

ORIGINAL

THE SUPREME COURT OF OHIO

DISCIPLINARY COUNSEL,

Case No. 2013-0999

Relator

vs.

ERIC CHARLES DETERS,

Respondent

FILED
MAR 06 2014
CLERK OF COURT
SUPREME COURT OF OHIO

MOTION TO MODIFY IN PART THE
JANUARY 27, 2014 ORDER OF
RECIPROCAL DISCIPLINE

Respondent moves to modify in part the January 27, 2014 Order of reciprocal discipline solely on the requirement he be reinstated in Kentucky. Respondent is serving a 60 day suspension in Ohio based upon reciprocal discipline in Kentucky. However, there is an unconstitutional rule now being challenged in federal court. The rule allows Kentucky Bar Counsel to block the automatic reinstatement from a suspension in Kentucky prior to any hearing. Ohio does not have this rule. The attached filed federal lawsuit details how the rule is unconstitutional. (Exhibit 1) This rule has delayed Respondent's reinstatement in Kentucky and will delay Respondent's reinstatement in Ohio unless the January 27, 2014 Order removes the Kentucky reinstatement requirement. It's wrong. Deters is serving the 60 days in Ohio. He should not have to serve more based upon an unconstitutional rule.

This is a unique set of circumstances in which the Court should exercise its authority to do justice and not allow a traditional requirement hold sway simply because a traditional requirement. If Respondent serves the 60 days as Ordered by the Kentucky Supreme Court, Respondent has fulfilled his obligation to Ohio. To allow Kentucky Bar Counsel to use an unconstitutional rule to extend a suspension in Ohio is a grave injustice to the Respondent that does not serve the public.

RECEIVED
MAR 06 2014
CLERK OF COURT
SUPREME COURT OF OHIO

If the primary goal of bar discipline is to defend the public, the Ohio public does not need defending from the Respondent. This is not a circumstance of an addiction, crimes, theft or the like being an issue.

The Kentucky Supreme Court ordered 60 days. Respondent has served 60 days plus another 120 days in Kentucky and counting from the unconstitutional rule. The rule amounts to a prosecutor prior to and without any hearing extending a sentence ordered by a Court. In 2012, Respondent brought the constitutional challenge, but the Kentucky Supreme Court won't rule on the issue. It just sits. Therefore, the federal lawsuit (Exhibit 1).

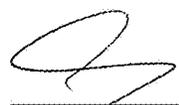


Eric C. Deters, Pro Se
5247 Madison Pike
Independence, Ky 41051
(859) 363-1900 - telephone
(859) 363-1444 - facsimile
eric@ericdeters.com

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was sent to by U.S. Mail on this 5th day of March, 2014 to:

Joseph Caligiuri
Counsel of Record
Supreme Court of Ohio
Office of Disciplinary Counsel
250 Civic Center Drive, Ste. 325
Columbus, Ohio 43215-7411



Eric C. Deters

SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION
CASE NO. _____

FILED

MAR 05 2014

ERIC C. DETERS
635 W Seventh Street
Cincinnati, OH 45203

JOHN P. HEHMAN, Clerk
PLAINTIFF CINCINNATI, OHIO

vs.

1:14CV192

KENTUCKY BAR ASSOCIATION
514 West Main Street
Frankfort, KY 40601

DEFENDANTS

Serve: John Meyers
KBA Executive Director
514 West Main Street
Frankfort, KY 40601

A. BECKWITH

M.J. BOWMAN

VERIFIED COMPLAINT AND REQUEST FOR INJUNCTIVE RELIEF

Comes now Plaintiff, Eric Deters (hereafter Deters), pro se, and for his Complaint states as follows:

JURISDICTION AND VENUE

1. Deters is an attorney who has practiced law in Ohio since 1988 and maintains an Ohio law office at 635 W Seventh Street, Cincinnati, Ohio 45203.
2. Deters has practiced law in Kentucky since 1987 and in Florida since 1989.
3. The Kentucky Bar Association is the governing body of lawyers in Kentucky and employs the Kentucky Bar Counsel.
4. This Court has jurisdiction over this matter based upon the federal constitutional question that presents itself under 28 U.S.C. 1331, 1338.

5. This Court is the proper venue because the matter involves Deters' Ohio license and he has an Ohio law office.

FACTUAL ALLEGATIONS

6. On April 23, 2012, Eric Deters filed a "Verified Petition and Request for Injunctive Relief" in the Kentucky Supreme Court making a constitutional challenge to a Kentucky Bar disciplinary rule. (Attached as Exhibit 1).

7. The Kentucky Supreme Court has never ruled on the merits of this Petition when they reinstated Deters on June 15, 2012, they would later rule the injunctive relief was moot based upon the reinstatement. They never ruled on the constitutional question.

8. The Kentucky Supreme Court was the proper venue and jurisdiction of the matter. Furthermore, the issue was appropriate for the Supreme Court's jurisdiction since it involved a challenge under the due process clause of the 14th Amendment of the U.S. Constitution and Sections 1, 2 and 14 of the Kentucky Constitution challenging a Supreme Court Rule. The Kentucky Supreme Court had jurisdiction to hear this under their original jurisdiction and their authority over the Courts of Kentucky and the lawyers who practice in them under the KBA and Supreme Court Rules involving the practice of law. However, this Court also has jurisdiction and Deters can no longer accept the lack of a ruling because for the second time the rule has harmed him and for the first time will harm his Ohio law license. Thus, this Verified Complaint for relief.

9. The rule in question allows the Kentucky Bar Counsel to extend a suspension Order of the Kentucky Supreme Court prior to any due process hearing. In fact, it vitiates the due process received in the disciplinary process leading up to and culminating in the Court order.

10. Kentucky SCR 3.510(2) states:

(2) If the period of suspension has prevailed for one hundred eighty (180) days or less, the suspension shall expire by its own terms upon the filing with the Clerk and Bar Counsel of an affidavit of compliance with the terms of the suspension, which must include a certification from the CLE Commission that the Applicant has complied with SCR 3.675. The Registrar of the Association will make an appropriate entry in the records of the Association reflecting that the member has been reinstated; **provided, however, that such suspension shall not expire by its own terms if, not later than ten (10) days preceding the time the suspension would expire, Bar Counsel files with the Inquiry Commission an opposition to the termination of suspension wherein Bar Counsel details such information as may exist to indicate that the member does not, at that time, possess sufficient professional capabilities and qualifications properly to serve the public as an active practitioner or is not of good moral character.** A copy of such objection shall be provided to the Character and Fitness Committee, to the member concerned, and to the Registrar. If such an objection has been filed by Bar Counsel, and is not withdrawn within thirty (30) days, the Character and Fitness Committee shall conduct proceedings under SCR 2.300. In cases where a suspension has prevailed for one hundred eighty (180) days or less and the reinstatement application is referred to the Character and Fitness Committee, a fee of \$1250.00 shall be made payable to the Kentucky Office of Bar Admissions.

(Exhibit 2)

11. This rule is unconstitutional because it violates the due process rights of Deters.

12. In 2012, Deters went through a lengthy due process proceeding in Kentucky which included the following:

- A. Bar Complaints
- B. Responses
- C. Charges
- D. Answers
- E. Trial Commission Hearing
- F. Briefing
- G. Appeal to the Board of Governors
- H. Briefs
- I. Hearing before the Board of Governors
- J. Appeal to the Supreme Court

13. As a result of that process, Deters was found **not guilty** on 15 charges and guilty

of 4 charges and he received a 61 day suspension and 7 hours of remedial ethics. Despite his belief he should have not been found guilty of even four, Deters accepted his punishment and began serving his suspension on February 24, 2012. He did not practice law in Kentucky for 61 days.

14. On March 7, 2012, only two weeks after the suspension began, Bar Counsel filed an Objection under SCR 3.510(2) to Deters automatic reinstatement.

15. SCR 3.510(2) violates due process by giving Bar Counsel the unilateral power to extend Deters suspension and further his punishment beyond that which was ordered by the Kentucky Supreme Court before a hearing.

16. It is as if the prosecutor in a criminal case, being dissatisfied with a Court's sentence, is allowed to force the Defendant to serve a longer sentence than ordered by the Court. It provides a prosecutor, Bar Counsel, the power to overrule a Kentucky Supreme Court Order before a hearing.

17. In 2012, as a result of Bar Counsel's objection under SCR 3.510 Deters had to apply for reinstatement in Kentucky, go through their Character and Fitness process and he had to serve 52 more days than the 60 days ordered by the Court.

18. In 2012, Deters had to serve a 60 day suspension in Ohio solely as a result of the Kentucky reciprocal discipline. Based upon the timing of his reinstatement, Deters did not have to serve more than 60 days in Ohio as a result of SCR 3.510. However, he learned the pain of the rule.

19. It also meant Deters was being punished twice in Kentucky for pending discipline matters before even being tried on those pending discipline matters and even if those matters

would be dismissed which all but a few were.

20. If someone is found guilty of a felony and he is a persistent felony offender, the punishment can be enhanced. However, there are already felony convictions on those prior matters. Under SCR 3.510, Bar Counsel uses non-resolved matters to punish Deters. It violates due process. Deters has no other bar matters that are fully adjudicated through the Board of Governors or Kentucky Supreme Court. Yet, they are used to further suspend Deters' before a hearing on those matters.

21. An analogy would be a prosecutor extending the sentence of a Court based upon other pending criminal charges which have not been adjudicated.

22. SCR 3.150 allows Bar Counsel to use baseless Bar Complaints or Bar Complaints not fully adjudicated by the Kentucky Supreme Court to extend a suspension. This means all Deters enemies have to do is keep having bar complaints filed and regardless of their merit. Bar Counsel can use them to object to any automatic reinstatement as they have twice and can in the future on pending matters they seek another suspension. There are two matters in the tribunal stage which Bar Counsel requests 30 days suspensions and Deters' no suspension.

23. In fact, in 2012, Bar Counsel told Deters he could not even apply for reinstatement with pending discipline. He did so anyway and the Kentucky Supreme Court struck down the rule which Bar Counsel relied upon.

24. Deters also successfully fought and the Kentucky Supreme Court changed the rule requiring a bond to appeal to the Court a discipline conviction.

25. Bar Counsel placed in their recent Objection Deters does not "possess sufficient professional capabilities and qualifications properly to serve the public as an active practitioner."

(Attached as Exhibit 3). In 2012, they with no basis to do so objected on a moral basis as well. In 2013, they did not. It just further shows how Bar Counsel is so over the top against Deters.

26. This matter is ripe for adjudication because the reciprocal suspension from Kentucky in Ohio is up March 27, 2014. Therefore, this Complaint and request for Relief is necessary, ripe, justified and deserving to insure Eric Deters is restored his Ohio license on March 27, 2014.

27. By decision on June 15, 2012, the Kentucky Supreme Court held in reinstating Eric Deters from the same character and fitness process he's in now that all discipline can be heard during the course of the regular discipline process.

28. The result of Bar Counsel's current Objection is as follows:

- a. Pending discipline is used to extend a suspension before a hearing and decision.
- b. The same discipline then travels through the discipline process.

This amounts to double discipline on a complaint.

29. Once the Objection by Bar Counsel is filed, the suspension is continued without a hearing. It violates due process. The Objection should not result in continued suspension before a hearing. The 60 day suspension required due process through a tribunal hearing, Board of Governors and Supreme Court. How can a continued suspension not require due process? Process after harm is no due process.

30. There is imminent harm. Deters was not automatically reinstated in Kentucky on November 7, 2013 as he should have been. In fact, under SCR 2.300, the process takes months before the Character & Fitness Committee. The result is Bar Counsel may have Deters suspended for months or a year or more. To state it as unjust is an understatement. It is

preposterous.

31. There is a likelihood Deters will win. This rule is clearly unconstitutional.

32. There is no other adequate remedy at law. Deters has no other remedy. Under current law, which is also probably unconstitutional, he cannot sue the immune KBA and Bar Counsel for monetary damages or even file a Rule 11 Motion. Even prosecutors are subject to Rule 11 despite immunity.

33. Injunctive relief is appropriate and necessary to prevent the imminent harm to Deters. One day suspended past 60 is one day too many. His irreparable harm will be ongoing with each day past March 27, 2014 on the Ohio suspension. The basis for this entire lawsuit in this jurisdiction and venue is how the Kentucky unconstitutional rule will affect Deters' Ohio suspension up March 27, 2014.

34. Deters has a strong or substantial likelihood of success on the merits.

35. Deters will suffer irreparable harm if the force of the Objection is not stayed.

36. No other parties will be substantially injured if there is a stay and the public interest lies with Deters including his own rights and the needs of his clients who expect his return to his Ohio practice on March 27, 2014. Deters had trials moved in anticipation of his return in Kentucky after 60 days. They had to be moved again. Further suspension inconveniences his clients, the Courts and even the opposing parties and their counsel.

37. The Court must enjoin the Kentucky Bar Association and Kentucky Bar Counsel from blocking Deters' automatic reinstatement in Kentucky and Ohio to avoid the injustice of Deters' due process rights being violated.

38. SCR 3.510(2) is unconstitutional. Therefore, it is a grave injustice Deters be

blocked from an automatic reinstatement by an unconstitutional rule.

39. Section 116 of the Kentucky Constitution provides the Supreme Court of Kentucky the power to enact rules governing the Courts and therefore lawyers.

40. However, there is nothing in the Kentucky or U.S. Constitution which allows the Supreme Court of Kentucky to enact a rule which violates due process or is unconstitutional. Kentucky Supreme Court rules governing lawyers have been struck down by state and federal courts including ones on first amendment grounds.

41. SCR 3.150, to our knowledge, based upon our research, has never faced a constitutional due process challenge in a published opinion. If there is an unpublished opinion, we are unaware of it. SCR 3.150 provides the KBA and Kentucky Bar Counsel with the power to unilaterally violate an attorney's due process rights.

42. In addition, the rules shift the burden to who is aligned as a defendant. After the Objection, Deters must prove he is fit by clear and convincing evidence (no problem) rather than Bar Counsel having to prove he's unfit by any standard. No prosecutor is even relieved of the burden of proof under American Jurisprudence.

43. The time for the Objection under SCR 3.510 is allowed to be up to 10 days before the suspension is up. This allows Bar Counsel to leave Deters with 49 days of anxiety followed by the despair of the objection. By waiting for the last possible day, Bar Counsel inflicted maximum pain because it delayed Deters from beginning the reinstatement process earlier as he did in 2012 when they objected within the first ten days of the suspension.

44. Because Deters is licensed in Kentucky, Ohio and Florida any suspension and extended suspensions causes triple the pain because of reciprocal discipline Ohio and Florida

have enforced. The Objection to automatic reinstatement and the continued suspension now will result in an extended Ohio suspension.

45. Deters is serving the 60 day reciprocal discipline in Ohio and it's over March 27, 2014. However, part of the conditions of the Order from Ohio is that he must be reinstated in Kentucky.

46. Deters should not have to serve more than a 60 day suspension in Ohio based upon the automatic reinstatement objection used by Kentucky Bar Counsel.

