ORIGINAL

IN THE SUPREME COURT OF OHIO

Disciplinary Counsel Relator	:	**CASE NO. 2011-0408**
	:	**RELATOR'S MOTION SEEKING CLARIFICATION OF THIS COURT'S JUNE 3, 2011 ENTRY**
Joseph G. Stafford (0023863) Respondent	:	

RELATOR'S MOTION SEEKING CLARIFICATION OF THIS COURT'S JUNE 3, 2011 ENTRY

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FILED
JUN 07 2011
CLERK OF COURT
SUPREME COURT OF OHIO

IN THE SUPREME COURT OF OHIO

Disciplinary Counsel,	:	
Relator,	:	**CASE NO: 2011-0408**
vs.	:	
Joseph G. Stafford, (Attorney Reg. No. 0023863)	:	
Respondent.	:	

RELATOR'S MOTION SEEKING CLARIFICATION OF THIS COURT'S JUNE 3, 2011 ENTRY

INTRODUCTION

Now comes relator, Disciplinary Counsel, and hereby respectfully asks this Court to clarify the procedural ruling that was filed on June 3, 2011. See Appendix A. In its June 3, 2011 entry, this Court remanded the instant case to the Board of Commissioners on Grievances and Discipline (the board) "so that the investigator may appear before the panel and be subjected to examination and cross-examination."

For the reasons set forth in the following Memorandum, relator respectfully asks this Court to clarify its June 3, 2011 entry.

MEMORANDUM

In relevant part, this Court's June 3, 2011 entry provides that "[o]n May 4, 2011, the board filed a motion to supplement the record. Respondent filed a memorandum opposing the motion on May 9, 2011." In its May 4, 2011 motion, the board asked this Court to permit it "to supplement the record in this case by including the May 6, 2010 deposition of Randy T. McGough, an investigator for Disciplinary Counsel, taken by Respondent." The June 3, 2011 entry states that this matter is remanded to the board "so that the investigator may appear before the panel and be subjected to examination and cross-examination." Now comes relator and for the following reasons, respectfully asks for clarification of that order.

The "investigator," Randy T. McGough, already testified in this matter, *Disciplinary Counsel v. Joseph G. Stafford*. See Appendix B. McGough was called as a witness by relator at the formal hearing before the panel in July 2010. The entire hearing transcript is presently before this Court and is part of the record in this case.

At the time of his hearing testimony, McGough was subjected to direct and cross-examination by relator and respondent, respectively.[1] The panel chairman ruled on the parties' objections during that testimony. Relator does not wish to "recall" McGough for further testimony. Accordingly, relator seeks clarification regarding this Court's order.

Moreover, it is McGough's testimony from the July hearing and not his deposition transcript that is evidence in this case. McGough's deposition transcript was not marked as an exhibit by either party and it was not offered into evidence pursuant to Civ. R.32(A).

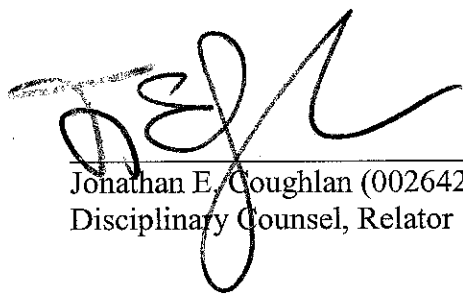
The board was in possession of the deposition transcript simply because the deposition transcript was filed with the Secretary of the board in advance of the July 2010 hearing pursuant

[1] Although they were provided with the opportunity, none of the panel members questioned McGough.

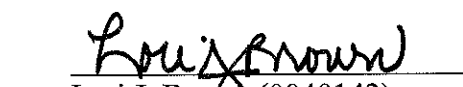
to BCGD Proc.Reg. 3(B). Together with all of the rest of the board's materials regarding Board Case No. 09-028, the deposition transcript should have been transmitted to the Clerk at the same time that the board's report and recommendations were filed. The board's request to supplement the file with the deposition transcript was strictly an administrative matter and has no bearing upon the merits of *Disciplinary Counsel v. Joseph G. Stafford.*

Based upon the foregoing, relator respectfully asks this Court to clarify the June 3, 2011 entry remanding this case to the board.

