

**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

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**APPELLANT'S CORRECTED MOTION FOR STAY OF APPEAL AND REMAND**

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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 *August 20, 2010* (inadvertently stated as "October" in the prior filing). 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.

**FILED**  
OCT 07 2010  
CLERK OF COURT  
SUPREME COURT OF OHIO

Respectfully submitted,

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



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**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](mailto: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 4th day of October 2010.



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Thomas G. Eagle (#0034492)

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

3386 N. State Rt. 123  
Lebanon, Ohio 45036  
Phone (937) 743-2545  
Fax (937) 704-9826