47. As reflected in Exhibit 1, April 23, 2012, Deters filed an original action in the Kentucky Supreme Court challenging SCR 3.510 as unconstitutional. The Court overruled the Motion for Injunctive Relief as moot because they reinstated Deters on June 15, 2012. However, the Court has never ruled on the substantive issue. Therefore, a federal challenge is appropriate. (This is not an appeal of a final decision in a state court in violation of the Feldman-Rooker doctrine. There is no decision by the Kentucky Supreme Court and after two years, the same unconstitutional rule is causing great harm to Deters.)

48. Deters knew and knows Kentucky Bar Counsel will never stop their unfair pursuit of him. Therefore, he sought to resign his Kentucky Bar license. However, SCR 3.480 (Exhibit 3) does not allow it with "pending discipline" unless Deters, or anyone similarly situated, agrees to permanent disbarment. Deters has no discipline, which warrants disbarment. Therefore, this rule keeps Deters from "quitting" being a lawyer in Kentucky to protect his Ohio license.

49. Ohio for example allows a resignation with pending discipline. If Deters agreed to permanent disbarment in Kentucky, he risks receiving this reciprocal discipline in Ohio.

50. Kentucky won't allow Deters to quit so they can keep punishing him and harm his

license in Ohio and Florida. It makes no sense.

51. The magnitude of Kentucky causing a suspension in Ohio and extended suspension in Ohio is immeasurable except in its description as significant. Solely because of the Kentucky suspension, Deters must do the following under the Ohio Order (Exhibit 5):

1. Serve 60 days in Ohio until March 27 and if not reinstated in Kentucky this will be extended.
2. File a Notice of Disqualification in every Ohio case—over 350 cases filed. (Done.)
3. Send a certified letter to all his Ohio clients at a cost of nearly \$3,000. (Done.)
4. Not appear at depositions.
5. Not appear at hearings.
6. Not appear at Court.
7. Not practice law in Ohio.
8. Attend one CLE for every 30 day of his suspension. (Done.)

52. There is humiliation, stress and uncountable effects from the suspension. All based upon Kentucky's discipline and subject to extension based upon Kentucky Bar Counsel's arbitrary power to extend it by decree.

53. Kentucky Bar Counsel should not be allowed to extend a suspension before a hearing and they certainly should not be allowed to continue an Ohio suspension.

54. There are grounds under the rules of Kentucky Supreme Court for the KBA and Bar Counsel to effect an immediate suspension under Kentucky rules including a felony or theft. None of these have ever applied to Deters. Its wrong Kentucky Bar counsel can effect Deters law license with legal limbo and uncertainty before a hearing solely by the objection to automatic

reinstatement rule when otherwise they have no basis to do it. It's like an open grand jury. However, if Deters was the subject of an open grand jury, he could still practice law. So it's worse.

55. In addition, they do so before there is due process on unadjudicated disputes. It's clearly unconstitutional by its violation of Deters' due process rights.

56. It is remarkable these are the rules of a lawyer association which if any association should have a sense of fairness, justice and due process it is an association of those sworn to protect and defend the Constitution and advocate the rights of their clients.

57. A suspension and an extended suspension effects the following:

- a. Client anxiety- It is wrong Deters has to inform a client that he has 60 days to serve, then try to explain to them why he has more time to serve. It's unfair to have such an uncertainty.
- b. Deters' office- In a situation where the head of the firm, like Deters is involved, everyone is effected by even more stress.
- c. Marketing- even the website has to come down.

58. As previously referenced, in 2012, Deters served a 60 day suspension by Order of the Kentucky Supreme Court. He defeated 15 of the 19 charges. Prior to the 60 day suspension ending, Kentucky Bar Counsel filed an objection pursuant to SCR 3.510 to Deters' automatic reinstatement. This forced him through a reinstatement process. It began with an application and hearing before the Character & Fitness Committee. They voted 3-0 to reinstate. The KBA Board 13-0 not to reinstate. This reflects their animus towards Deters. The Kentucky Supreme Court on June 15, 2012, voted 7-0 to reinstate.

59. Deters served 52 days more of a suspension because of the objection by Bar Counsel than the 60 days ordered. He served 112 days.

60. Deters served more than 60 days suspension under Ohio reciprocal discipline.

61. Deters has now served nearly 120 more days than the 60 days ordered in 2013.

62. This means based upon SCR 3.510, Eric C Deters has served a total in 2012 and 2013-14, 172 more days than the total 120 ordered during 2012 and 2013 combined, a full six months suspension and counting all under SCR 3.510.

63. All these additional days were served before a hearing was granted.

64. Deters' present position is that there is not even a hearing scheduled before Character & Fitness. There was one schedule for February 20, but it was canceled. Deters filed the attached Motion for Reinstatement in the Kentucky Supreme Court based upon Character & Fitness not meeting the time deadlines of their process (Exhibit 6). However, this lawsuit, not the Motion to Reinstate addresses the constitutional issue. However, the Motion further reveals the hell Deters has been through.

65. In the Kentucky Supreme Court 2013 Order (Exhibit 7) of suspension the Court wrote:

“The simple fact is that the Supreme Court Rules allow for a suspension of a definite term to be effectively extended when Bar Counsel objects to automatic reinstatement and provides “such information as may exist to indicate that the member does not, at that time, possess sufficient professional capabilities and qualifications properly to serve the public as an active practitioner or is not of good moral character.” SCR 3.510(b).”

This is an acknowledgment and passive endorsement by the Court of the rule. A rule since

2012 (Exhibit 1) which has faced Deters' constitutional challenge without a decision.

66. In their 2013 Order of suspensions, the Court also acknowledged that if other pending discipline was the sole basis for the objection, the "double punishment" argument would be credible:

"Deters complains that if he is not given credit for the additional suspension, then he will essentially be punished twice for the same behavior, since the disciplinary matters resolved in this opinion were part of Bar Counsel's reason for objecting to his reinstatement. That might be the case if these are disciplinary cases were the only basis for that objection, but that is not the case here. As noted above, part of the reason Bar Counsel objected was that Deters had not complied completely with this Court's order in the previous disciplinary matter."

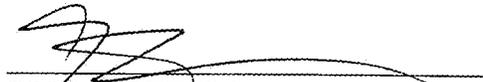
67. The current discipline process suspension as reflected by the Amended Objection (Exhibit 2) proves there is no other reason for the objection this time besides the pending discipline. Therefore, based upon the Kentucky Supreme Court's own decision (Exhibit 7), Deters' argument of double punishment has merit.

68. Based upon this Verified Complaint and all the Exhibits, SCR 3.510 must be held unconstitutional and Deters not suspended further in Kentucky or Ohio past March 27, 2014.

Prayer For Relief

WHEREFORE, Plaintiff requests SCR 3.510 be found unconstitutional, for injunctive relief, for all costs, attorney fees and other relief to which he is entitled.

Respectfully Submitted,



ERIC C. DETERS

Pfo Se

5247 Madison Pike

Independence, Kentucky 41051

(859) 363-1900 - telephone

(859) 363-1444 - facsimile

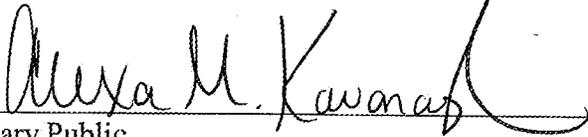
VERIFICATION

The undersigned has read and reviewed this Verified Complaint and all exhibits. He verifies it for all purposes.


Eric C. Deters

NOTARY

Sworn, subscribed and acknowledged to before me this 5th day of March,
2014.


Notary Public
Id. # 453857
My Commission expires Oct. 24, 2015

Q:\ECD v Ky Bar Counsel\Complaint.doc

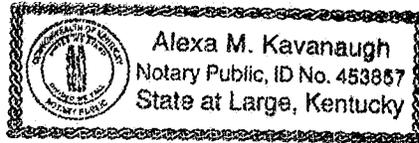


Table of Contents

Exhibit 1: Verified Petition and Request for Injunctive Relief in 2012

Exhibit 2: SCR 3.510 Reinstatement in Case of Disciplinary Suspension

Exhibit 3: Objection to Automatic Reinstatement

Exhibit 4: 3.480 Withdrawal from the Association; Negotiated Sanctions

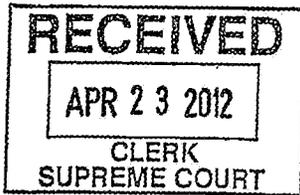
Exhibit 5: Supreme Court Order- January 27, 2014

Exhibit 6: Motion for Reinstatement

Exhibit 7: Supreme Court Opinion and Order

Exhibit 8: Amendment to KBA Objections to Automatic Reinstatement

Exhibit 1: Verified Petition and
Request for Injunctive Relief in 2012



KENTUCKY SUPREME COURT
CASE NO. _____

ERIC C. DETERS
5247 Madison Pike
Independence, Ky 41051

PLAINTIFF

vs.

KENTUCKY BAR COUNSEL
514 West Main Street
Frankfort, KY 40601

DEFENDANTS

Serve: Jay Garrett

and

KENTUCKY BAR ASSOCIATION
514 W. Main Street
Frankfort, Ky 40601

Serve: Margaret Keane

VERIFIED PETITION AND REQUEST FOR INJUNCTIVE RELIEF
(JURISDICTION PARAGRAPH FOUR & EIGHTEEN)

Comes now Plaintiff, Eric Deters (hereafter Deters), by and through counsel, and for his
Petition states as follows:

1. Eric C. Deters is a lawyer with an active license in Ohio and Florida. In over
twenty years, despite practicing in these states, Deters has never had a charge. Five or six Ohio
bar complaints have never moved past Deters' response. Deters has been a licensed Kentucky
lawyer since 1987. Not until Linda Gosnell became Bar Counsel did Deters have any threats to
his license. Bar Complaints were dismissed. He had two private reprimands, one of which
became public by a mistake of a Supreme Court Justice who apologized in writing. Bar Counsel,

under Ben Cowgill, obviously had a different approach. From February 23, 2012 to the present, his license in Kentucky is suspended as part of a 61 day suspension due to expire April 25, 2012 on which day his license would be automatically reinstated.

2. Defendant, Kentucky Bar Counsel, filed an Objection to the automatic reinstatement under SCR 3.510, the rule Deters challenges with this lawsuit. Defendant, Kentucky Bar Counsel, through Linda Gosnell (discharged), Jay Garrett and Sarah Coker have been the prosecutor of Deters on his bar matters subject to this lawsuit. (Objection attached as Exhibit 7.)

3. Defendant, Kentucky Bar Association, operates under the Supreme Court Rule in issue.

4. The Kentucky Supreme Court is the proper venue and jurisdiction of this matter. (See Memorandum of Bar Counsel conceding the issue attached as Exhibit A). Furthermore, the issue is appropriate for the Supreme Court's jurisdiction since it is a challenge under the due process clause of the 14th Amendment of the U.S. Constitution and Sections 1, 2 and 14 of the Kentucky Constitution challenging a Supreme Court Rule. The Kentucky Supreme Court has jurisdiction to hear this under their original jurisdiction and their right to manage everything with the Court of Justice and lawyers. Unlike as argued in Exhibit A by Defendants, the Character & Fitness Committee is not an indispensable party. This matter is an issue with the Objection filed by Bar Counsel.

5. SCR 3.510(2) states:

(2) If the period of suspension has prevailed for one hundred eighty (180) days or less, the suspension shall expire by its own terms upon the filing with the Clerk and Bar Counsel of an affidavit of compliance with the terms of the suspension, which must include a certification from the CLE

Commission that the Applicant has complied with SCR 3.675. The Registrar of the Association will make an appropriate entry in the records of the Association reflecting that the member has been reinstated; provided, however, that such suspension shall not expire by its own terms if not later than ten (10) days preceding the time the suspension would expire. Bar Counsel files with the Inquiry Commission an objection to the termination of suspension wherein Bar Counsel details such information as may exist to indicate that the member does not at that time possess sufficient professional capabilities and qualifications properly to serve the public as an active practitioner or is not of good moral character. A copy of such objection shall be provided to the Character and Fitness Committee, to the member concerned, and to the Registrar. If such an objection has been filed by Bar Counsel, and is not withdrawn within thirty (30) days, the Character and Fitness Committee shall conduct proceedings under SCR 2.300. In cases where a suspension has prevailed for one hundred eighty (180) days or less and the reinstatement application is referred to the Character and Fitness Committee, a fee of \$1250.00 shall be made payable to the Kentucky Office of Bar Admissions.

6. This rule is unconstitutional because it violates the due process rights of Deters.
7. Deters went through a lengthy due process proceeding which included the following:
 - A. Bar Complaints
 - B. Responses
 - C. Charges
 - D. Answers
 - E. Trial Commission Hearing
 - F. Briefing
 - G. Appeal to the Board of Governors
 - H. Briefs
 - I. Hearing before the Board of Governors
 - J. Appeal to the Supreme Court
8. As a result of that process, Deters was found not guilty on 15 charges and guilty of 4 charges and he received a 61 day suspension and 7 hours of remedial ethics. Despite his belief he should have not been found guilty of even four, Deters accepted his punishment and began serving his suspension on February 24, 2012. He has not practiced law in Kentucky for 61 days

as of today. Also relevant, Bar Counsel did not send Deters a letter or memorandum explaining what he could or could not do relative to advertising or anything else. It is pretty remarkable a suspended lawyer has to reach his own logical conclusion as to what he can or can't do. Deters has abided by the Order.

9. Bar Counsel filed an Objection blocking Deters automatic reinstatement on March 7, 2012 only two weeks after the suspension began.

10. SCR 3.510(2) violates due process by giving Bar Counsel the unilateral power to extend Deters suspension and further his punishment beyond that which was ordered by the Kentucky Supreme Court. (Supreme Court Order attached as Exhibit 3.) Also, see detailed Memorandum filed contemporaneous with this Petition.

11. It is as if the prosecutor in a criminal case, being unsuccessful in a conviction for attempted murder and obtaining a wanton endangerment conviction from a jury, is allowed to still have the Defendant serve an attempted murder punishment.

12. There is imminent harm. Deters will not be automatically reinstated tomorrow. In fact, under SCR 2.300, the process will take months before the Character & Fitness Committee. The result is Bar Counsel may have Deters suspended for the 181 days Bar Counsel sought against Deters and Deters successfully defeated. To state it as unjust is an understatement. It is preposterous.

13. There is a likelihood Deters will win. This rule is clearly unconstitutional. (See Memorandum filed contemporaneously with this.)

14. There is no other adequate remedy at law. Deters has no other remedy. He cannot sue the immune KBA and Bar Counsel for monetary damages.

15. Injunctive relief is appropriate and necessary to prevent the imminent harm to Deters. One day suspended past 61 is one day too many. His irreparable harm will be ongoing with each day.

16. The Court must enjoin the Kentucky Bar Association and Bar Counsel from blocking Deters' automatic reinstatement to avoid the injustice.

17. SCR 3:510(2) is unconstitutional. Therefore, it is a grave injustice Deters be blocked from an automatic reinstatement by an unconstitutional rule.

18. Section 116 of the Kentucky Constitution provides the Supreme Court of Kentucky the power to enact rules governing the Courts and therefore lawyers.

19. However, there is nothing in the Kentucky or U.S. Constitution which allows the Supreme Court of Kentucky to enact a rule which violates due process or is unconstitutional. If this were the case, the Supreme Court would be completely unchecked. Kentucky Supreme Court rules governing lawyers have been struck down by state and federal courts including ones on first amendment grounds.