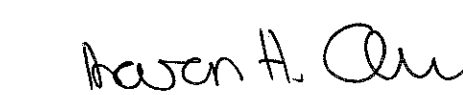
Respectfully submitted,



Jonathan E. Coughlan (0026424)
Disciplinary Counsel, Relator



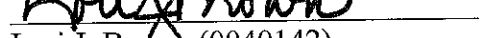
Lori J. Brown (0040142)
Chief Assistant Disciplinary Counsel
Counsel of Record for Relator



Karen H. Osmond (0082202)
Staff Attorney
Counsel for Relator

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via U.S. Mail, postage prepaid, this 7th day of June, 2011, upon respondent's counsel, Lawrence A. Sutter and Stephanie D. Adams, at Sutter, O'Connell & Farchione, 3600 Erieview Tower, 1301 East 9th Street, Cleveland, OH 44114 and upon Jonathan W. Marshall, Secretary, Board of Commissioners on Grievances and Discipline, Ohio Judicial Center, 65 S. Front Street, 5th Floor, Columbus, OH 43215.



Lori J. Brown (0040142)
Counsel for Relator

FILED

JUN 03 2011

CLERK OF COURT
SUPREME COURT OF OHIO

The Supreme Court of Ohio

Disciplinary Counsel,
Relator,
v.
Joseph G. Stafford,
Respondent.

Case No. 2011-0408

ORDER

This cause is pending before the court upon the filing by the Board of Commissioners on Grievances and Discipline of a Report recommending that respondent be suspended for a period of twelve months with the entire suspension stayed on conditions. On May 4, 2011, the board filed a Motion to Supplement the Record. Respondent filed a memo opposing the motion on May 9, 2011.

Upon consideration thereof, it is ordered by the court that this matter is remanded to the board so that the investigator may appear before the panel and be subjected to examination and cross-examination.

Maureen O'Connor
Chief Justice

APPENDIX A

it is doubtful. I'm going to do my best.

CHAIRMAN BRYANT: I understand. I understand.

MS. BROWN: They are all lined up and here as far as I know.

CHAIRMAN BRYANT: But they are all here?

MS. BROWN: Correct.

CHAIRMAN BRYANT: Very well. Let's take a break for lunch and return at 1:15.

- - -

Thereupon, a recess was taken until 1:15 o'clock, p.m., of the same day, to-wit, July 28, 2010.

- - -

BEFORE THE BOARD OF COMMISSIONERS
ON GRIEVANCES AND DISCIPLINE
OF THE SUPREME COURT OF OHIO

- - -

In Re:	:	
Complaint against	:	
Joseph Stafford,	:	
Respondent,	:	
vs.	:	Case No. 09-028
Disciplinary Counsel,	:	Volume IV of VI
	:	Pages 632-827
Relator.	:	

- - -

Disciplinary Hearing of
Joseph Stafford, Esq.
July 28, 2010

- - -

E & A Reporting Service, Inc.
915 South Front Street
Columbus, Ohio 43206
(614) 445-6300

- - -

Disciplinary Counsel hearing of Joseph G. Stafford, Esq., before the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio, under the applicable Rules of Ohio Civil Court Procedure, taken before me, Nancy J. Rodriguez, a Registered Professional Reporter and Notary Public in and for the State of Ohio, taken at the Ohio Judicial Center, 65 South Front Street, West Hearing Room 104, Columbus, Ohio, 43215, on Wednesday, July 28, 2010, commencing at approximately 1:16 p.m.

- - -

APPEARANCES:

Lori J. Brown and Karen H. Osmond, Assistant Disciplinary Counsel, 250 Civic Center Drive, Suite 325, Columbus, Ohio, 43215, appearing on behalf of the Relator.

Lawrence A. Sutter, Esq. and Stephanie D. Adams, Esq., Sutter, O'Connell & Farchione, 3600 Erieview Tower, 1301 East 9th Street, Cleveland, Ohio, 44114, appearing on behalf of the Respondent.

