
IN THE
SUPREME COURT OF OHIO

Cleveland Metropolitan Bar Association

Relator

v.

Gary Ray Axner

Respondent

Case No. 2012-1340

MOTION TO STAY AND TO MODIFY ORDER TO SHOW CAUSE

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Counsel for Relator

FILED
SEP 24 2012
CLERK OF COURT
SUPREME COURT OF OHIO

MOTION TO STAY AND MODIFY ORDER TO SHOW CAUSE

Now comes Respondent Gary R. Axner ("Respondent"), and moves this Honorable Court to stay further proceedings in the within matter pending consideration and determination of Respondent's motion for remand being filed herewith.

On August 6, 2012 the Board of Commissioners on Grievances and Discipline issued its findings of fact, conclusions of law, and recommendation to indefinitely suspend Respondent from the practice of law, after an unblemished career of more than four decades. Subsequently, on August 15, 2012 this Honorable Court issued an Order To Show Cause why the recommendation of the Board should not be confirmed by the Court. Immediately thereafter, on August 24, 2012, Respondent's former counsel, Mary L. Cibella, Esquire, filed a motion for leave to withdraw as Respondent's counsel, combined with a motion to extend the time to file objections to the Board's recommendations. Ms. Cibella specifically referenced that Respondent had "authorized the filing of the instant Motions".

While those representations were accurate, Respondent's consent to Ms. Cibella's withdrawal was made with the understanding that the time to file objections to the Board's recommendations would be extended until Monday, September 24, 2012. (See, Ms. Cibella's Motion at pg. 2) It was Respondent's further understanding that Counsel for Relator would not object to the extension of time, and none was forthcoming.

On September 6, 2012, this Honorable Court issued an Order granting Ms. Cibella's motion for leave to withdraw as Respondent's counsel, but extended the time to file objections to the Board's recommendations only to September 14, 2012. By the time Respondent was made aware of the September 14, 2012 deadline, less than one week remained to prepare and complete

objections to the Board's recommendations, which proved to be an overwhelming task for Respondent.

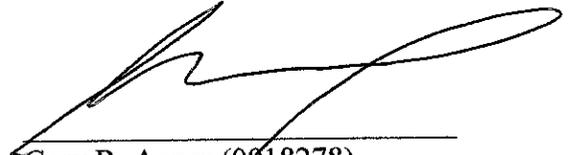
Respondent made a sincere and good faith effort to prepare objections to the Board's recommendation within the time allowed by the September 6, 2012 Order, without success. Accordingly, on September 14, 2012 drove to Columbus and sought to file a motion for additional extension of time to file objections to the Board's recommendation, which was not accepted by the Clerk of Court. Respondent's motion was endorsed by the Clerk of Court as "Received" and returned to Respondent. The cover page of Respondent's motion is attached as Exhibit "A"

In reviewing the history of the within proceeding, and all of the events leading up to the complaint filed by Relator, it became apparent to Respondent that there was an unfortunate failure or omission to call to the attention of the Board issues which were not considered by the Board, when they could have been. These include two critical events in 2010 when respondent suffered trauma to his brain resulting in concussions and hospitalization. Coupled with Respondent's alcohol dependency and depressive disorder, circumstances which Respondent sincerely believes would have altered or modified the Board's final determination if they were adequately and fully presented for the Board's consideration, Respondent believes that a remand to the Board to supplement the record with additional evidence of Respondent's physical and mental health history, and road to recovery, are critical component to a fair and just disposition of this proceeding.

Respondent has contemporaneously herewith filed his motion for remand and to supplement the record, which is fact and detail intensive, but necessary to a just adjudication of this matter. Accordingly, Respondent respectfully requests that this Court issue a stay of

proceedings pending a determination of Respondent's motion to remand. The disposition of this case will not be prejudiced by the remand to the Board, and the administration and the administration of justice will be enhanced.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Gary R. Axner', written over a horizontal line.

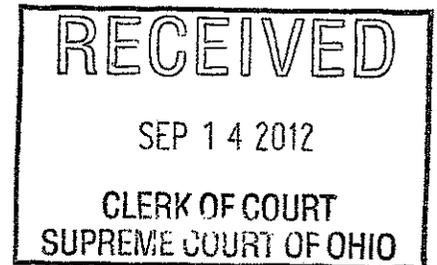
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MOTION FOR ADDITIONAL EXTENSION OF TIME
TO FILE OBJECTIONS

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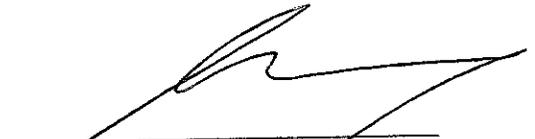


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Counsel for Relator

EXHIBIT A

CERTIFICATE OF SERVICE

I certify that a copy of this Motion was sent by ordinary U.S. Mail to Heather Zirke, Cleveland Metropolitan Bar Association, 1301, East Ninth Street, Cleveland, Ohio 44113 on September 24, 2012.



Gary R. Axner (0018278)