20. SCR 3.150, to our knowledge, based upon our research, has never faced a constitutional due process challenge in a published opinion. If there is an unpublished opinion, we are unaware of it. Furthermore, we have told the KBA and Bar Counsel we were going to challenge SCR 3.510 on due process grounds for weeks and they have not provided us any law or decisions showing us we are misguided. SCR 3.150 provides Bar Counsel with the power to unilaterally violate an attorney's due process rights.

21. Deters fought and defeated a 181 day suspension recommendation from a Trial Commissioner and over Bar Counsel's objection the Board of Governors and Kentucky Supreme

Court reduced it to 61 days. Now, Bar Counsel unilaterally wants to extend the suspension. It also means Deters is being punished twice for the pending matters before he is even tried. They are being used to punish him on a matter already adjudicated and they will carry their own punishment if he is found guilty, although he expects not to be. Of course defending a baseless bar complaint is also a form of punishment.

22. If someone is found guilty of a felony and he is a persistent felony offender, the punishment can be enhanced. However, there are already felony convictions on those prior matters. Here, Bar Counsel wants to use non-resolved matters to punish Deters. It violates due process. Deters has no other bar matters that are fully adjudicated through the Board of Governors or Kentucky Supreme Court.

23. Deters has a strong or substantial likelihood of success on the merits.

24. Deters will suffer irreparable harm if the force of the Objection is not stayed.

25. No other parties will be substantially injured if there is a stay and the public interest lies with Deters including his own rights and the needs of his clients who expect his return on April 25, 2012. Anyone who has practiced law knows a file having no action taken for 61 days is bad enough, but for up to six months it is a real problem. Deters has had trials moved in anticipation of his return April 25. Further suspension inconveniences his clients, the Courts and even the opposing parties and their counsel.

26. SCR 3.150 allows Bar Counsel to use baseless Bar Complaints or Bar Complaints not fully adjudicated by the Kentucky Supreme Court to extend a suspension. This means all Deters enemies have to do is keep having bar complaints filed and regardless of their merit, he will remain suspended.

27. In fact, Bar Counsel references nine bar complaints as part of their Objection knowing two of these are already dismissed, one is over with a private admonition, three are not even Bar Charges and Plaintiff expects dismissal, one involves a recommendation of public reprimand and one is set to come before the Board of Governors. (See Exhibits 8-15.) Three are over. Six will be soon.

28. The Board dismissed 15 of 19 bar charges against Deters on this matter so Deters has legitimate confidence in defeating the pending matters. Bar Counsel is the only person who doesn't realize or chooses not to realize what is going on here. Deters has enemies who are orchestrating serial baseless bar complaints. Rather than be a filter, Bar Counsel has joined them.

29. In addition, Bar Counsel's Objection is filled with false statements or premature allegations of compliance. (The basis for the companion Motion for Contempt.) At the time of this writing, the only issue is the pending baseless Bar Complaints. How can these be used for the Objection when they are either already resolved, some before 30 days after the Objection, in Deters favor or still not fully adjudicated? Since when does Bar Counsel get to prejudge?

30. Bar Counsel puts in their Objection Deters does not "possess sufficient professional capabilities and qualifications properly to serve the public as an active practitioner or is not of good moral character." Based upon the attached document being submitted to the Character and Fitness Committee, this statement by Bar Counsel is beyond ludicrous. What bar allegations past and present, involve Deters morals or fitness as a lawyer. Bar Counsel has a lot of nerve to claim this when they lost 15 of 19 charges. Whose not moral? Whose not fit? (Exhibit 18.) Fortunate for Bar Counsel, they can hide behind immunity. Exhibit 18 helps

explain the professional jealousy Deters has incurred from his enemies in Northern Kentucky. He has become a celebrity and his enemies detest his rise. Bar Counsel shares in the animosity.

31. Bar Counsel didn't give Deters even two weeks to pay the costs ordered by the Supreme Court. They have been paid.

32. Bar Counsel lied. Deters did timely send letters to clients and the Courts. Deters produced written proof. (Exhibits 4-6.)

33. Bar Counsel claimed Deters didn't comply with SCR 3.675 and obtain his full year CLE by his suspension ending April 24. They filed this on March 7. Deters had over a month to obtain the CLE's and he has. Bar Counsel prematurely found Deters guilty of non-compliance before the time to comply lapsed.

34. Bar Counsel claimed without a single specific Deters advertised. Deters showed compliance. (Exhibits 8-15.) Bar Counsel claimed links were advertising. These links were taken down. Also, the links were to a taken down to a law office website. Bar Counsel claimed to Counsel Forgy Deters reporting as news out of state cases on his daily news blog/radio show is advertising. Deters removed his entire website until he removed any Kentucky reference. It's now up with a statement about his suspension. He is an Ohio lawyer. He can have a website for Ohio. (Exhibits 8-15.) Also, see affidavit of Brad Amster attached to the Memorandum. Amster, Deters web manager, explains compliance steps on advertising.

35. Deters is an Ohio licensed lawyer. He is allowed to use an office in Kentucky to practice on his Ohio cases. Deters has more cases in Ohio than Kentucky by being near Cincinnati. Why is Deters all good in Ohio and Kentucky wants his license? The enemies and Bar Counsel.

36. If Bar Counsel believes Deters has violated the Kentucky Supreme Court Order, which he has not, Bar Counsel should file a Motion with the Kentucky Supreme Court. They have not. We expect they would be embarrassed to make their assertions. They can defend them in the contempt motion.

37. Why does Deters have other bar complaints? Because of the publicity of his prosecution and his enemies seize the chance to file them--baseless they may be. (See Exhibit 18 for an example too.) The following is a summary of the pending Bar matters which reflect how ridiculous Bar Counsel's position is.

Pending Bar Matters

38. Jessica Meyer- Dismissed Before Charge

39. Melissa Altman- Dismissed Before Charge

40. Fired Lawyer- Baseless bar complaint. Not a charge. Expect dismissal. Deters fired this lawyer for misconduct and the lawyer filed a bar complaint against Deters knowing Deters plans on suing the lawyer for money owed. It's pending so no name is given.

41. Judge Danny Reeves Matter- Deters received a private admonition Deters was tempted to appeal. Bar Counsel lied and said Judge Reeves initiated a complaint on a lawsuit Deters filed. Deters confirmed from Judge Reeves he did not initiate the complaint. Then Bar Counsel simply obtained a private admonition. Deters accepted for closure.

42. Pending Matter- A bar charge Deters contested and Deters is contesting so no name will be given. The Trial Commissioner has not rendered a decision. Bar Counsel has asked for a public reprimand.

43. Fee dispute with Ohio client- Baseless bar complaint Bar Counsel has refused to

just dismiss. Even Ohio dismissed it. Deters actually filed a Declaratory Judgment Action in Ohio to obtain his fee. The client threatened and filed the complaint hoping it would deter Deters from collecting his earned fee. No name will be given since its pending.

44. Pending Matter- Baseless Bar complaints involving a lawsuit Deters filed nearly ten years ago on a jail inmate's medical treatment supported by one of the top experts in the country. Bar Counsel knows the matter is before the Kentucky Supreme Court and should not do anything based upon their own policies. Yet, they file it anyway. Pending, so no name.

45. Eight year old matter pending- Appeal to Board of Governors filed Friday.
Pending, so no name.

46. All of these but the one referenced in paragraph 45 is a result of the public's knowledge of Deters bar fight with Kentucky Bar Counsel.

Conclusion

47. This matter is ripe for adjudication because the automatic suspension is up April 25, today, and by the attached April 13 letter from Executive Director, John D. Meyers, the Board of Governors refuses to act. Therefore, this Complaint and Motion for Injunctive Relief is necessary, ripe, justified and deserving.

Prayer For Relief

WHEREFORE, Plaintiff requests SCR 3.510 be found unconstitutional, for injunctive relief, for all costs, attorney fees and other relief to which he is entitled.

L. E. Forgy
LAWRENCE E. FORGY, JR.
83 C. Michael Davenport Blvd.
P.O. Box 4292
Frankfort, KY 40601
(502) 227-3155

Exhibit 2: SCR 3.510 Reinstatement in Case of Disciplinary Suspension

**KENTUCKY BAR ASSOCIATION
RULES OF THE SUPREME COURT OF KENTUCKY**

PRACTICE OF LAW

SCR 3.510 Reinstatement in case of disciplinary suspension

(1) No former member of the Association who has been suspended for a disciplinary case for more than one hundred eighty (180) days shall resume practice until he/she is reinstated by order of the Court. Application for reinstatement shall be on forms provided by the Director and Continuing Legal Education Commission, filed with the Director, and shall be accompanied by a filing fee of \$250.00 which shall be made payable to the Kentucky Bar Association. An additional filing fee of \$1250.00 shall be made payable to the Kentucky Office of Bar Admissions. The Director shall not accept an application for filing unless all costs incurred in the suspension proceeding have been paid by the former member, the Office of Bar Counsel has certified to the Applicant that there is no pending disciplinary file, and the costs in the reinstatement proceeding (whether costs of the Association or of the Character and Fitness Committee or of the Kentucky Office of Bar Admissions) have been secured by the posting of a cash or corporate surety bond of \$2500.00. Any additional costs will be paid by Applicant. The Director shall refer the application to the Continuing Legal Education Commission within ten (10) days of receipt for certification under Rule 3.675. The Continuing Legal Education Commission shall make its certification within twenty (20) days of the referral which shall be added to the record in the reinstatement proceedings.

(2) If the period of suspension has prevailed for one hundred eighty (180) days or less, the suspension shall expire by its own terms upon the filing with the Clerk and Bar Counsel of an affidavit of compliance with the terms of the suspension, which must include a certification from the CLE Commission that the Applicant has complied with SCR 3.675. The Registrar of the Association will make an appropriate entry in the records of the Association reflecting that the member has been reinstated; provided, however, that such suspension shall not expire by its own terms if, not later than ten (10) days preceding the time the suspension would expire, Bar Counsel files with the Inquiry Commission an opposition to the termination of suspension wherein Bar Counsel details such information as may exist to indicate that the member does not, at that time, possess sufficient professional capabilities and qualifications properly to serve the public as an active practitioner or is not of good moral character. A copy of such objection shall be provided to the Character and Fitness Committee, to the member concerned, and to the Registrar. If such an objection has been filed by Bar Counsel, and is not withdrawn within thirty (30) days, the Character and Fitness Committee shall conduct proceedings under SCR 2.300. In cases where a suspension has prevailed for one hundred eighty (180) days or less and the reinstatement application is referred to the Character and Fitness Committee, a fee of \$1250.00 shall be made payable to the Kentucky Office of Bar Admissions.

(3) If the period of suspension has prevailed for more than one hundred eighty (180) days, the matter shall be referred to the Character and Fitness Committee for proceedings under SCR 2.300. The Character and Fitness Committee will determine whether the application of a member who has been suspended one hundred eighty (180) days or less but whose termination of suspension has been objected to, or a member who has been suspended for more than one hundred eighty (180) days, should be approved. The Character and Fitness Committee shall file with the Director and the Clerk the entire record, including a written report and recommendation by the Character and Fitness Committee. The Board shall review the record and report and recommend approval or disapproval of the application to the Court. The Court may enter an order reinstating the Applicant to the practice of law or deny the application.

(4) If the period of suspension has prevailed for more than five (5) years, the Director shall refer the application to the Character and Fitness Committee for proceedings under SCR 2.300. The Committee shall file a written report and recommendation with the Director and the Clerk. The

Board shall review the record and report and recommend approval or disapproval of the application to the Court. If the Committee and the Board recommend approval of the application, the Committee shall refer the application to the Board of Bar Examiners for processing in accordance with Rule 3.500(3) and shall file the entire record with the Clerk, including the written report and recommendation of the Committee. The Board of Bar Examiners shall certify the results of the examination to the Director and the Court. If the Applicant successfully completes the examination, the Court may, at its discretion, enter an order reinstating the suspended member to the practice of law. However, if the Applicant fails to pass the examination, the Court shall enter an order denying the application.

(5) A suspended member of the Association who desires to resume practice as quickly as possible following a period of suspension may file an application to do so at any time during the last ninety (90) days of the period of suspension.

(6) If the Committee and Board recommend approval of reinstatement on conditions, as provided in SCR 2.042, or approval with such additional conditions as the Board may recommend, the Court may include such conditions in any order of reinstatement.

HISTORY: Amended by Order 2009-12, eff. 1-1-2010; prior amendments eff. 1-1-07 (Order 2006-09), 1-1-04 (Order 2003-4); 2-1-90 (Order 99-1), 10-1-98 (Order 98-1), 9-15-90 (Order 90-1), 1-1-88, 2-24-86, 7-1-84, 4-1-82, 1-1-78, 7-2-71

Exhibit 3: Objection to Automatic Reinstatement

SUPREME COURT OF KENTUCKY
2012-SC-00666-KB and 2012-SC-00667-KB
KBA FILES 16037 and 19366

KENTUCKY BAR ASSOCIATION

PETITIONER

v. OBJECTION TO AUTOMATIC REINSTATEMENT

ERIC C. DETERS
KBA Member No. 81812

RESPONDENT

* * * * *

Pursuant to the provisions of SCR 3.510(2), the Kentucky Bar Association, Office of Bar Counsel, hereby files an objection to the automatic reinstatement of Respondent Eric Deters.

SCR 3.510(2) provides, in part:

[A] suspension shall not expire on its own terms if, not later than ten (10) days preceding the time the suspension would expire, Bar Counsel files with the Inquiry Commission an opposition to the termination suspension wherein Bar Counsel details such information as may exist to indicate that the member does not, at that time, possess sufficient professional capabilities and qualifications properly to serve the public as an active practitioner or is not of good moral character. A copy of such objection shall be provided to the Character and Fitness Committee, to the member concerned, and to the Registrar. If such an objection has been filed by Bar Counsel, and is not withdrawn within thirty (30) days, the Character and Fitness Committee shall conduct proceedings under SCR 2.300.

By Order dated May 23, 2013, Respondent was suspended from the practice of law for sixty (60) days, commencing ten days from the date of the Order. The suspension was stayed pending a ruling on Respondent's Petition for Reconsideration on May 31, 2013. The Petition for Reconsideration was denied on August 29, 2013. The suspension commenced on September 8, 2013 (ten days from the date of the Order). Respondent is eligible to be automatically reinstated on November 7, 2013.

Pursuant to SCR 3.510(2), the Office of Bar Counsel may file an opposition to the termination of the suspension no later than ten (10) days preceding the time the suspension would expire. The deadline for the Office of Bar Counsel's filing is therefore October 28, 2013.

The basis for this objection is:

1. Respondent's failure to comply with SCR 3.675(1), as verified by the attached memorandum from the Assistant Director for Continuing Legal Education¹;
2. Respondent currently has multiple disciplinary matters pending with the Kentucky Bar Association Office of Bar Counsel.

Therefore, the Kentucky Bar Association, Office of Bar Counsel, objects to the automatic reinstatement of Respondent as he does not at this time possess sufficient professional capabilities and qualifications to properly serve the public as a practitioner.