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APPENDIX B

Q. Did you tell anyone about the conversation that you had with Jeffery Rymers about his affidavit?

A. Yes.

Q. And who did you tell?

A. I spoke with an investigator.

Q. Was it an investigator from the Supreme Court of Ohio?

A. I believe so.

Q. Was he from the Office of Disciplinary Counsel?

A. Yes.

Q. Do you recall when you had that conversation?

A. That was maybe a few months after the previous conversation you asked about.

Q. When you say the previous conversation, is that the one with Jeffery?

A. Correct.

Q. And did you tell the investigator from the Disciplinary Counsel what Jeffery Rymers told you about your affidavit?

A. Yes.

MS. ADAMS: I'm going to object,

Your Honor.

I believe this is going to elicit hearsay testimony.

CHAIRMAN BRYANT: Overruled.

BY MS. BROWN:

Q. You can answer the question, whether you told the investigator about your conversation with Jeffery Rymers?

A. I did.

Q. Before the June 3rd pretrial that we talked about where you were sitting in the hallway, to your knowledge, had Jeffery Rymers seen or been in the presence of Eugene Lucci?

A. No.

Q. Did you ever witness a face-to-face conversation between Eugene Lucci and Jeffery Rymers?

A. No.

MS. BROWN: Thank you. I believe there may be more questions for you.

MS. ADAMS: No questions, Your Honor.

CHAIRMAN BRYANT: No questions.

Any members of the Panel have any questions?

Very well. She's also on your witness list and under subpoena.

MR. SUTTER: We may need to recall her.

CHAIRMAN BRYANT: You may want to recall her?

MR. SUTTER: Yes.

CHAIRMAN BRYANT: Very well. There is a standing order in this case for exclusion of witnesses, which means that by order of the Panel, you may not discuss your testimony with any other witness in this case until the proceeding is concluded or until you are released. And if you have a subpoena from Mr. Stafford's attorney, you must obey that subpoena if you are called.

Otherwise, you are excused from this courtroom. You won't require her today? Will you require her today?

MR. SUTTER: No, sir.

CHAIRMAN BRYANT: Very well.

MS. BROWN: Could I have just one minute, Your Honor?

CHAIRMAN BRYANT: Sure.

MS. BROWN: I believe I have a

witness here. There may be another issue with the witness, so...

CHAIRMAN BRYANT: Would this be a good time for recess?

MS. BROWN: That would be great.

CHAIRMAN BRYANT: All right. Let's recess. It's 2:30. Let's recess for 15 minutes.

- - -

Thereupon, a recess was taken.

- - -

CHAIRMAN BRYANT: Swear the witness, please.

(Witness is sworn.)

- - -

Thereupon,

RANDY T. MCGOUGH

Being by me first duly sworn,

as hereinafter certified,

testifies as follows:

DIRECT EXAMINATION

BY MS. BROWN:

Q. Would you tell us your name, please.

A. Randy T. McGough, M-C-G-O-U-G-H.

Q. And, Mr. McGough, what is your

present occupation?
A. Investigator with the Disciplinary Counsel.
Q. And how long have you been an investigator with the Disciplinary Counsel?
A. It was eleven years in July.
Q. And, Mr. McGough, do you have counsel here other than -- I'm not your counsel. Do you have other counsel here?
A. I do. Sitting to the left and in the front row.
MS. BROWN: Would you identify yourself?
MR. COGLIANESE: Sure. Rich, last name is Coglianese, C-O-G-L-I-A-N-E-S-E, with the Office of the Ohio Attorney General.
BY MS. BROWN:
Q. Mr. McGough, before you were an investigator with the Disciplinary Counsel, what was your occupation?
A. Prior to the Disciplinary Counsel, I was with the Ohio State Highway Patrol for 30 years.
Q. When you were with the highway

patrol, what was your last position with the highway patrol?
A. Last ten years, I was an investigator.
Q. And did you retire from the highway patrol?
A. I did.
Q. And was that after 30 years?
A. Correct.
Q. Just give us a brief description of what you do as an investigator for the Disciplinary Counsel.
A. Well, I assist attorneys that work in the office for whatever tasks they may have, whether it may be locate witnesses, serve subpoenas, conduct interviews, assist at hearings.
Q. Are you familiar with the name Amy Rymers?
A. I am.
Q. Have you met Amy Rymers?
A. Once.
Q. What were the circumstances of your meeting?
A. I contacted Amy by telephone and

