

**IN THE SUPREME COURT OF OHIO**

State <i>ex rel.</i>	)	
	)	
MICHAEL SCHECK,	)	Case no.: 2010-1569
	)	
Relator-Appellant,	)	Court of Appeals no.: 09CA0081-M
	)	
-v-	)	
	)	
JUDGE CHRISTOPHER J. COLLIER,	)	
	)	
Respondent-Appellee.	)	

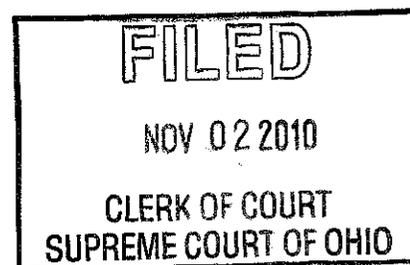
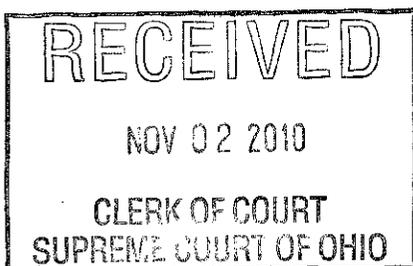
**RESPONDENT-APPELLEE'S MOTION TO STRIKE  
APPELLANT-RELATOR'S MERIT BRIEF; MEMORANDUM**

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Appellant *pro se.*

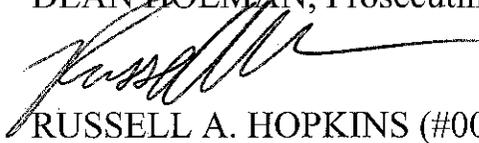


## Appellee's Motion to Strike

Now comes the Appellee State of Ohio, by and through the Medina County Prosecuting Attorney, and respectfully moves this Court pursuant to Supreme Court Rule 8.3 and Civil R. 11 for an order to strike Appellant's brief filed October 25, 2010.

Respectfully submitted,

DEAN HOLMAN, Prosecuting Attorney



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## Memorandum

Appellant is proceeding *pro se* in the instant case. Rather than signing his brief himself, an attorney-in-fact signed it and probably prepared it for him. That is not permissible. S.Ct. Prac. R. 8.3 provides as follows:

The original of every document filed in the Supreme Court shall be signed by an attorney representing the party on whose behalf the document is filed. A party who is not represented by an attorney shall sign the document being filed.

It is pretty clear from the context of the rule that “attorney” means an attorney at law, not someone who is merely an attorney-in-fact. *See e.g.*, S.Ct. Prac. R. 1.1. Only an attorney at law may represent others in court and one who is not represented must sign his own court documents. Likewise, Civ.R. 11 provides in pertinent part:

\*\*\* A party who is not represented by an attorney shall sign the pleading, motion, or other document and state the party’s address. Except when otherwise specifically provided by these rules, pleadings need not be verified or accompanied by affidavit. \*\*\*

In *State v. Block* (8<sup>th</sup> Dist.), 2007-Ohio-1979, the court noted:

A durable power of attorney, naming a non-attorney as one’s agent and attorney in fact, does not permit that person to prepare and pursue legal filings and proceedings as an attorney at law. Indeed, in [*Office of Disciplinary Counsel v. Coleman*, 88 Ohio St. 3d 155, 2000-Ohio-288] the Supreme Court of Ohio decried that argument as sophistry. The Court noted that since 1402 the law has recognized the distinction between an attorney in fact and an attorney at law, and only attorneys at law have been permitted to practice in the courts. Furthermore, allowing a durable power of attorney to permit the practice of law would circumvent and thwart the Supreme Court’s constitutional power over all

matters relating to the practice of law and R.C. 4705.01. \*\*\*

*Block at ¶5.*

For these reasons, Respondent-Appellee, Judge Christopher J. Collier, requests an order striking Appellant's merit brief.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Motion for Enlargement of Time to File State's Brief was sent by regular U.S. mail on this 1<sup>st</sup> day of November, 2010 to: Michael Scheck, P.O. Box 644, Westfield Cir., Medina, OH 44256.



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