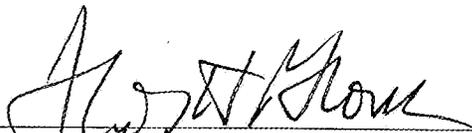


Thomas H. Glover
Chief Bar Counsel
Sarah V. Coker
Deputy Bar Counsel
Kentucky Bar Association
514 West Main Street
Frankfort, Ky 40601
(502) 564-3795 Fax (502) 564-3225

¹ Respondent has indicated that he is in the process of completing his CLE requirements, but as of the date of filing of this Objection he is not in compliance.

CERTIFICATE OF SERVICE

This is to certify that the foregoing Objection to Automatic Reinstatement was mailed to Elizabeth S. Feamster, Director and General Counsel, Character & Fitness Committee, Suite 156, 1510 Newtown Pike, Lexington, Kentucky 40511-1255; John D. Meyers, Executive Director and Registrar, Kentucky Bar Association, 514 W. Main St., Frankfort, Kentucky 40601; and Eric C. Deters 5247 Madison Pike Independence, Kentucky 41051, this 23 day of October, 2013. This document has been filed with the Inquiry Commission as required.



Thomas H. Glover

Sarah V. Coker



Kentucky Bar Association
Continuing Legal Education Commission
514 West Main Street
Frankfort, KY 40601-1812
Phone: (502)564-3795
Fax: (502)564-3225
<http://www.kybar.org>

MEMORANDUM

TO: Sarah V. Coker, Deputy Bar Counsel

FROM: Mary E. Cutter, Director for CLE

DATE: October 23, 2013

RE: Eric Charles Deters; KBA Membership No. 81812
Non-Compliance with SCR 3.675

This memorandum is in reference to a Supreme Court Order entered August 29, 2013 regarding Eric Charles Deters, imposing a sixty (60) day suspension, effective September 9, 2013, for violation of the Rules of Professional Conduct.

Pursuant to the Rules, a disciplinary suspension for 180 days or less shall expire by its own terms unless there is an objection filed by Bar Counsel with the Inquiry Commission not later than ten (10) days preceding the expiration date. SCR 3.510(2). As a prerequisite to restoration or reinstatement to membership in the Kentucky Bar Association, the former member is required by SCR 3.675 to have completed the minimum annual continuing legal educational requirement for each year in which he/she was not a member in good standing. This includes the current year (2013-2014) CLE requirement under SCR 3.661.

Mr. Deters has not met this CLE requirement and, therefore, is not in compliance with SCR 3.675 for purposes of restoration or reinstatement.

c: John D. Meyers, Executive Director
Susan Greenwell, Disciplinary Clerk

Exhibit 4: 3.480 Withdrawal from the Association; Negotiated Sanctions

**KENTUCKY BAR ASSOCIATION
RULES OF THE SUPREME COURT OF KENTUCKY**

PRACTICE OF LAW

SCR 3.480 Withdrawal from the association; negotiated sanctions

(1) Any member who desires to withdraw from membership and is not under investigation pursuant to Rule 3.160(2), and does not have a complaint or charge pending against him/her in any jurisdiction, shall file a written motion to that effect with the Court and serve a copy on the Registrar and the Inquiry Commission. The motion shall be docketed by the Clerk. The Registrar shall, after consultation with the Inquiry Commission, within ten (10) days after the filing of the motion, certify in writing to the Court whether the movant is an active member in good standing of the Association and whether movant is under a disciplinary investigation by the Inquiry Commission or has a complaint or charge pending against him/her in this or any jurisdiction. Said motion may be granted if movant is an active member in good standing and has no pending disciplinary investigation, complaints, or charges.

(2) The Court may consider negotiated sanctions of disciplinary investigations, complaints or charges prior to the commencement of a hearing before a Trial Commissioner under SCR 3.240. Any member who is under investigation pursuant to SCR 3.160(2) or who has a complaint or charge pending in this jurisdiction, and who desires to terminate such investigation or disciplinary proceedings at any stage of it may request Bar Counsel to consider a negotiated sanction. If the member and Bar Counsel agree upon the specifics of the facts, the rules violated, and the appropriate sanction, the member shall file a motion with the Court which states such agreement, and serve a copy upon Bar Counsel, who shall, within 10 days of the Clerk's notice that the motion has been docketed, respond to its merits and confirm its agreement. The Disciplinary Clerk shall submit to the Court within the 10 day period the active disciplinary files to which the motion applies. The Court may approve the sanction agreed to by the parties, or may remand the case for hearing or other proceedings specified in the order of remand.

(3) Any member who has been engaged in unethical or unprofessional conduct and desires to withdraw his membership under terms of permanent disbarment shall file a verified motion with the Court stating as follows:

- (a) He/she has violated the Rules of Professional Conduct, or his/her conduct fails to comply with those rules, the specifics of which shall be detailed in the motion.
- (b) He/she will not seek reinstatement and understands the provisions of SCR 3.510 and SCR 3.520 do not apply.
- (c) He/she will not practice law in the Commonwealth of Kentucky subsequent to the permanent disbarment order.

The motion shall be served on Bar Counsel and docketed by the Clerk. Bar Counsel may file a response within 10 days after the filing of the motion to resign under terms of permanent disbarment. Simultaneously with service of the motion on Bar Counsel, the member will immediately cancel all advertising for which the member has contracted and shall direct the publisher of such advertising to immediately cease publication of such advertising insofar as the medium of that advertising makes such action practicable and whether or not the member has paid for the advertising in advance. The Disciplinary Clerk shall, within ten (10) days after the filing of such a motion, submit to the Court any active disciplinary files maintained by the Inquiry Commission relating to movant. The Court will then enter an appropriate order, stating the conditions, if any, under which the motion is granted, or deny the motion and direct the completion of disciplinary proceedings under these rules.

(4) Any member suspended or disbarred by order of this Court shall:

- (a) Take all steps necessary and practicable to cease all forms of advertisement of the member's practice immediately upon entry of an order of suspension or disbarment and shall report the fact and effect of those steps to the Director in writing within twenty (20)

days after the order of suspension or disbarment is entered.

(b) Pay all costs of the disciplinary investigation and proceedings in accordance with Rule 3.450, and

(c) Comply with the provisions of Rule 3.390 regarding notice to clients of suspension or disbarment.

HISTORY: Amended by Order 2013-12, eff. 1-1-2014; prior amendments eff. 1-1-2010 (Order 2009-12), 2-1-00 (Order 99-1), 10-1-98 (Order 98-1), 4-1-82 (Order 82-1), 7-2-71

Exhibit 5: Supreme Court Order-
January 27, 2014

FILED

JAN 27 2014

The Supreme Court of Ohio

Disciplinary Counsel,
Relator,
v.
Eric Charles Deters,
Respondent.

ON CERTIFIED ORDER OF
Supreme Court of Kentucky
Case Nos. 2012-SC-000666-KB &
2012-SC-000667-KB

CLERK OF COURT
SUPREME COURT OF OHIO

Case No. 2013-0999

ORDER

This cause is pending before the Supreme Court of Ohio in accordance with the reciprocal discipline provisions of Gov.Bar R. V(11)(F).

On June 19, 2013, relator, disciplinary counsel, filed with this court a certified copy of an order of the Supreme Court of Kentucky entered May 23, 2013, in *Kentucky Bar Association v. Eric C. Deters*, in Case Nos. 2012-SC-000666-KB and 2012-SC-000667-KB, suspending respondent, Eric Charles Deters, from the practice of law for 60 days. On November 7, 2013, this court ordered respondent to show cause why identical or comparable discipline should not be imposed in this state. Respondent filed a response to the show cause order, and relator filed a reply. On January 22, 2014, respondent filed a notice with the court requesting to begin his 60-day suspension on January 30, 2014.

On consideration thereof, it is ordered and adjudged by this court that, pursuant to Gov.Bar R. V(11)(F)(4), respondent, Eric Charles Deters, Attorney Registration Number 0038050, last known business address in Independence, Kentucky, is suspended from the practice of law for 60 days. The suspension shall begin to run as of the date of this order. It is further ordered that respondent will not be reinstated to the practice of law in Ohio until such time as respondent is reinstated to the practice of law in the state of Kentucky.

It is further ordered that respondent immediately cease and desist from the practice of law in any form and is forbidden to appear on behalf of another before any court, judge, commission, board, administrative agency or other public authority.

It is further ordered that respondent is forbidden to counsel, advise or prepare legal instruments for others or in any manner perform such services.

It is further ordered that respondent is divested of each, any and all of the rights, privileges and prerogatives customarily accorded to a member in good standing of the legal profession of Ohio.

It is further ordered that before entering into an employment, contractual, or consulting relationship with any attorney or law firm, respondent shall verify that the attorney or law firm has complied with the registration requirements of Gov.Bar R. V(8)(G)(3). If employed pursuant to Gov.Bar R. V(8)(G), respondent shall refrain from direct client contact except as provided in

Gov.Bar R. V(8)(G)(1), and from receiving, disbursing, or otherwise handling any client trust funds or property.

It is further ordered that, pursuant to Gov.Bar R. X(3)(G), respondent shall complete one credit hour of continuing legal education for each month, or portion of a month, of the suspension. As part of the total credit hours of continuing legal education required by Gov.Bar R. X(3)(G), respondent shall complete one credit hour of instruction related to professional conduct required by Gov.Bar R. X(3)(A)(1), for each six months, or portion of six months, of the suspension.

It is further ordered, sua sponte, by the court, that within 90 days of the date of this order, respondent shall reimburse any amounts that have been awarded against the respondent by the Clients' Security Fund pursuant to Gov.Bar R. VIII(7)(F). It is further ordered, sua sponte, by the court that if, after the date of this order, the Clients' Security Fund awards any amount against respondent pursuant to Gov.Bar R. VIII(7)(F), respondent shall reimburse that amount to the Clients' Security Fund within 90 days of the notice of such award.

It is further ordered that respondent shall not be reinstated to the practice of law in Ohio until (1) respondent complies with the requirements for reinstatement set forth in the Supreme Court Rules for the Government of the Bar of Ohio; (2) respondent complies with the Supreme Court Rules for the Government of the Bar of Ohio; (3) respondent files evidence with the clerk of this court and with disciplinary counsel demonstrating his reinstatement to the practice of law in Kentucky; (4) respondent complies with this and all other orders issued by this court; and (5) this court orders respondent reinstated.

It is further ordered that on or before 30 days from the date of this order, respondent shall:

1. Notify all clients being represented in pending matters and any co-counsel of respondent's suspension and consequent disqualification to act as an attorney after the effective date of this order and, in the absence of co-counsel, also notify the clients to seek legal service elsewhere, calling attention to any urgency in seeking the substitution of another attorney in his place;
2. Regardless of any fees or expenses due respondent, deliver to all clients being represented in pending matters any papers or other property pertaining to the client, or notify the clients or co-counsel, if any, of a suitable time and place where the papers or other property may be obtained, calling attention to any urgency for obtaining such papers or other property;
3. Refund any part of any fees or expenses paid in advance which are unearned or not paid, and account for any trust money or property in the possession or control of respondent;
4. Notify opposing counsel in pending litigation or, in the absence of counsel, the adverse parties, of respondent's disqualification to act as an attorney after the effective

date of this order, and file a notice of disqualification of respondent with the court or agency before which the litigation is pending for inclusion in the respective file or files;

5. Send all notices required by this order by certified mail with a return address where communications may thereafter be directed to respondent;

6. File with the clerk of this court and disciplinary counsel of the Supreme Court an affidavit showing compliance with this order, showing proof of service of the notices required herein, and setting forth the address where the affiant may receive communications; and

7. Retain and maintain a record of the various steps taken by respondent pursuant to this order.

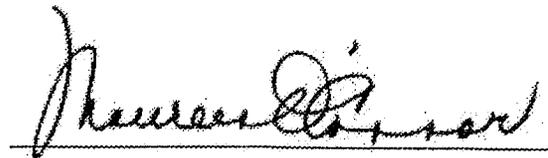
It is further ordered that on or before 30 days from the date of this order, respondent surrender the attorney registration card for the 2013/2015 biennium.

It is further ordered that until such time as respondent fully complies with this order, respondent shall keep the clerk and disciplinary counsel advised of any change of address where respondent may receive communications.

It is further ordered, sua sponte, that all documents filed with this court in this case shall meet the filing requirements set forth in the Rules of Practice of the Supreme Court of Ohio, including requirements as to form, number, and timeliness of filings.

It is further ordered, sua sponte, that service shall be deemed made on respondent by sending this order, and all other orders in this case, by certified mail to the most recent address respondent has given to the Office of Attorney Services.

It is further ordered that the clerk of this court issue certified copies of this order as provided for in Gov.Bar R. V(8)(D)(1), that publication be made as provided for in Gov.Bar R. V(8)(D)(2), and that respondent bear the costs of publication.

A handwritten signature in black ink, appearing to read "Maureen O'Connor", written over a horizontal line.

Maureen O'Connor
Chief Justice

Section 5. Exemptions.

The following persons are exempt from the requirements of this rule:

- (A) A person certified to practice law temporarily in Ohio under Gov. Bar R. IX;
- (B) A Foreign Legal Consultant registered under Gov. Bar R. XI.

Section 6. Failure to Register; Late Registration Fee; Summary Suspension; Reinstatement.

(A) An attorney who fails to file a Certificate of Registration and pay the fee required by this rule on or before the date on which it becomes due, but does so within sixty days of that date, shall be assessed a late registration fee of fifty dollars. The late registration fee shall be in addition to the applicable registration fee.

(B) An attorney who fails to file a Certificate of Registration and pay the fees required by this rule either on a timely basis or within the late registration period provided for in division (A) of this section shall be notified of apparent noncompliance by the Office of Attorney Services. The Office of Attorney Services shall send the notice of apparent noncompliance by regular mail to the attorney at the most recent address provided by the attorney to the Office of Attorney Services. The notice shall inform the attorney that he or she will be summarily suspended from the practice of law in Ohio and not entitled to practice law in Ohio unless, on or before the date set forth in the notice, the attorney either files evidence of compliance with the requirements of this rule or comes into compliance. If the attorney does not file evidence of compliance or come into compliance on or before the date set forth in the notice, the attorney shall be summarily suspended from the practice of law in Ohio. The Office of Attorney Services shall record the suspension on the roll of attorneys and send notice of the suspension by certified mail to the attorney at the most recent address provided by the attorney to the Office of Attorney Services. The Supreme Court Reporter shall publish notice of the suspension in the *Ohio Official Reports* and the *Ohio State Bar Association Report*.

(C) An attorney who is summarily suspended under this section shall not practice law in Ohio; hold himself or herself out as authorized to practice law in Ohio; hold nonfederal judicial office in Ohio; occupy a nonfederal position in this state in which the attorney is called upon to give legal advice or counsel or to examine the law or pass upon the legal effect of any act, document, or law; be employed in the Ohio judicial system in a position required to be held by an attorney; or practice before any nonfederal court or agency in this state on behalf of any person except himself or herself.

(D) An attorney who is summarily suspended under this section may be reinstated to the practice of law by applying for reinstatement with the Office of Attorney Services, complying with the requirements of Section 1 of this rule, including payment of the applicable registration fee, and paying a reinstatement fee of three hundred dollars. The Office of Attorney Services shall send notice of reinstatement to an attorney who meets the conditions for reinstatement and

shall record the reinstatement on the roll of attorneys. The Supreme Court Reporter shall publish notice of the reinstatement in the *Ohio Official Reports* and the *Ohio State Bar Association Report*.