asked her if she had a couple minutes, I wanted to stop and talk to her.
Q. And where did you meet with Amy?
A. At the Cole Eye Institute.
Q. And is that Amy's place of employment?
A. Yes, I believe it is.
Q. And what did you say to Amy Rymers during your interview?
A. I'd asked if I -- I asked Amy that if she had, in fact, told us, the Disciplinary Counsel, that she had had a meeting where -- had a meeting with her husband and he had indicated --
MR. SUTTER: Objection. Double hearsay.
CHAIRMAN BRYANT: Ms. Brown?
MS. BROWN: I'll withdraw the question.
CHAIRMAN BRYANT: Thank you.
BY MS. BROWN:
Q. What were the topics of your conversation with Amy Rymers?
A. The topic was if she had any conversation with her husband.

Q. And conversation about what?
A. About an affidavit that had been, I think, filed with the court.
Q. Did you ask Amy Rymers for information about that topic?
A. Yes, I did.
Q. And did you obtain information from Amy Rymers about that topic?
A. Yes, I did.
Q. And based upon the information that you obtained from Amy Rymers, did you interview anyone else?
A. Jeffery Rymers.
Q. Where did you interview Jeffery Rymers?
A. At his place of employment in Euclid, Ohio.
Q. And what was his place of employment?
A. It's Lincoln Electric.
Q. So am I correct, Mr. McGough, that the interview of Jeffery Rymers took place after the interview of Amy Rymers?
A. Yes.
Q. What date did you interview Jeffery

Rymers?

A. 9/9/09. December 9th of '09.

Q. So it would be 12/9 of '09?

A. Correct.

Q. Have you interviewed Mr. Rymers more than once?

A. No, I have not.

Q. Was anyone else present for your interview with Jeffery Rymers?

A. No, there was not.

Q. What did you tell Mr. Rymers at the beginning of your interview?

MR. SUTTER: Your Honor, I'm going to reinstate my objection as to the --

CHAIRMAN BRYANT: I will overrule your objection. I will sustain -- or overrule your objection.

MR. SUTTER: All right. Can I just put on the record what my objection is?

CHAIRMAN BRYANT: You put it on once, and you stated it.

MR. SUTTER: I just want to make sure the record is clear. It is the objection that I previously made --

CHAIRMAN BRYANT: It's already -- it's already in writing.

MR. SUTTER: It is now.

Now, as to that particular question that was just asked, I would like to object as to hearsay.

CHAIRMAN BRYANT: Ms. Brown?

MS. BROWN: The question was what did Mr. McGough tell -- I'll rephrase the question.

CHAIRMAN BRYANT: Thank you.

BY MS. BROWN:

Q. What was the purpose of your interview with Jeffery Rymers?

A. The purpose was to discuss with him an affidavit that I understood had been filed with a -- what I thought had been filed with the court.

Q. Did you go to the interview to ask him about a particular attorney?

A. Not a particular attorney as much as an affidavit that I understood was filed or was going to be filed.

Q. Look for me at -- there is a notebook in front you, and I'm going to draw your attention to Tab 109.

A. Yes, ma'am.

Q. Have you seen the document that's behind Tab 109 before?

A. I have.

Q. And would you tell us -- please describe what Exhibit 109 is, please.

A. It's an affidavit from the County of Cuyahoga from Jeffery Rymers, and signed by Jeffery Rymers.

Q. And did you have that document with you when you interviewed Mr. Rymers?

A. I had an affidavit, but this affidavit -- not this particular affidavit, but an affidavit with me, yes, ma'am.

Q. Did you have the original -- did the affidavit that you had with you when you interviewed Mr. Rymers have that writing at the bottom of the page where it says "Not true" and "JR" and the next page says, "Not true" and "JR"?

A. It did not.

Q. So when you first arrived to interview Mr. Rymers, the affidavit looked much the same, other than the writing in the corner; is that accurate?

