

**ORIGINAL**

**IN THE SUPREME COURT OF OHIO**

**Cleveland Metropolitan Bar Association**  
**Relator**

:

**Kevin T. McFaul Reg. No. 0033568**

:

**Case No. 2008-1203**

:

**Respondent**

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**APPLICATION TO TERMINATE PROBATION**

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**Cleveland Metropolitan Bar Association**

**FILED**

**JAN 09 2013**

**CLERK OF COURT  
SUPREME COURT OF OHIO**

**RECEIVED**

**JAN 09 2013**

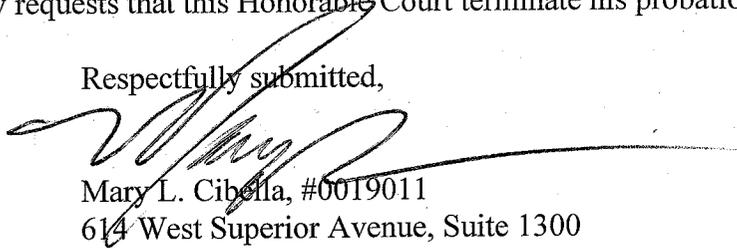
**CLERK OF COURT  
SUPREME COURT OF OHIO**

**IN THE SUPREME COURT OF OHIO**

**Cleveland Metropolitan Bar Association** :  
**Relator** :  
 : **Case Number 2008-1203**  
**Kevin T. McFaul** :  
**Respondent** : **APPLICATION TO**  
 : **TERMINATE PROBATION**

Now Comes, Kevin T. McFaul, Esq., Respondent herein, by and through counsel, to respectfully submit his Application to Terminate Probation. For the reasons more fully set forth in the Memorandum in Support attached hereto and incorporated herein, Kevin T. McFaul, Esq., Respondent herein, respectfully requests that this Honorable Court terminate his probation.

Respectfully submitted,



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**Counsel for Kevin T. McFaul, Esq., Respondent**

## MEMORANDUM IN SUPPORT

### I Statement of Facts

This Honorable Court, by Order dated December 3, 2008, suspended Kevin T. McFaul Esq., from the practice of law for two years, with entire two-year suspension stayed upon listed conditions. *See Exhibit 1, attached hereto and incorporated herein.*

On January 12, 2011, Mr. McFaul's probation ended in the case of *State of Ohio v. McFaul*, Cuyahoga County Common Pleas Court Case No. CR-06-488677. *See Exhibit 2, attached hereto and incorporated herein.* Mr. McFaul's probation in *McFaul, supra*, was terminated early per the recommendation of the Cuyahoga County Probation Department. *See Exhibit 2.*

Mr. McFaul has been sober since October 2006, and has maintained his sobriety continuously for over 6 years. Mr. McFaul's compliance with his sobriety has been monitored through the Cuyahoga County Probation Department, the Ohio Lawyer's Assistance Program ("OLAP") and by the monitoring attorney appointed by Relator.

Mr. McFaul's probation has been supervised through the Cleveland Metropolitan Bar Association by Monitoring Attorney John L. Goodman. Attorney Goodman has been Mr. McFaul's Monitoring Attorney since December 22, 2008. *See Exhibit 3, attached hereto and incorporated herein.*

### II Argument

As evidenced by the Affidavit of Kevin McFaul, Esq., Exhibit 4, attached hereto and incorporated herein, Mr. McFaul has complied with the following terms of the probation as Ordered by this Honorable Court on December 3, 2008:

1. Completed the outpatient treatment as required by the court in his criminal case;
2. Complied with the terms of his OLAP contract;
3. Submitted to random drug tests either through the Cuyahoga County Probation Department or OLAP;
4. No convictions or pleas to any other drug or alcohol-related offenses;
5. Obtained legal malpractice insurance in the minimum requirements or advised his clients of his lack of insurance pursuant to Prof. Cond. R. 1.4;
6. Completed over 4 years of monitored probation of his law practice pursuant to Gov. Bar R. V(9);
7. Complied with the terms of his monitored probation through the Cleveland Metropolitan Bar Association and its assigned Monitoring Attorney, John L. Goodman.

As set forth in Exhibit 3, attached hereto and incorporated herein, Mr. McFaul has been monitored by Attorney Goodman during his term of probation. Mr. McFaul has consistently complied with Attorney Goodman's requests and with all AA meeting requirements. Attorney Goodman avers: "It is my opinion that Kevin T. McFaul, Esq., has been successful in achieving not only an abstinence from alcohol and drugs, but also in attaining an excellent state of recovery." *See Exhibit 3, paragraph 10.*

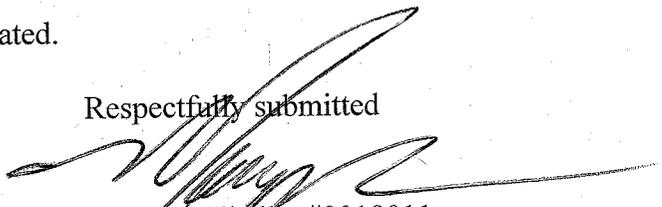
NO formal disciplinary proceedings are pending against Mr. McFaul. Mr. McFaul has also paid the costs of these proceedings as evidenced by Exhibit 4A, attached hereto and incorporated herein.

As set forth in Exhibit 3 and Exhibit 4, attached hereto and incorporated herein, Mr.

McFaul has complied with the terms of his probation as set forth in this Honorable Court's December 3, 2008 Order.

Accordingly, Kevin T. McFaul, Esq., Respondent, respectfully requests that his by probation by Relator be terminated.

Respectfully submitted



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**Counsel for Kevin T. McFaul, Esq., Respondent**

**PROOF OF SERVICE**

I, Mary L. Cibella, Counsel for Kevin T. McFaul, Esq., Respondent, do hereby certify that a copy of the foregoing Application to Terminate Probation was served upon the following this

8<sup>th</sup> day of January, 2013:

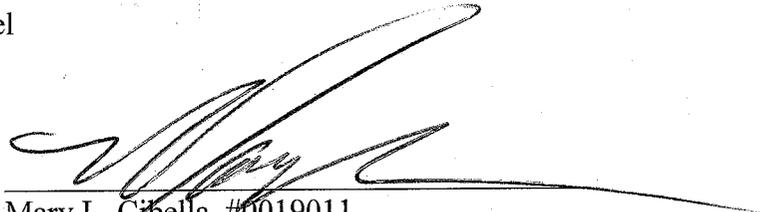
**Via Overnight Federal Express**

Kristina D. Frost, Clerk  
The Supreme Court of Ohio  
65 South Front Street  
Columbus, Ohio 43215

**Via Regular U.S. Mail**

Jeffrey Pollock, Esq., Counsel for Relator  
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Mary L. Cibella, #0019011

**Counsel for Kevin T. McFaul, Esq., Respondent**

**ATTACHMENT NOT SCANNED**