Section 7. Retirement or Resignation from the Practice of Law.

(A) An attorney who wishes to retire or resign from the practice of law shall file an application with the Office of Attorney Services. The application shall be on a form furnished by the Office of Attorney Services and contain both of the following:

(1) A notarized affidavit setting forth the attorney's full name, attorney registration number, date of birth, mailing address, and all other jurisdictions and registration numbers under which the attorney practices. The affidavit shall state all of the following:

(a) The attorney wishes to retire or resign from the practice of law in the State of Ohio;

(b) The attorney fully understands that the retirement or resignation completely divests him or her of the privilege of engaging in the practice of law, and of each, any and all of the rights, privileges, and prerogatives appurtenant to the office of attorney and counselor at law;

(c) The attorney fully understands that the retirement or resignation is unconditional, final, and irrevocable;

(2) A written waiver allowing Disciplinary Counsel to review all proceedings and documents relating to review and investigation of grievances made against the attorney under the Rules for the Government of the Bar of Ohio and the Rules for the Government of the Judiciary of Ohio, and to disclose to the Supreme Court any information it deems appropriate, including, but not limited to, information that otherwise would be private pursuant to Gov. Bar R. V.

(B) The Office of Attorney Services shall refer the application to Disciplinary Counsel. Upon receipt of the referral, Disciplinary Counsel shall determine whether any disciplinary proceedings are pending against the attorney. After completing this inquiry, Disciplinary Counsel shall submit to the Office of Attorney Services a confidential report, under seal, recommending whether the application should be accepted, denied, or delayed. If Disciplinary Counsel recommends that the application be accepted, the report shall indicate whether the attorney should be designated as retired or designated as resigned with disciplinary action pending. If Disciplinary Counsel recommends that the application be denied or delayed, the report shall provide reasons for the recommendation. Upon receipt of the report from Disciplinary Counsel, the Office of Attorney Services shall do one of the following:

(1) Accept the application and designate the attorney as retired if the report recommends such acceptance and designation;

(2) File the application and the report with the Clerk of the Supreme Court if the report recommends acceptance of the application with a designation of resigned with discipline pending or the denial or deferral of the application.

(C) Upon receipt and consideration of an application filed pursuant to division (B)(2) of this section, the Supreme Court shall enter an order it deems appropriate. An order accepting an application to resign from the practice of law shall indicate that the attorney be designated as resigned with disciplinary action pending. The Clerk of the Supreme Court shall serve copies of the order as provided in Gov. Bar R. V, Section 8(D)(1).

(D) A retired attorney may be designated as "retired" on law firm letterhead if the attorney's name was included on the letterhead prior to the time that the attorney's retirement was accepted by the Supreme Court. A retired attorney shall not be listed as "of counsel" or otherwise be represented as able to engage in the practice of law in Ohio.

Section 8. Attorney Services Fund.

(A) Except as otherwise provided in the Rules for the Government of the Bar of Ohio, all fees collected pursuant to the Rules for the Government of the Bar of Ohio shall be deposited in the Attorney Services Fund. Moneys in the fund shall be used for the following purposes:

(1) The investigation of complaints of alleged misconduct pursuant to Gov. Bar R. V or Rule II of the Supreme Court Rules for the Government of the Judiciary of Ohio and the investigation of the alleged unauthorized practice of law pursuant to Gov. Bar R. VII;

(2) To support the activities of the Clients' Security Fund established under Gov. Bar R. VIII;

(3) To support the activities of the Commission on Continuing Legal Education pursuant to Gov. Bar R. X;

(4) Any other purposes considered necessary by the Supreme Court for the government of the bar and of the judiciary of Ohio.

(5) To support any other activities related to the administration of justice considered necessary by the Supreme Court of Ohio.

(B) In addition to the purposes set forth in division (A) of this section, moneys in the Attorney Services Fund may be placed in the custody of the Treasurer of State pursuant to division (B) of section 113.05 of the Revised Code or transferred to the credit of the Supreme Court Attorney Services Fund in the state treasury. Investment earnings on moneys placed in the custody of the Treasurer shall be credited to the custodial account and investment earnings on moneys transferred to the Supreme Court Attorney Services Fund in the state treasury shall be credited to that fund.

Exhibit 6: Motion for Reinstatement

complied with all the terms. He repeatedly sent correspondence to Bar Counsel documenting his compliance and imploring them not to object to the automatic reinstatement again.

Bar Counsel on October 23, 2013, ten days before the suspension was over, objected to the automatic reinstatement based solely on pending discipline. They did so knowing Respondent had already been through Character & Fitness and reinstated only a year and four months earlier. They also knew none of the pending discipline involved anything more than either fee disputes or matters pre-dating the prior suspension and not justifying any harsh discipline. As reflected by Exhibit 2, counsel for Character & Fitness informed Respondent's secretary she had never known anyone who had to go through the Character & Fitness Committee twice.

On October 28, 2013, Respondent asked for an expedited hearing in the same manner as he did in 2012. On October 30, 2013, Character & Fitness stated: "The office of Bar Admissions has no ability to act until an application is referenced from the KBA" (Exhibit 3).

On November 5, 2013, Respondent sent in the Application for Reinstatement. With the Application was a Motion for an Expedited Hearing. On November 7, 2013, it was received by the KBA (Exhibit 4). The KBA sent it to Character & Fitness on November 8, 2013 (Exhibit 5). The clock began ticking under SCR 2.300. The reinstatement was assigned a number 22366R.

SCR 2.300 states: "These guidelines have been formulated to govern the manner in which Reinstatement Applications are processed so that all parties, including the public at large, are insured that a systematic and thorough character and fitness investigation is

conducted and applicants are assured that their applications are addressed in a timely and procedurally consistent manner.”

It's clear that the public which includes Respondent's clients and Respondent as “applicant” are supposed to have the application be “addressed in a timely... manner.” It is a clear recognition that time matters.

SCR 2.300(2) states: “Investigative Process: Upon receipt of a fully complete application the Character & Fitness Committee will immediately begin the necessary investigatory process, which may or may not involve the use of independent investigators. During this initial investigation period the applicant will notified that he/she has sixty (60) days to obtain and submit any additional evidence he/she wants considered. The initial sixty (60) day period may be extended upon proper justification being submitted to the Committee in a written request by the applicant.”

This rule makes it clear the investigative process is 60 days and gives only Respondent as an applicant the right to extend it with justification in writing. Under the rules the investigative process should have been over 60 days from November 8, 2013 or January 7, 2014. Respondent never requested an extension. To the contrary, he filed a request for an expedited hearing and has repeatedly in letters and emails begged for a hearing. As of this filing, 97 days and counting, Respondent has forever lost 37 days and counting in the reinstatement process and there is not even a hearing scheduled.

SCR 2.300(4) states: “Formal Hearings: (a) At the conclusion of the investigative period, and following the informal hearing, if one is held, the applicant and Kentucky Bar Association Counsel will be given a right to request a formal hearing before the Committee pursuant to SCR 3.505(3). If a formal hearing is not requested, the

Committee may elect to hold a hearing or act upon the evidence of record and issue a decision within sixty (60) days of the day the parties decline a formal hearing. (b) If the applicant or Bar Counsel requests a formal hearing then such a hearing will be held within sixty (60) days of the request. Notice of the hearing date will be served on the parties not less than fourteen days before said hearing. The hearing shall be of record and the applicant may have counsel present and present testimony. The costs involved in this hearing shall be included with costs outlined in SCR 2.040(7) and will be paid by the applicant.”

Respondent has repeatedly asked for a hearing. Character & Fitness believe the investigative period is still in progress. Contrary to the rules, it's not allowed to be more than 60 days. Plus, 2.300(4) above means that Respondent faces an even longer process so keeping the investigative process to 60 days was vital to Respondent. There is also an inconsistency with SCR 3.505, which states that Respondent shall have a hearing within 60 days of a request.

The burden of proof is on Respondent as the applicant. If the applicant believes, as Respondent does, that he could prove under SCR 2.300(6) all which he is required without more than a 60 day time frame then he is entitled to no more than a 60 day investigative period. In this case, Respondent has been irreparably harmed and will be continued to be so.

SCR 3.505 is clear: “The hearing shall be held within 60 days from the request.” Also, the burden is on the Applicant. Again, if Respondent believes he can prove his good character and fitness at the hearing within 60 days, the process should not be delayed.

The Committee recently set the hearing for February 20, 2014 which would have been 107 days and 47 days past the 60 day investigative process. However, the Committee on February 6 canceled it (Exhibit 6). It has not been rescheduled. Respondent requested the hearing on October 28, 2013 and November 5, 2013 and repeatedly since. Respondent requested an expedited hearing. He had precedent. In 2012, he requested an expedited hearing and it was only 52 days from request to reinstatement by the Court. Respondent went to Character & Fitness and the Board and the Court in 52 days. Bar Counsel actually asked for the opportunity to request more time past February 20. They have no right to do so under the rules. None.

Respondent served an additional 52 additional suspension based upon the 2012 objection by bar counsel to Respondent's automatic reinstatement on a 60 day suspension. Respondent has now served 97 additional days or 157 days and counting on a 60 day suspension with no hearing having even been scheduled. Coupled with 2012's 52 days, Bar Counsel has cost Respondent now 149 days and counting in total.

During his 60 day suspension this year, Respondent followed all the requirements meticulously and communicated same to Bar Counsel. Respondent constantly implored Bar Counsel not to object. Like legal torture, Bar Counsel filed the objection on the last possible day based upon "pending" discipline. The news was crushing. The canceling of the February 20, 2013 hearing is devastating.

The unknown and the uncertainty in life is what everyone fears the most. The limbo Respondent is in nothing short of a form of legal terrorism. Bar Counsel doesn't care. In fact, the obvious reason for the 60 day investigative requirement and 60 day

hearing requirement is to protect attorneys in Respondent's position from remaining in limbo.

The harm suffered by Respondent is complete, final and irreversible. He has lost 37 more days over the 60 than the rules allow. The harm is irreversible. It is impossible to hold a hearing now which gives Respondent back the days lost. Impossible.

Immediate reinstatement is the only remedy. Also, there is no harm to the public if the Court acts. This Court knows Respondent not only served the 60 days, but has now served an additional 97 days or 157 days on a 60 day suspension. The Court also knows if there is any discipline required of Respondent in the future after Respondent goes through a tribunal and the process, the Court can discipline. Respondent has accepted the Court's discipline twice. He will accept future discipline if the Court orders it.

Respondent can't accept legal limbo.

Respondent represents there is nothing pending which warrants any further discipline than what he has already served. Nothing. That's another shameful reality suffered by Respondent. Clients, the public, Judges and everyone in the word is left to assume Respondent must have done some dastardly deed because why else would "they" be doing this to him. He should not be allowed to be tortured with uncertainty. The stress is unbearable. Unbearable. There is nothing in Respondent's record or past that involves:

1. A crime
2. An addiction
3. Dishonesty
4. Moral turpitude

5. Dastardly deed

Because of Respondent's Ohio license, Respondent's situation is even more unfair. He is now in the middle of serving his 60 days of reciprocal discipline in Ohio and that suspension requires him to be reinstated in Kentucky. The Ohio suspension is up March 27. He has three Ohio trials March 31, April 14 and April 22. He has a murder trial in Kentucky in May. The cancellation of the February 20 hearing makes suspension in Kentucky before March 27 impossible and makes his reinstatement in Ohio certain to be longer than 60 days and causing clients to not have Respondent as their lawyer as they desire or their trials continued.

Therefore, Bar Counsel's objection to reinstatement and the untimely investigation and hearing has now affected Respondent's Ohio license. It is also frustrating that the 2012 process involved Respondent's entire career time frame for review. This time frame is June 15, 2012 to now: One year and four months. It makes no sense that this has taken longer.

Respondent's situation is also compounded by the fact he filed on April 23, 2012 original action in this Court (Exhibit 7) asking for the Court to rule the objection to automatic reinstatement rule unconstitutional and injunctive relief. However, the Court, with the issue being fully briefed, never ruled on the constitutional issue and only ruled that by reinstating Respondent the injunctive relief was moot.

This rule gives a "prosecutor" the right to overrule a Court on a sentence. Like all bad rules, it's easily abused by someone who abuses authority. Bar Counsel, at least as to Respondent, abuses the rule.

How many lawyers **without** one of the following:

1. Felony
2. Misdemeanor
3. Criminal Conviction
4. Alcohol Addiction
5. Drug Addiction
6. Pain Addiction
7. Gambling Addiction
8. Act of Moral Turpitude
9. Act of Dishonesty

Has had to go before Character & Fitness within a year and four months—twice?

(See Exhibit 8). Last time through the process the issues were:

1. Lawsuit filing practices
2. Public comments about Bar Counsel
3. Comments on the radio

Respondent has had no Rule 11 sanctions since June 15, 2012. Respondent has not bashed Bar Counsel publicly. Respondent quit radio. Respondent still fights aggressively for his clients: an obligation he has. At the same time, since the entire world knows about his bar battles, enemies and any disgruntled client file baseless and petty bar complaints at will. Respondent has over 1,000 clients. Ten bar complaints would equal 1% of his clients. How many professional people or businesses would love a 1% dissatisfaction rate? Most the pending bar discipline complaints are shakedowns on fee disputes: “Give me money back on I’m filing a Bar Complaint.” Respondent refuses to be taken advantage of.

There is a specific rule allowing fee disputes to be referred to arbitration. Bar Counsel never does for Respondent. Never. They take them to the Inquiry Commission. On June 25, 2012 when Respondent sat for 7 hours in the KBA office for the ethics program, he watched on the video where Deputy Bar Counsel Jay Garrett stated on camera that if Bar Counsel wants a charge, the Inquiry Commission will make a charge. This is and was an incredible admission. Jay Garrett stated this in context about avoiding Bar Complaints because if you get one, Bar Counsel can make it a charge if they want to.

Bar Counsel's relentless vindictive pursuit against Respondent is wrong. They will not let it go. They are using the Character & Fitness Committee like an ongoing open grand jury. In fact the five names they gave to the Committee to interview were all known enemies including the lawyers who have lost to Respondent, lawyers Respondent has sued or threatened to sue and the current President of the KBA who has had to recuse himself from past votes against Respondent due to bias.

This Court must act to reinstate. There is no public risk. The Court can't give Respondent back the days he lost. Respondent's filing this risks upsetting the Character and Fitness Committee which is also not fair to Respondent. To schedule another hearing is too late to remedy the damage. Due process, fairness and justice requires reinstatement.

The only argument Bar Counsel and Character & Fitness can argue is that Character & Fitness should be allowed more time. The rules state shall. This also appears to be a case of first impression. There is general strict application of rules and statutes. These are rules enacted by the Court. Respondent has to abide by Court rules. Everyone else should too. Respondent has not waived any of his rights.