A. Yes.

Q. And did you ask Mr. Rymers questions about the affidavit?

A. I asked him to review the affidavit, that I was going to have a couple questions that related to the affidavit.

Q. Did you ask -- what questions did you ask him about the affidavit?

MR. SUTTER: Objection. Hearsay.

CHAIRMAN BRYANT: Overruled.

BY MS. BROWN:

Q. What questions did you ask him?

A. I asked him if the affidavit -- if he had signed the affidavit, and there was two portions of the affidavit that I was interested in talking to him about.

Q. And which two portions were you interested in talking to him about?

A. It's Statement 7 and Statement 8.

Q. Did you ask Mr. Rymers any other questions about the statements in Paragraph 7 and Paragraph 8?

A. I didn't understand that.

Q. I'll rephrase the question.

Did Mr. Rymers answer all of your questions?

A. Yes, he did.

Q. Now, looking at Exhibit 109, do you recognize the writing, the words "Not true," do you recognize that writing?

MR. SUTTER: Your Honor, I object to the writing, the handwritten portions as hearsay?

CHAIRMAN BRYANT: Ms. Brown, is that hearsay?

MS. BROWN: I believe Mr. McGough will be able to identify the writing, and it is not hearsay.

MR. SUTTER: Well, it is hearsay. It is offered for the truth of the matter asserted. It is an out-of-court statement.

CHAIRMAN BRYANT: That wasn't the question. I will overrule the objection.

MR. SUTTER: May I have the question again?

CHAIRMAN BRYANT: I overruled your objection. You may have it.

BY MS. BROWN:

Q. Do you see the words "Not true" at

the bottom of the first page of Exhibit 109?

MR. SUTTER: Objection. Hearsay.

CHAIRMAN BRYANT: Overruled.

A. I do.

Q. Whose writing is that?

A. "Not true" is mine.

Q. And the letters --

MR. SUTTER: I'm sorry. What was his answer?

MS. BROWN: He said, It was mine, his writing.

THE WITNESS: I said it was my writing, the "Not true."

MR. SUTTER: And what was that again?

THE WITNESS: The not true and the arrow is mine.

MR. SUTTER: The "Not true." I thought you said, "I'm not sure if it's mine."

THE WITNESS: No, it's the "Not true."

MR. SUTTER: The "Not true" is yours?

THE WITNESS: Yes, sir.

BY MS. BROWN:

Q. And is the arrow yours as well?

A. It is.

Q. And did you observe Mr. Rymers place his initials next to the words "Not true"?

A. I did.

MR. SUTTER: Objection as to the initials. They are hearsay.

CHAIRMAN BRYANT: Overruled. The objection is overruled.

BY MS. BROWN:

Q. And looking on the next page at Number 8, do you see the words "Not true"?

A. I do.

Q. And whose writing is that?

A. That's my writing.

Q. And the arrow, is the arrow yours?

A. It is.

Q. And did you observe Mr. Rymers place his initials next to the words "Not true"?

A. I did.

Q. And had you had a conversation with Mr. Rymers before -- or did your interview occur before he placed his initials or after?

A. Before.

Q. Did you ask Mr. Rymers any other

questions after he initialed this affidavit?

A. After he initialed it?

Q. Yes.

A. I think most of the conversation took place after he reviewed the affidavit, and I had a couple questions about the affidavit. Then I asked him if he would be willing to sign or initial the affidavit.

Q. Did you ask Mr. Rymers whether he had told anyone else that his affidavit was not true?

MR. SUTTER: Objection. Hearsay.

CHAIRMAN BRYANT: Overruled.

A. I did.

BY MS. BROWN:

Q. And did Mr. Rymers answer your question?

A. He did.

MS. BROWN: I believe that's all I have.

