

IN THE SUPREME COURT OF OHIO

ORIGINAL

Disciplinary Counsel : Case No. 10-0851
Relator, :
vs. :
Scott Allan Pullins :
Respondent. :

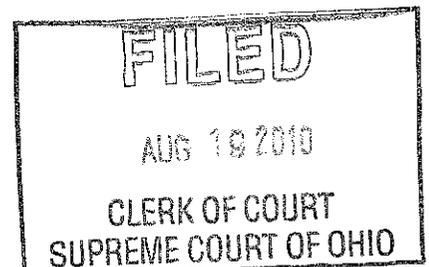
RELATOR'S RESPONSE TO RESPONDENT'S
MOTION TO STRIKE RELATOR'S MEMORANDUM
OBJECTING TO RESPONDENT'S SECOND REQUEST
FOR JUDICIAL NOTICE UNDER EVIDENCE RULE 201

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BRIEF

Respondent has submitted a four point motion requesting that the court strike relator's memorandum in opposition to respondent's second request for judicial notice. Relator opposes the motion.

The motion first asserts that relator's memorandum is mislabeled, for that reason fatally defective, and ought to be stricken. Respondent concedes that the labeling of the memorandum may be technically incorrect but the defect is harmless, immaterial to the efficacy of the memorandum, and unlikely to mislead the court or materially prejudice respondent.

The remaining three points of the motion constitute argument about the relative merit of respondent's request for judicial notice and relator's response, thus constituting a reply brief which is not permitted.

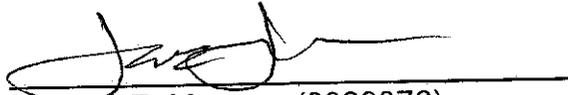
Even if respondent's arguments are accepted by the court, they do not constitute a basis for striking the memorandum. The memorandum is merely a document submitted in litigation in response to a filing by an opposing party. Common litigation procedure does not contemplate the striking of such a document. The typical resolution of whether a filing is helpful with regard to the request/motion before the court lies in the

decision of the tribunal to grant or deny the underlying request/motion.

The respondent concedes on page four of the instant motion to strike that the proper resolution of all of his post objection requests/motions and relator's responses may be that they be stricken as violations of Gov. Bar R. V (8) (B). Relator would have no objection.

For the foregoing reasons, either all of the post objections motions/requests filed by respondent and relator's objections thereto should be stricken or the instant motion to strike should be overruled.

Respectfully submitted,



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CERTIFICATE OF SERVICE

A copy of the foregoing Relator's Response to Respondent's Motion to Strike Relator's Memorandum Objecting to Respondent's Second Request for Judicial Notice Under Evidence Rule 201 was served upon Scott A. Pullins, Esq., respondent, 110 East Gambier Street, 2d Floor, Mount Vernon, Ohio, 43050 and on Jonathan Marshall, Esq., Secretary, The Board of Commissioners on Grievances and Discipline, The Supreme Court of Ohio, 65 South Front Street, 5th Floor, Columbus, Ohio 43215-3431 this 18 day of August by regular United States Mail, postage prepaid.



Michael E. Murman, Special Prosecutor to
Disciplinary Counsel