There is even more unfairness. On February 28, 2012, realizing Bar Counsel will never stop until they destroy him, Respondent asked to resign (Exhibit 9). Bar Counsel informed Respondent he could not so long as there were any pending bar complaints unless Respondent agreed to permanent disbarment. Respondent responded with he could not agree to such foolishness because that ends his Ohio license and because of his enemies there will always be a bar complaint in Kentucky. It makes no sense. Bar Counsel wants to discipline Respondent when Respondent is willing to leave. Respondent also asked to leave in November 2013 after the objection (Exhibit 10). There is not any issue Respondent has to support disbarment. None. This issue is another issue, which is unconstitutional. There is a right to quit a profession and retire from a job. If Respondent resigned, and later asked to be reinstated, he would have to go through Character & Fitness. So, why can't Respondent, if he chooses, resign his license from Kentucky? He would never be allowed back unless he went through Character & Fitness.

Respondent seeks reinstatement now to return to Ohio by March 27. Resigning in Kentucky would not be an issue in Ohio, but disbarment would be. Respondent despite having far more Ohio than Kentucky cases, has never had a charge in Ohio. Never. To get back now in Ohio, Respondent must be reinstated in Kentucky. It's required in the Ohio order under reciprocal discipline. If allowed, Respondent will resign from Kentucky once reinstated. Bar Counsel, the KBA, and this Court will never have to deal with Respondent again. It's sad. It's wrong. But, Bar Counsel will never give up. If Respondent was allowed to resign in 2012, he would not be in this terrible spot again. It's unfair.

This unexpected suspension extension increases the stress of Respondent for all which comes with a suspension:

1. Increased financial stress.
2. Increased relationship stress.
3. Increased office stress.
4. Increased physical and mental health issues, such as depression and hopelessness.
5. It affects Respondent, his family, his partners, his staff.
6. It affects Respondent's client relationships.
7. It affects Respondent's Ohio and Florida license.

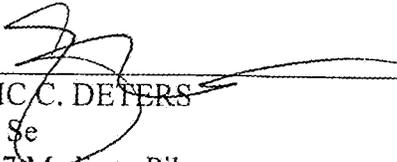
The Court should not allow the rule allowing the objection to automatic reinstatement to remain. It can't be. It violates every tenant of due process. It allows an arbitrary and biased Bar Counsel to repeatedly punish Respondent before a hearing. The rule should be that the attorney continues to practice after the objection and only after a hearing is the suspension extended. This provides due process.

Bar Counsel and the KBA has put Respondent in such a terrible situation that Respondent has reached the point of desperation. Respondent fought. He was punished in part because he fought. So, Respondent shifted gears. He stopped fighting the underlying charges, corrected his conduct and focused on fair punishment. It has had zero effect on Bar Counsel. Respondent can't win.

Respondent finds it amusing the KBA claims to be concerned about lawyer suicide when their Bar Counsel is trying their best to completely destroy Respondent for what? A vendetta and minor infractions. Nothing Respondent has ever done would cause any member of the public or anyone else to should—"Oh my God!" In fact, the

standard for reinstatement is whether Respondent is worthy of the trust and confidence of the public and possesses sufficient professional capabilities to serve the public as a lawyer. The public keeps hiring Respondent. The public wants Respondent to be their lawyer despite the past suspensions. Why? They know Respondent is honest, fights and possesses incredible talent. Yet, Respondent is tortured over and over by Bar Counsel.

Respectfully Submitted,


ERIC C. DETERS
Pro Se
5247 Madison Pike
Independence, Kentucky 41051
(859) 363-1900 - telephone
(859) 363-1444 - facsimile


LAWRENCE E. FORGY
83 C. Michael Davenport Blvd.
P.O. Box 4292
Frankfort, KY 40601
(502) 227-3155

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was sent via regular U.S. mail, postage prepaid, on this 10th day of February 2014, to:

Hon. Elizabeth S. Feamster
Director of General Counsel
Character & Fitness Committee
Suite 156
1510 Newtown Pike
Lexington, KY 40511-1255

Jane Herrick
Deputy Bar Counsel
514 West Main Street
Frankfort, KY 40601

Exhibit 1

TO BE PUBLISHED

Supreme Court of Kentucky

2012-SC-000344-KB

ERIC C. DETERS

MOVANT

IN SUPREME COURT

V.

KENTUCKY BAR ASSOCIATION

RESPONDENT

OPINION AND ORDER REINSTATING

Eric C. Deters, KBA Member No. 81812 of Kenton County, Kentucky, was admitted to practice law in Kentucky in 1986. This Court suspended Movant from the practice of law for a period of sixty-one (61) days, effective February 23, 2012. Pursuant to SCR 3.510 he has now applied for reinstatement. The Character and Fitness Committee of the Kentucky Office of Bar Admissions (the Committee) has recommended approval of the application for reinstatement of Eric C. Deters. The Board of Governors of the Kentucky Bar Association (the Board) has recommended disapproval of the application for reinstatement.

This Court's order of suspension, entered February 23, 2012, found Movant guilty of violating SCR 3.130-8.2(a), SCR 3.130-3.3(a), SCR 3.130-7.09(2), and SCR 3.130-1.16(d), and ordered as follows:

- (1) For these violations, Deters is hereby suspended from the practice of law for sixty-one days and required to attend the entire KBA Ethics and Professionalism Enhancement Program (EPEP), which

is anticipated to be seven hours, within one year of the date of this Order;

- (2) Deters will not apply for Continuing Legal Education credit of any kind for his attendance at the EPEP. He will furnish a release and waiver to the Office of Bar Counsel to review his records of the CLE Department that might otherwise be confidential, such release to continue in effect until after he completes his remedial education, in order to allow the Office of Bar Counsel to verify that he has not reported any hours to the CLE Commission that are to be taken as remedial education.
- (3) Pursuant to SCR 3.390, Deters shall, within ten days from the entry of this Opinion and Order, notify all clients with Kentucky cases in writing of his inability to represent them, and notify all courts in which he has matters pending of his suspension from the practice of law, and furnish copies of said letters of notice to the Director of the KBA. Furthermore, to the extent possible and necessary, Deters shall immediately cancel and cease any advertising activities in which he is engaged;
- (5) In accordance with SCR 3.450, Deters shall pay costs associated with these proceedings in the amount of \$1,834.02, for which execution may issue from this Court upon finality of this Order.

On March 5, 2012, the Office of Bar Counsel, filed an Objection to Movant's automatic reinstatement pursuant to SCR 3.510(2). Since Bar Counsel did not withdraw its Objection within thirty (30) days, the matter proceeded to the Committee, pursuant to SCR 3.510(2), after Movant filed his application for reinstatement on April 23, 2012.

On May 15, 2012, the Committee conducted a hearing on Movant's application for reinstatement. On May 21, 2012, the Committee filed its Findings of Fact, Conclusions of Law, and Recommendation, recommending that Movant be reinstated conditioned on (1) obtaining anger management counseling, (2) filing an Affidavit of Compliance as required by SCR 3.510(2), and (3) promptly notifying the KBA of any reciprocal discipline imposed by Florida or Ohio.

Pursuant to SCR 3.510(3), the Board of Governors of the Kentucky Bar Association then reviewed the record and report of the Character and Fitness Committee, and on June 13, 2012 filed its recommendation of disapproval of Movant's application for reinstatement.

This Court notes that both the Committee and the Board have reviewed the evidence presented and both have found that Eric Deters has met the requirements of SCR 2.300(6)(a), (c) and (d). The Committee found overall compliance with SCR 2.300(6) and recommended approval of his reinstatement, with conditions. However, the Board held that Movant failed to prove that his conduct while under suspension showed him to be worthy of the trust and confidence of the public or that he appreciated the wrongfulness of his misconduct, was contrite and had rehabilitated himself. SCR 2.300(6)(b) and (e).

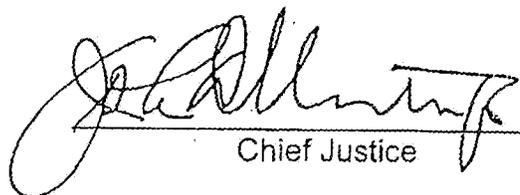
While this Court is mindful of the findings of the Board regarding Movant's behavior, we concur with the recommendation of the Committee for approval of Eric C. Deters' application for reinstatement. Mr. Deters seeks reinstatement herein from this Court's imposition of a sixty-one (61) day suspension from the practice of law. His application for reinstatement has been timely addressed by both the Committee and the Board. Any other pending disciplinary charges against Mr. Deters will be considered when promptly processed according to the Rules and presented to this Court.

Accordingly, it is ORDERED that Eric C. Deters, KBA Member No. 81812, is hereby reinstated to the practice of law in this Commonwealth as of the date of this order. It is further ordered that:

- (1) Movant shall pay the costs incurred by the Character and Fitness Committee, said costs being in the amount of \$338.80.
- (2) Movant shall promptly notify the Bar Counsel of the Kentucky Bar Association of any reciprocal discipline imposed by Florida.
- (3) Movant shall request from the Director of the Kentucky Lawyer Assistance Program the name of one or more reputable Anger Management Therapists or Counselors. Deters shall schedule and attend the number of anger management counseling sessions recommended by the therapist/counselor he selects from the individuals referred to him by KYLAP within a reasonable time.
- (4) Movant shall provide the Committee with a letter from the provider describing the initial assessment and the extent of any additional counseling required.
- (5) Within ten (10) days of the date of the entry of this Opinion and Order, The Kentucky Bar Association shall provide a more detailed statement of costs to this Court and Movant shall then pay the necessary costs incurred by the KBA once determined by this Court.

All sitting. All concur.

ENTERED: June 15, 2012.



Chief Justice

Exhibit 2

Eric Deters

From: Loretta Little
Sent: Wednesday, October 30, 2013 11:50 AM
To: Eric Deters; Ericdeters11 (ericdeters11@gmail.com)
Cc: Maria Dallas
Subject: Bar Application

I spoke with Elizabeth Feamster. She said she will be sending you an email this afternoon. She has to have an IT person to set you up because this is the first time she has had an attorney have to apply for reinstatement more than one time. LOL She said by Friday you should be able to access the application online.

Exhibit 3

Loretta Little

From: Elizabeth Feamster <elizabethf@kyoba.org>
Sent: Wednesday, October 30, 2013 4:10 PM
To: Eric Deters
Cc: Loretta Little; scoker@kybar.org
Subject: RE: Eric C. Deters- Please See Attached

(resending with corrected date in the first line).

Dear Mr. Deters:

I apologize for the length of time it has taken me to acknowledge your e-mail of October 28, 2013. I have been down with what the nurse practitioner called an "aggressive" sinus infection, and I am getting up slowly.

You e-mailed me a packet of material that included a letter to me dated October 28, 2013 that contains a notation that "all mailed to Sarah Coker", an e-mail from Sarah Coker to Loretta Little dated October 28, 2013, a CLE certification of compliance for purposes of reinstatement, a letter from you to Mr. Glover and Ms. Coker dated October 25, 2013, a one and a partial page typewritten note to Ms. Coker that contains the handwritten comment at the top "October email sent to Sarah Coker", a motion for a hearing before the Character and Fitness Committee (expedited requested) and a three page memorandum with attached exhibits. I received this packet via e-mail and fax.

I have copied Ms. Coker on this e-mail so that there is no confusion and all are on the same page. You asked me in the first paragraph of your letter where you can get an application for reinstatement. Ms. Little called me earlier today and asked about an application. She said application, my mind heard "character and fitness questionnaire" so I am writing to be sure that I have caused no confusion. SCR 2.300 contains the reinstatement guidelines and states in the section (1) that reinstatement applications are obtained from the KBA. The Office of Bar Admissions has no ability to act until an application is referred from the KBA. After the application has been referred, you will be able to go on line, enter your Synergy Account and fill out a new Character and Fitness Questionnaire.

Thank you for your time and attention to this matter.

Sincerely,

Elizabeth S. Feamster
Director and General Counsel
Kentucky Office of Bar Admissions

1510 Newtown Pike, Suite 156
Lexington, KY 40511-1255
E-Mail: elizabethf@kyoba.org
Phone: (859)246-2381
Website: www.kyoba.org

From: Eric Deters [<mailto:Eric@ericdeters.com>]
Sent: Monday, October 28, 2013 12:13 PM
To: elizabethf@kyoba.org
Cc: Eric Deters
Subject: Eric C. Deters- Please See Attached

Please see the attached letter.

CONFIDENTIALITY NOTICE: This e-mail message contains information that is confidential, may be protected by the attorney/client or other applicable privileges, and may constitute non-public information and trade secrets. It is intended to be conveyed only to the designated recipient(s). If you are not an intended recipient of this message, please notify the sender at 859-363-1900. Unauthorized use, dissemination, distribution, or reproduction of this message is strictly prohibited and may be unlawful.

</

Text inserted by Endpoint Security Manager:

This message has NOT been classified as spam. If it is unsolicited mail (spam), click on the following link to reclassify it: [It is spam!](#)

Exhibit 4

KENTUCKY BAR ASSOCIATION

514 WEST MAIN STREET
FRANKFORT, KENTUCKY 40601-1812

(502) 564-3795

FAX (502) 564-3225

www.kybar.org

BOARD OF GOVERNORS

Douglas C. Ballantine

Anita M. Britton

Amy D. Cabbage

Jonathan Freed

William R. Garmer

Thomas N. Kerrick

David V. Kramer

Howard Oliver Mann

Earl M. McGuire

J. D. Meyer

Michael M. Pitman

Bobby Rowe

J. Stephen Smith

M. Gail Wilson

OFFICERS

Thomas L. Rouse
President

William E. Johnson
President-Elect

Douglass Farnsley
Vice President

W. Douglas Myers
Immediate Past President

YOUNG LAWYERS

Carl N. Frazier
Chair

EXECUTIVE DIRECTOR

John D. Meyers



RECEIPT NOTICE

TO: Eric Charles Deters
Lawrence E. Forgy, Esq.
Jane H. Herrick, Esq.
Elizabeth Feamster, Esq.

FROM: Disciplinary Clerk

DATE: November 7, 2013

RE: Eric Charles Deters v. Kentucky Bar Association
KBA File No.: 22366R

The document listed below was received and filed in this office today in the above-styled case:

Applicant filed:

**MOTION TO EXPEDITE REINSTATEMENT PROCESS,
WAIVE TIME AND CERTAIN REQUIREMENTS AND
REQUEST FOR EITHER RECOMMENDATION
OF REINSTATEMENT WITHOUT A HEARING
OR AN EMERGENCY OR EXPEDITED HEARING**

KENTUCKY BAR ASSOCIATION

514 WEST MAIN STREET
FRANKFORT, KENTUCKY 40601-1812

(502) 564-3795

FAX (502) 564-3225

www.kybar.org

OFFICERS

Thomas L. Rouse
President

William E. Johnson
President-Elect

Douglass Farnsley
Vice President

W. Douglas Myers
Immediate Past President

YOUNG LAWYERS
Carl N. Frazier
Chair

EXECUTIVE DIRECTOR
John D. Meyers

BOARD OF GOVERNORS

Douglas C. Ballantine

Anita M. Britton

Amy D. Cabbage

Jonathan Freed

William R. Garmer

Thomas N. Kerrick

David V. Kramer

Howard Oliver Mann

Earl M. McGuire

J. D. Meyer

Michael M. Pitman

Bobby Rowe

J. Stephen Smith

M. Gail Wilson



RECEIPT NOTICE

TO: Eric Charles Deters
Lawrence E. Forgy, Esq.
Jane H. Herrick, Esq.
Elizabeth Feamster, Esq.