- - -

CROSS-EXAMINATION

BY MR. SUTTER:

Q. Pronounce your last name for me, please.

A. McGough.
Q. McGough. That's what I thought.
Mr. McGough, you are a former law officer?
A. Yes, sir.
Q. You understand the term lawyered up, do you not?
A. Yes, sir.
Q. When you were a law officer, if you were speaking with an individual and they lawyered up, that meant they got a lawyer?
A. Yes, sir.
Q. And that meant that that was the end of the interview?
A. I don't know if that would be the end of the interview necessarily, but that would mean that they had an attorney.
Q. That would mean that their attorney would have to be with them from that point on, correct?
A. If they asked for it, yes, sir.
Q. If they asked for it. All right. Now, in this particular case, you knew before you went to see Mr. Rymers that he had counsel, did you

not?
A. I believe I did.
Q. And were you told to go talk to Mr. Rymers without his attorney?
MS. BROWN: Objection.
CHAIRMAN BRYANT: Sustained.
BY MR. SUTTER:
Q. Did you make the decision on your own to go speak with this gentleman without notifying his attorney?
A. That's fair, yes.
Q. You decided on your own to go and talk to this gentleman without notifying his counsel?
A. Yes.
Q. You understand the concept of an attorney-client privilege, do you not?
A. Yes, I do.
Q. You were well aware of that before you went to do this interview?
A. Yes, sir.
Q. You did not advise Mr. Rymers of his right to counsel?
MS. BROWN: Objection.

CHAIRMAN BRYANT: Sustained.
MR. SUTTER: I'm sorry?
CHAIRMAN BRYANT: I said sustained.
BY MR. SUTTER:
Q. Did you advise Mr. Rymers that you had not told his attorney that you were going to be there?
A. Did I advise Mr. Rymers?
Q. Correct.
A. I did not.
Q. You did not?
A. I did not.
Q. Did you ask Mr. Rymers if he would like to have an attorney present?
A. No, I didn't.
Q. Did you advise Mr. Rymers that you were going to ask him questions about the veracity of a statement that he made under oath?
A. I didn't ask him in that manner.
Q. Did you explain to him the impact of admitting to perjury --
MS. BROWN: Objection.
Q. -- before you asked questions?
MS. BROWN: Objection.

CHAIRMAN BRYANT: Basis for your objection?
MS. BROWN: Assumes facts not in evidence.
CHAIRMAN BRYANT: Sustained.
MR. SUTTER: I'm sorry?
CHAIRMAN BRYANT: Sustained.
BY MR. SUTTER:
Q. Did you understand that if Mr. Rymers conceded to you that he had signed an affidavit that was false that he could be subject to perjury charges?
A. Yes, I would say that's true.
Q. Did you advise him as to that problem that he may have if he told you his affidavit was false?
A. No.
Q. With regard to Amy Rymers you handled the interview process much differently, did you not?
A. Ask that again. I didn't hear the first part.
Q. With regard to Amy Rymers you handled the interview process much differently, correct?

A. I don't know if I handled it differently. Both had a different purpose.
Q. You called her ahead of time?
A. I did.
Q. You arranged the meeting with her?
A. I asked her when would be a convenient time and where.
Q. You met her at her office?
A. I met her at Cole Eye Institute.
Q. Where she works?
A. Yes.
Q. And you met her at lunchtime?
A. I don't know if it was lunchtime. She came out to meet me.
Q. You gave her an opportunity to talk to her counsel?
A. No.
Q. Well, there was a lapse between the time that you called her and the time that you met with her, correct?
A. I don't remember how close the call was to when I actually drove to Cleveland and saw her.
Q. But you made the call and you drove

to Cleveland?
A. Correct.
Q. And so there obviously was a time lapse in between?
A. Well, there had to be some --
Q. At least two-and-a-half hours, correct?
A. Correct.
Q. Now, you did not offer Jeffery Rymers the same opportunity, did you?
A. I just stopped and saw Jeffery Rymers.
Q. You didn't call him ahead of time?
A. I did not.
Q. You didn't make arrangements with him or make an appointment?
A. I did not.
Q. You didn't try to stop during his lunch period?
A. It was noon.
Q. You came instead to his office or to his place of business and talked to the security guard?
A. Correct.

