

ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, ex rel,)
DENNIS J. VARNAU,)

Plaintiff-Appellant,)

-vs-)

DWAYNE WENNINGER,)

Defendant-Appellee.)

SUPREME CT. CASE NO. 10-1655

On Appeal from the Twelfth District
Court of Appeals, Brown County Ohio

Court of Appeals Case No.
CA2009-02-10

APPELLANT'S MOTION FOR STAY OF APPEAL AND REMAND

Now comes the Appellant, by and through counsel, and moves this Court to stay this appeal pending resolution by the lower Court of certain post-summary judgment motions, including a timely filed motion for relief from the judgment. As grounds for this motion, counsel states that said post-summary judgment motions are pending before the lower Court and have not been ruled upon, but if ruled upon favorable to this Appellant would moot the appeal in its entirety.

In the case below, on or around October 20, 2010, Appellant filed a motion for relief from judgment now being appealed. It is still pending but fully briefed.

It is therefore requested that the Court stay the further disposition of this appeal, and remand this matter to the trial Court temporarily and for the limited purposes of resolving the post-summary judgment motion.

RECEIVED
OCT 04 2010
CLERK OF COURT
SUPREME COURT OF OHIO

FILED
OCT 04 2010
CLERK OF COURT
SUPREME COURT OF OHIO

Respectfully submitted,

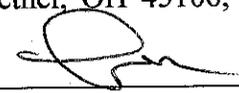
THOMAS G. EAGLE CO., L.P.A.



Thomas G. Eagle (#0034492)
Counsel of Record for Appellant
3386 N. State Rt. 123
Lebanon, Ohio 45036
Phone: (937) 743-2545
Fax: (937) 704-9826
Email: eaglelawoffice@cs.com

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served upon Gary A. Rosenhoffer, 302 E. Main St., Batavia, OH 45103, and Patrick L. Gregory, 717 W. Plane, Bethel, OH 45106, Attorneys for Respondent, by ordinary U.S. mail this 30th day of



2010.



Thomas G. Eagle (#0034492)