FROM: Disciplinary Clerk

DATE: November 7, 2013

RE: Eric Charles Deters v. Kentucky Bar Association
KBA File No.: 22366R

The document listed below was received and filed in this office today in the above-styled case:

Applicant filed:

APPLICATION FOR REINSTATEMENT

Exhibit 5

KENTUCKY BAR ASSOCIATION

514 WEST MAIN STREET
FRANKFORT, KENTUCKY 40601-1812

(502) 564-3795

FAX (502) 564-3225

www.kvbar.org



OFFICERS

Thomas L. Rouse
President

William E. Johnson
President-Elect

Douglass Farnsley
Vice President

W. Douglas Myers
Immediate Past President

YOUNG LAWYERS

Carl N. Frazier
Chair

EXECUTIVE DIRECTOR

John D. Meyers

BOARD OF GOVERNORS

Douglas C. Ballantine

Anita M. Britton

Amy D. Cabbage

Jonathan Freed

William R. Garmer

Thomas N. Kerrick

David V. Kramer

Howard Oliver Mann

Earl M. McGuire

J. D. Meyer

Michael M. Pitman

Bobby Rowe

J. Stephen Smith

M. Gail Wilson

November 8, 2013

CONFIDENTIAL

Elizabeth S. Feamster, Esq.
Character & Fitness Committee
1510 Newtown Pike, Suite 156
Lexington, KY 40511

RE: Application for Reinstatement of Eric Charles Deters
KBA File 22366R

Dear Ms. Feamster:

Enclosed is a copy of the application for reinstatement to the practice of law of Eric Charles Deters. This application was filed with the Kentucky Bar Association on November 7, 2013. Also enclosed is cashier's check no. 200326, in the amount of \$3,750.00, made payable to the Kentucky Office of Bar Admissions.

Pursuant to SCR 3.510, a copy of the application is being forwarded to you for proceedings by the Character & Fitness Committee under SCR 2.040. Enclosed is Supreme Court record number 2012-SC-000666-KB and 2012-SC-000667-KB. Please forward the Character & Fitness Committee's Report and Recommendation to the undersigned when it is completed. This report will be included in the file that will be submitted to the Board of Governors for its consideration.

Very truly yours,

John D. Meyers
Executive Director

JDM/sg

Enclosure

cc: Eric Charles Deters, Applicant
Lawrence E. Forgy, Esq., Counsel for Applicant
Jane H. Herrick, Esq., Deputy Bar Counsel

REMITTER
ERIC DETERS



73216/421

200326

PAY TO THE
ORDER OF OFFICE OF BAR ADMISSIONS

DATE 11/06/13

THREE THOUSAND SEVEN HUNDRED FIFTY AND NO/100

DOLLARS
3,750.00

CASHIER'S CHECK

⑈ 200326⑈ ⑆ 042102160⑆

⑈ 15087930⑈

James Maxwell
James Maxwell

MP

Security Features Included. Details on back.

Exhibit 6

KENTUCKY OFFICE OF BAR ADMISSIONS /

CHARACTER & FITNESS
COMMITTEE

Grant M. Helman, CHAIR
Gary D. Payne
Susan Coleman Lawson
David B. Sloan

Elizabeth S. Feanster
Director & General Counsel

Mary Riddell,
Deputy Director

1510 NEWTOWN PIKE, SUITE 156
LEXINGTON, KY 40511-1255
PHONE: (859) 246-2381
FAX: (859) 246-2385
E-MAIL: info@kyoba.org
WEBSITE : www.kyoba.org

February 6, 2014

KENTUCKY BOARD OF
BAR EXAMINERS

Eric L. Ison, CHAIR
Frances Catron Cadle, Secretary

John David Cole
Gerald F. Dusing
Robert W. Dyche III
Richard C. Roberts
Joe Jett Friend

Mr. Eric C. Deters
5247 Madison Pike
Independence, KY 40151

Hon. Lawrence E. Forgy
83 C. Michael Davenport Boulevard
Frankfort, KY 40601

via regular and electronic mail to all

Hon. Thomas Glover
Hon. Jane Herrick
Office of Bar Counsel
Kentucky Bar Association
514 West Main Street
Frankfort, KY 40601

Re: Eric C. Deters v. Kentucky Bar Association
KBA File No.: 22366R

Dear Lady and Gentlemen:

Several weeks ago we set a tentative hearing date of February 20, 2014, based on the presumption that all investigative materials were received in time to review and analyze them; as well as getting them forwarded to all parties. That date is no longer going to be feasible.

My office is copying and preparing to forward the investigative materials received thus far to all of you. In reviewing these materials, the Committee has asked questions that will require additional investigation. With additional work being needed from the investigator, the Committee does not believe that the current date of February 20, 2014 is viable and thus is continuing the hearing, with rescheduling to be done after the receipt of the remaining investigatory materials.

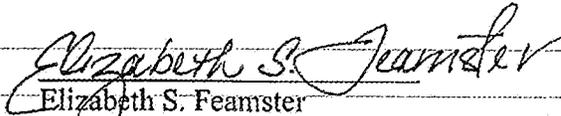
I will forward the interview summaries and documents received thus far no later than tomorrow, via US mail service. As soon as we have, and have reviewed, the supplemental information, I will forward them to you. At that point we should be able to set a hearing date that will be functional.

February 6, 2014

Page 2

The Committee and I did not anticipate this volume of material. Thus, we are sorry that, despite our best efforts, we cannot get this completed and prepared for a hearing by February 20, 2014. Every effort is being made to finalize this matter as quickly as possible.

Sincerely,



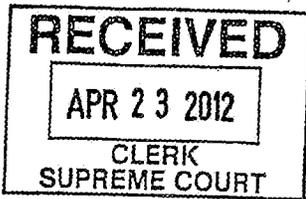
Elizabeth S. Feamster

Director and General Counsel

Kentucky Office of Bar Admissions

C: John D. Meyers
Executive Director
Kentucky Bar Association
514 West Main Street
Frankfort, KY 40601

Exhibit 7



KENTUCKY SUPREME COURT
CASE NO. _____

ERIC C. DETERS
5247 Madison Pike
Independence, Ky 41051

PLAINTIFF

vs.

KENTUCKY BAR COUNSEL
514 West Main Street
Frankfort, KY 40601

DEFENDANTS

Serve: Jay Garrett

and

KENTUCKY BAR ASSOCIATION
514 W. Main Street
Frankfort, Ky 40601

Serve: Margaret Keane

VERIFIED PETITION AND REQUEST FOR INJUNCTIVE RELIEF
(JURISDICTION PARAGRAPH FOUR & EIGHTEEN)

Comes now Plaintiff, Eric Deters (hereafter Deters), by and through counsel, and for his
Petition states as follows:

1. Eric C. Deters is a lawyer with an active license in Ohio and Florida. In over
twenty years, despite practicing in these states, Deters has never had a charge. Five or six Ohio
bar complaints have never moved past Deters' response. Deters has been a licensed Kentucky
lawyer since 1987. Not until Linda Gosnell became Bar Counsel did Deters have any threats to
his license. Bar Complaints were dismissed. He had two private reprimands, one of which
became public by a mistake of a Supreme Court Justice who apologized in writing. Bar Counsel,

under Ben Cowgill, obviously had a different approach. From February 23, 2012 to the present his license in Kentucky is suspended as part of a 61 day suspension due to expire April 25, 2012 on which day his license would be automatically reinstated.

2. Defendant, Kentucky Bar Counsel, filed an Objection to the automatic reinstatement under SCR 3.510, the rule Deters challenges with this lawsuit. Defendant, Kentucky Bar Counsel, through Linda Gosnell (discharged), Jay Garrett and Sarah Coker have been the prosecutor of Deters on his bar matters subject to this lawsuit. (Objection attached as Exhibit 7.)

3. Defendant, Kentucky Bar Association, operates under the Supreme Court Rule in issue.

4. The Kentucky Supreme Court is the proper venue and jurisdiction of this matter. (See Memorandum of Bar Counsel conceding the issue attached as Exhibit A). Furthermore, the issue is appropriate for the Supreme Court's jurisdiction since it is a challenge under the due process clause of the 14th Amendment of the U.S. Constitution and Sections 1, 2 and 14 of the Kentucky Constitution challenging a Supreme Court Rule. The Kentucky Supreme Court has jurisdiction to hear this under their original jurisdiction and their right to manage everything with the Court of Justice and lawyers. Unlike as argued in Exhibit A by Defendants, the Character & Fitness Committee is not an indispensable party. This matter is an issue with the Objection filed by Bar Counsel.

5. SCR 3.510(2) states:

(2) If the period of suspension has prevailed for one hundred eighty (180) days or less, the suspension shall expire by its own terms upon the filing with the Clerk and Bar Counsel of an affidavit of compliance with the terms of the suspension, which must include a certification from the CLE

Commission that the Applicant has compiled with SCR 3.675. The Registrar of the Association will make an appropriate entry in the records of the Association reflecting that the member has been reinstated; provided, however, that such suspension shall not expire by its own terms if, not later than ten (10) days preceding the time the suspension would expire, Bar Counsel files with the Inquiry Commission an opposition to the termination of suspension wherein Bar Counsel details such information as may exist to indicate that the member does not, at that time, possess sufficient professional capabilities and qualifications properly to serve the public as an active practitioner or is not of good moral character. A copy of such objection shall be provided to the Character and Fitness Committee, to the member concerned, and to the Registrar. If such an objection has been filed by Bar Counsel, and is not withdrawn within thirty (30) days, the Character and Fitness Committee shall conduct proceedings under SCR 2.300. In cases where a suspension has prevailed for one hundred eighty (180) days or less and the reinstatement application is referred to the Character and Fitness Committee, a fee of \$1250.00 shall be made payable to the Kentucky Office of Bar Admissions.

6. This rule is unconstitutional because it violates the due process rights of Deters.
7. Deters went through a lengthy due process proceeding which included the following:
 - A. Bar Complaints
 - B. Responses
 - C. Charges
 - D. Answers
 - E. Trial Commission Hearing
 - F. Briefing
 - G. Appeal to the Board of Governors
 - H. Briefs
 - I. Hearing before the Board of Governors
 - J. Appeal to the Supreme Court
8. As a result of that process, Deters was found not guilty on 15 charges and guilty of 4 charges and he received a 61 day suspension and 7 hours of remedial ethics. Despite his belief he should have not been found guilty of even four, Deters accepted his punishment and began serving his suspension on February 24, 2012. He has not practiced law in Kentucky for 61 days

as of today. Also relevant, Bar Counsel did not send Deters a letter or memorandum explaining what he could or could not do relative to advertising or anything else. It is pretty remarkable a suspended lawyer has to reach his own logical conclusion as to what he can or can't do. Deters has abided by the Order.

9. Bar Counsel filed an Objection blocking Deters automatic reinstatement on March 7, 2012 only two weeks after the suspension began.

10. SCR 3.510(2) violates due process by giving Bar Counsel the unilateral power to extend Deters suspension and further his punishment beyond that which was ordered by the Kentucky Supreme Court. (Supreme Court Order attached as Exhibit 3.) Also, see detailed Memorandum filed contemporaneous with this Petition.

11. It is as if the prosecutor in a criminal case, being unsuccessful in a conviction for attempted murder and obtaining a wanton endangerment conviction from a jury, is allowed to still have the Defendant serve an attempted murder punishment.

12. There is imminent harm. Deters will not be automatically reinstated tomorrow. In fact, under SCR 2.300, the process will take months before the Character & Fitness Committee. The result is Bar Counsel may have Deters suspended for the 181 days Bar Counsel sought against Deters and Deters successfully defeated. To state it as unjust is an understatement. It is preposterous.

13. There is a likelihood Deters will win. This rule is clearly unconstitutional. (See Memorandum filed contemporaneously with this.)

14. There is no other adequate remedy at law. Deters has no other remedy. He cannot sue the immune KBA and Bar Counsel for monetary damages.

15. Injunctive relief is appropriate and necessary to prevent the imminent harm to Deters. One day suspended past 61 is one day too many. His irreparable harm will be ongoing with each day.

16. The Court must enjoin the Kentucky Bar Association and Bar Counsel from blocking Deters' automatic reinstatement to avoid the injustice.

17. SCR 3.510(2) is unconstitutional. Therefore, it is a grave injustice Deters be blocked from an automatic reinstatement by an unconstitutional rule.

18. Section 116 of the Kentucky Constitution provides the Supreme Court of Kentucky the power to enact rules governing the Courts and therefore lawyers.

19. However, there is nothing in the Kentucky or U.S. Constitution which allows the Supreme Court of Kentucky to enact a rule which violates due process or is unconstitutional. If this were the case, the Supreme Court would be completely unchecked. Kentucky Supreme Court rules governing lawyers have been struck down by state and federal courts including ones on first amendment grounds.

20. SCR 3.150, to our knowledge, based upon our research, has never faced a constitutional due process challenge in a published opinion. If there is an unpublished opinion, we are unaware of it. Furthermore, we have told the KBA and Bar Counsel we were going to challenge SCR 3.510 on due process grounds for weeks and they have not provided us any law or decisions showing us we are misguided. SCR 3.150 provides Bar Counsel with the power to unilaterally violate an attorney's due process rights.

21. Deters fought and defeated a 181 day suspension recommendation from a Trial Commissioner and over Bar Counsel's objection the Board of Governors and Kentucky Supreme

Court reduced it to 61 days. Now, Bar Counsel unilaterally wants to extend the suspension. It also means Deters is being punished twice for the pending matters before he is even tried. They are being used to punish him on a matter already adjudicated and they will carry their own punishment if he is found guilty, although he expects not to be. Of course defending a baseless bar complaint is also a form of punishment.

22. If someone is found guilty of a felony and he is a persistent felony offender, the punishment can be enhanced. However, there are already felony convictions on those prior matters. Here, Bar Counsel wants to use non-resolved matters to punish Deters. It violates due process. Deters has no other bar matters that are fully adjudicated through the Board of Governors or Kentucky Supreme Court.

23. Deters has a strong or substantial likelihood of success on the merits.

24. Deters will suffer irreparable harm if the force of the Objection is not stayed.

25. No other parties will be substantially injured if there is a stay and the public interest lies with Deters including his own rights and the needs of his clients who expect his return on April 25, 2012. Anyone who has practiced law knows a file having no action taken for 61 days is bad enough, but for up to six months it is a real problem. Deters has had trials moved in anticipation of his return April 25. Further suspension inconveniences his clients, the Courts and even the opposing parties and their counsel.

26. SCR 3.150 allows Bar Counsel to use baseless Bar Complaints or Bar Complaints not fully adjudicated by the Kentucky Supreme Court to extend a suspension. This means all Deters enemies have to do is keep having bar complaints filed and regardless of their merit, he will remain suspended.

27. In fact, Bar Counsel references nine bar complaints as part of their Objection knowing two of these are already dismissed, one is over with a private admonition, three are not even Bar Charges and Plaintiff expects dismissal, one involves a recommendation of public reprimand and one is set to come before the Board of Governors. (See Exhibits 8-15.) Three are over. Six will be soon.

28. The Board dismissed 15 of 19 bar charges against Deters on this matter so Deters has legitimate confidence in defeating the pending matters. Bar Counsel is the only person who doesn't realize or chooses not to realize what is going on here. Deters has enemies who are orchestrating serial baseless bar complaints. Rather than be a filter, Bar Counsel has joined them.