Q. You had security bring the gentleman to the front desk?
A. Security contacted him and asked him to come to the front desk.
Q. You were dressed in a suit and tie?
A. Yes.
Q. And you showed him your credentials from the Ohio Supreme Court?
A. I showed him a business card, yes.
Q. And you told him you were an investigator for the Ohio Supreme Court?
A. Yes, sir, I did.
Q. When you talked with Jeffery Rymers, did you notice that he had a little bit of trouble understanding you?
A. I don't have a recollection of that.
Q. Were you aware of the fact that Mr. Rymers had a drinking problem before you arrived?
MS. BROWN: Objection.
CHAIRMAN BRYANT: Sustained.
BY MR. SUTTER:
Q. Did you talk to Amy Rymers about Mr. Rymers' drinking problems?

A. I did not.
Q. You were not aware of any facts relating to his alcoholism?
A. No.
Q. When you had discussions with him, did you notice that he was agitated and irritable as it related to the topic of Judge Lucci?
A. I didn't -- I guess no, only because I didn't specifically ask him about Judge Lucci other than what the affidavit said.
Q. And when you spoke with him about the affidavit, is it your testimony that he was not irritated and agitated about Judge Lucci?
A. I don't know that I would use those words.
Q. Well, did he not tell you that Judge Lucci was ruining his life and something needs to be done?
A. I don't recall those words.
Q. Do you remember him telling you that Judge Lucci was causing him problems in his personal life?
A. I don't recall that.
Q. Your testimony is that he was

nonchalant as to Judge Lucci?

A. I don't know if I have an opinion as to how he was with Judge Lucci.

MR. SUTTER: One minute, Your Honor. Thank you, sir.

CHAIRMAN BRYANT: Anything further --

MS. BROWN: No.

CHAIRMAN BRYANT: -- Ms. Brown?

MS. BROWN: Thank you.

CHAIRMAN BRYANT: I'm not sure if he is on your list or not?

MS. BROWN: Yes, he is.

CHAIRMAN BRYANT: Will you be requiring him further?

MR. SUTTER: He's released.

CHAIRMAN BRYANT: He's released? Very well. You may be excused. Thank you.

MS. BROWN: Relator calls Eugene Lucci.

CHAIRMAN BRYANT: If you would please swear the witness.

(Witness is sworn.)

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Thereupon,

EUGENE A. LUCCI

Being by me first duly sworn, as hereinafter certified, testifies as follows:

DIRECT EXAMINATION

BY MS. BROWN:

Q. Good afternoon.

A. Good afternoon.

Q. Would you tell us your name and spell your last name for us.

A. Eugene A. Lucci, L-U-C-C-I.

Q. And are you admitted to the practice of law?

A. I am.

Q. When were you admitted?

A. November 7th of 1980.

Q. Would you tell us briefly your professional background, just give us a general idea of the practice of law and beyond?

A. All right. I started practicing law upon being licensed in November of 1980, I was also a Painesville City Police Officer at the time, so I did both full-time for a couple of years.

I practiced for 20 years full-time trial practice. About five years before the end of that 20, I went back to do some police work in addition to practicing law full time.

In 2000, I was elected Judge of the Court Of Common Pleas of Lake County. I have been Common Pleas Judge since. I'm a senior judge on that court.

Q. And are you also the presiding judge?

A. Last year I was presiding judge. This year I'm administrative judge.

Q. And when were you sworn in to the judicial position for the first time?

A. It would have been in December of 2000.

Q. Are you currently a candidate for another judicial seat?

A. Yes. I am the Republican nominee having won the contested election primary in May of this year for the Eleventh Court of Appeals.

Q. Is that for the November 2010 election?

A. That is.

Q. And do you have a judicial opponent?

A. I do.

Q. Do you know Joseph Stafford?

A. I do.

Q. Do you see him in the courtroom today?

A. Yes.

Q. And how do you know Mr. Stafford?

A. Well, I know that he's an attorney. I had, I think, maybe one or two cases with him when I was in the practice of law. He's never practiced in front of me, though, after I became a judge.

Q. How long ago do you think you had a couple, one or maybe two cases with Joseph Stafford?

A. It had to be sometime in maybe late '80s, early '90s, mid-90s.

Q. And do you know of Mr. Stafford's reputation as a law practitioner?

A. Yes.

Q. After the cases that you've described in the late '80s, early '90s concluded, have you met with Mr. Stafford in his office?

A. Yes.