance and Application for Reinstatement with the Court. I also learned that on May 21, 2010, Respondent filed a second Affidavit of Compliance and Application for Reinstatement. I was never served with copies of these documents by Respondent.



3. The Certificates of Service on Respondent's documents state that copies of both were purportedly mailed to me and my partner, Timothy J. Fitzgerald, at the offices of Gallagher Sharp in Cleveland, Ohio. Because I am located in the Toledo, Ohio office of Gallagher Sharp, I checked with Mr. Fitzgerald to see if he received either of these documents. He informed me that he did not. I also checked with the office staff to determine if there was any mail addressed to me that had not been forwarded to my office in Toledo. There was not. I can only conclude that, despite the Certificates of Service, Respondent did not serve me with the documents filed with the Court on March 22, 2010 and May 21, 2010.

5. Further Affiant sayeth naught.

  
SHEILA A. McKEON

SWORN TO before me and subscribed in my presence this 25<sup>TH</sup> day of June 2010.

  
Notary Public



ADAM P. SADOWSKI  
Notary Public, State of Ohio  
My Commission Has No Expiration  
Section 147.03 O.R.C.

CASE NO. 2007-1581

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**CLEVELAND BAR ASSOCIATION,**

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**v.**

**LUANN MITCHELL,**

**Respondent.**

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**STATE OF OHIO**

:

**SS: Affidavit of Timothy J. Fitzgerald**

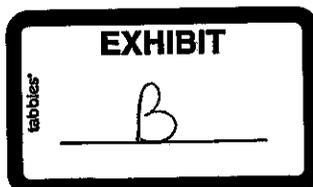
**COUNTY OF CUYAHOGA**

:

Timothy J. Fitzgerald, being duly sworn according to law, deposes and says as follows:

1. I am over 18 years of age and am licensed to practice law in the State of Ohio. I am one of the attorneys representing Relator, the Cleveland Bar Association (n/k/a Cleveland Metropolitan Bar Association), in this matter and have personal knowledge of the information contained in this affidavit. I

2. I learned that Respondent, Luann Mitchell, had applied to this court for reinstatement from my partner, Sheila A. McKeon, who told me that she checked the court docket and saw that Respondent had filed an Affidavit of Compliance and Application for Reinstatement on March 22, 2010. I checked the docket myself and saw the filing.



3. I had not seen the document before and had no recollection of receiving a copy from Respondent. I checked my office file and could not find a copy of the document in the file.

4. I again learned from Ms. McKeon that on May 21, 2010 Respondent had filed another Affidavit of Compliance and Application for Reinstatement. Ms. McKeon inquired as to whether I had received the document since it was addressed to the both of us at Gallagher Sharp's Cleveland, Ohio office.

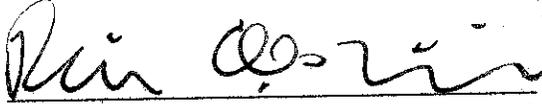
5. I did not receive a service copy of the document from Respondent and a copy is not located in my file.

6. I can only conclude that I was not served with either the March 22, 2010 or the May 21, 2010 filings by Respondent, despite the certificates of service on the documents to the contrary.

7. Further Affiant sayeth naught.

  
TIMOTHY J. FITZGERALD

SWORN TO before me and subscribed in my presence this 24<sup>th</sup> day of June 2010.

  
Notary Public

RICHARD C.O. REZIE  
Notary Public, State Of Ohio  
My Commission Has No Expiration Date  
Section 147.01 R.C.