29. In addition, Bar Counsel's Objection is filled with false statements or premature allegations of compliance. (The basis for the companion Motion for Contempt.) At the time of this writing, the only issue is the pending baseless Bar Complaints. How can these be used for the Objection when they are either already resolved, some before 30 days after the Objection, in Deters favor or still not fully adjudicated? Since when does Bar Counsel get to prejudge?

30. Bar Counsel puts in their Objection Deters does not "possess sufficient professional capabilities and qualifications properly to serve the public as an active practitioner or is not of good moral character." Based upon the attached document being submitted to the Character and Fitness Committee, this statement by Bar Counsel is beyond ludicrous. What bar allegations past and present, involve Deters morals or fitness as a lawyer. Bar Counsel has a lot of nerve to claim this when they lost 15 of 19 charges. Whose not moral? Whose not fit? (Exhibit 18.) Fortunate for Bar Counsel, they can hide behind immunity. Exhibit 18 helps

explain the professional jealousy Deters has incurred from his enemies in Northern Kentucky. He has become a celebrity and his enemies detest his rise. Bar Counsel shares in the animosity.

31. Bar Counsel didn't give Deters even two weeks to pay the costs ordered by the Supreme Court. They have been paid.

32. Bar Counsel lied. Deters did timely send letters to clients and the Courts. Deters produced written proof. (Exhibits 4-6.)

33. Bar Counsel claimed Deters didn't comply with SCR 3.675 and obtain his full year CLE by his suspension ending April 24. They filed this on March 7. Deters had over a month to obtain the CLE's and he has. Bar Counsel prematurely found Deters guilty of non-compliance before the time to comply lapsed.

34. Bar Counsel claimed without a single specific Deters advertised. Deters showed compliance. (Exhibits 8-15.) Bar Counsel claimed links were advertising. These links were taken down. Also, the links were to a taken down to a law office website. Bar Counsel claimed to Counsel Forgy Deters reporting as news out of state cases on his daily news blog/radio show is advertising. Deters removed his entire website until he removed any Kentucky reference. It's now up with a statement about his suspension. He is an Ohio lawyer. He can have a website for Ohio. (Exhibits 8-15.) Also, see affidavit of Brad Amster attached to the Memorandum. Amster, Deters web manager, explains compliance steps on advertising.

35. Deters is an Ohio licensed lawyer. He is allowed to use an office in Kentucky to practice on his Ohio cases. Deters has more cases in Ohio than Kentucky by being near Cincinnati. Why is Deters all good in Ohio and Kentucky wants his license? The enemies and Bar Counsel.

36. If Bar Counsel believes Deters has violated the Kentucky Supreme Court Order, which he has not, Bar Counsel should file a Motion with the Kentucky Supreme Court. They have not. We expect they would be embarrassed to make their assertions. They can defend them in the contempt motion.

37. Why does Deters have other bar complaints? Because of the publicity of his prosecution and his enemies seize the chance to file them--baseless they may be. (See Exhibit 18 for an example too.) The following is a summary of the pending Bar matters which reflect how ridiculous Bar Counsel's position is.

Pending Bar Matters

38. Jessica Meyer- Dismissed Before Charge

39. Melissa Altman- Dismissed Before Charge

40. Fired Lawyer- Baseless bar complaint. Not a charge. Expect dismissal. Deters fired this lawyer for misconduct and the lawyer filed a bar complaint against Deters knowing Deters plans on suing the lawyer for money owed. It's pending so no name is given.

41. Judge Danny Reeves Matter- Deters received a private admonition Deters was tempted to appeal. Bar Counsel lied and said Judge Reeves initiated a complaint on a lawsuit Deters filed. Deters confirmed from Judge Reeves he did not initiate the complaint. Then Bar Counsel simply obtained a private admonition. Deters accepted for closure.

42. Pending Matter- A bar charge Deters contested and Deters is contesting so no name will be given. The Trial Commissioner has not rendered a decision. Bar Counsel has asked for a public reprimand.

43. Fee dispute with Ohio client- Baseless bar complaint Bar Counsel has refused to

just dismiss. Even Ohio dismissed it. Deters actually filed a Declaratory Judgment Action in Ohio to obtain his fee. The client threatened and filed the complaint hoping it would deter Deters from collecting his earned fee. No name will be given since its pending.

44. Pending Matter- Baseless Bar complaints involving a lawsuit Deters filed nearly ten years ago on a jail inmate's medical treatment supported by one of the top experts in the country. Bar Counsel knows the matter is before the Kentucky Supreme Court and should not do anything based upon their own policies. Yet, they file it anyway. Pending, so no name.

45. Eight year old matter pending- Appeal to Board of Governors filed Friday. Pending, so no name.

46. All of these but the one referenced in paragraph 45 is a result of the public's knowledge of Deters bar fight with Kentucky Bar Counsel.

Conclusion

47. This matter is ripe for adjudication because the automatic suspension is up April 25, today, and by the attached April 13 letter from Executive Director, John D. Meyers, the Board of Governors refuses to act. Therefore, this Complaint and Motion for Injunctive Relief is necessary, ripe, justified and deserving.

Prayer For Relief

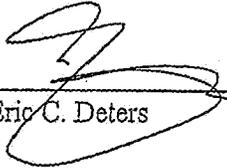
WHEREFORE, Plaintiff requests SCR 3.510 be found unconstitutional, for injunctive relief, for all costs, attorney fees and other relief to which he is entitled.

L. E. Forgy

LAWRENCE E. FORGY, JR.
83 C. Michael Davenport Blvd.
P.O. Box 4292
Frankfort, KY 40601
(502) 227-3155

VERIFICATION

The undersigned has read and reviewed this Verified Complaint and all exhibits. He verifies it for all purposes.


Eric C. Deters

NOTARY

Sworn, subscribed and acknowledged to before me this 23rd day of April, 2011.


Notary Public
Id. # 455995
My Commission expires 12-5-2015

Exhibit 8

SUPREME COURT OF KENTUCKY
2011-SC-000666-KB and 2012-SC-00667-KB
KBA FILES 16037 and 19366 (consolidated)

KENTUCKY BAR ASSOCIATION

PETITIONER

V.

ERIC C. DETERS
KBA MEMBER #81812

RESPONDENT

* * * * *

MOTION FOR HEARING BEFORE CHARACTER & FITNESS COMMITTEE
(EXPEDITED HEARING REQUESTED)

Eric Deters, by and through counsel and Pro Se, requests an expedited hearing before the Character & Fitness Committee and if possible, expedited. Memorandum in support attached.

Respectfully,

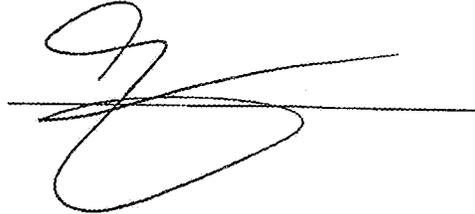


ERIC C. DETERS
Pro Se
5247 Madison Pike
Independence, Kentucky 41051
(859) 363-1900 - telephone
(859) 363-1444 - facsimile

Lawrence E. Forgy Jr.
LAWRENCE E. FORGY
83 C. Michael Davenport Blvd. *Present to*
P.O. Box 4292
Frankfort, KY 40601
(502) 227-3155
Hc
ant

Certificate of Service

I hereby certify that a true and accurate copy of the foregoing was sent via regular U.S. mail, postage prepaid, on this 28th day of October 2013, to Elizabeth Feamster, Director and General Counsel, Character & Fitness Committee, Suite 156, 1510 Newton Pike, Lexington, Kentucky 40511-1255; Sarah V. Coker, Esq. Deputy Bar Counsel, Kentucky Bar Association, 514 West Main Street, Frankfort, Kentucky 40601; Thomas Glover, Kentucky Bar Association, 514 West Main Street, Frankfort, Kentucky 40601 and John Meyer, Kentucky Bar Association, 514 West Main Street, Frankfort, Kentucky 40601.

A handwritten signature in black ink, consisting of a large, stylized initial 'J' followed by a horizontal line and a large, sweeping flourish that loops back under the line.

Q:\ECD v. KBA\2011-SC-000641-KB\Motion for Hearing Character & Fitness.doc

SUPREME COURT OF KENTUCKY
2011-SC-000666-KB and 2012-SC-00667-KB
KBA FILES 16037 and 19366 (consolidated)

KENTUCKY BAR ASSOCIATION

PETITIONER

V.

ERIC C. DETERS
KBA MEMBER #81812

RESPONDENT

* * * * *

MEMORANDUM

As part of the 60 suspension Eric Deters served last year, he did the following:

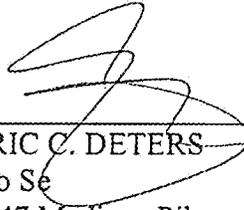
1. Over 20 hours CLE, including on June 15, 2012 the 7 hours of the KBA CLE ethics seminar. He's now performed 12.5 hours of CLE due June 30, 2014.
2. Anger management at the recommendation of the Character and Fitness Committee.
3. Stopped publicly attacking the KBA and the Bar Counsel for what he believed their mistreatment of him. He even stopped doing his radio show.
4. Since June 15, 2012 reinstatement, Eric Deters has served the public with distinction as an attorney including:
 1. Handling at the present, nearly 1000 cases with his staff of lawyers and paralegals numbering 45. They all work under his supervision and they are cases he brought to the firm.
 2. Winning this year, a nationally recognized unprecedented federal jury verdict for cyberbullying.

3. Representing over 300 clients against a spine doctor under federal indictment in Cincinnati, Ohio. The doctor performed unnecessary spine surgeries.
4. Has an innocent client scheduled for a murder trial in January 2014.
5. Representing more individuals with a medical malpractice claim than any other lawyer in the entire state of Kentucky, Ohio or Indiana. He has over 400 such cases.
6. Representing over 100 individuals with an employment claim from sexual harassment to age discrimination.
7. Representing over 100 individuals with a police, jail or civil rights claim.
8. Giving countless free legal advice by email and text every day by using the attached self-imposed standard.

Eric C. Deters is a credit to the legal profession. It's an insult for Bar Counsel to claim he's not capable, especially when Bar Counsel has never built what he's built from 20 hour work days year after year. He has built the largest Plaintiffs and criminal defense practice in the Northern Kentucky and Cincinnati area. He has the third largest law firm in Northern Kentucky. Bar Counsel is claiming the lawyer voted the best lawyer in Cincinnati (attached); the client service distinction award by Martindale Hubble (attached); and has been the number one searched lawyer in America on Martindale Hubble (attached). Yet, Bar Counsel claims he's not qualified to be an attorney and serve the public.

Respectfully,

Lawrence E. Forgy Jr.
LAWRENCE E. FORGY *prepaid*
83 C. Michael Davenport Blvd. *to the*
P.O. Box 4292
Frankfort, KY 40601
(502) 227-3155


ERIC C. DETERS
Pro Se
5247 Madison Pike
Independence, Kentucky 41051
(859) 363-1900 - telephone
(859) 363-1444 - facsimile

Certificate of Service

I hereby certify that a true and accurate copy of the foregoing was sent via regular U.S. mail, postage prepaid, on this 28th day of October 2013, to Elizabeth Fearnster, Director and General Counsel, Character & Fitness Committee, Suite 156, 1510 Newton Pike, Lexington, Kentucky 40511-1255; Sarah V. Coker, Esq. Deputy Bar Counsel, Kentucky Bar Association, 514 West Main Street, Frankfort, Kentucky 40601; Thomas Glover, Kentucky Bar Association, 514 West Main Street, Frankfort, Kentucky 40601 and John Meyer, Kentucky Bar Association, 514 West Main Street, Frankfort, Kentucky 40601.

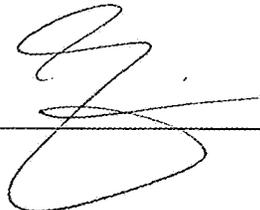


Exhibit 9

February 28, 2012

SENT VIA FAX: 502-564-3225

Jay Garrett, Esq.
Kentucky Bar Association
514 West Main Street
Frankfort, KY 40601

SENT VIA FAX: 502-564-3225

Sarah Coker, Esq.
Kentucky Bar Association
514 West Main Street
Frankfort, KY 40601

Re: My Kentucky Law License

Dear Jay and Sarah:

With a lot of thought and sadness, I am considering just surrendering my Kentucky law license. What is involved? How can I do it? Doesn't that end it all?

If I turn in my Kentucky license, can we have any agreements that relate also to the current 61 day suspension relative to Ohio?

Can we reach an agreement that I'll turn in my Kentucky law license on a particular month and day? Not take any more cases and turn it in end of year? Fall? Summer? Now?

Sincerely,



Eric C. Deters

ECD/md

Q:\MD\ECD\bar complaints\Ltr. Garrett & Coker 2-28-12.wpd

TRANSMISSION VERIFICATION REPORT

TIME : 02/28/2012 10:12
NAME : ERIC DETERS & ASSOC
FAX : 8593631444
TEL : 8593631900
SER. # : BRQA1J248201

DATE, TIME	02/28 10:11
FAX NO./NAME	15025643225
DURATION	00:00:40
PAGE(S)	02
RESULT	OK
MODE	STANDARD

**ERIC C. DETERS & PARTNERS
ATTORNEYS AT LAW**

5247 Madison Pike
Independence, Kentucky 41051
Telephone: (859) 363-1900
Telefax: (859) 363-1444

FAX TRANSMITTAL SHEET

TO: Jay Garrett, Esq.

FAX NO.: 1-502-564-3225

FROM: Eric C. Deters

DATE: February 28, 2012

OF PAGES: 2
(including cover page)

REMARKS:

TRANSMISSION VERIFICATION REPORT

TIME : 02/28/2012 10:13
NAME : ERIC DETERS & ASSOC
FAX : 8593631444
TEL : 8593631900
SER. # : BROA1J248201

DATE, TIME	02/28 10:13
FAX NO./NAME	15025643225
DURATION	00:00:41
PAGE(S)	02
RESULT	OK
MODE	STANDARD

**ERIC C. DETERS & PARTNERS
ATTORNEYS AT LAW**

5247 Madison Pike
Independence, Kentucky 41051
Telephone: (859) 363-1900
Telefax: (859) 363-1444

FAX TRANSMITTAL SHEET

TO: Sarah Coker, Esq.

FAX NO.: 1-502-564-3225

FROM: Eric C. Deters

DATE: February 28, 2012

OF PAGES: 2
(including cover page)

REMARKS:

Exhibit 10

SUPREME COURT OF KENTUCKY
2011-SC-000666-KB and 2012-SC-00667-KB
KBA FILES 16037 and 19366 (consolidated)

KENTUCKY BAR ASSOCIATION

PETITIONER

V.

ERIC C. DETERS
KBA MEMBER #81812

RESPONDENT

* * * * *

SUPPLEMENTAL MEMORANDUM ON MOTIONS

One of the techniques my anger management counselor taught me is to write down what is upsetting me as a way to release and express the anger in a controlled and deliberate fashion which can be edited and reviewed before publishing.

As I now enter the sixth day of my extended discipline I want to express to the Committee what I'm dealing with in this objection to my automatic reinstatement:

1. It's impossible for me not to ponder whether or not the lawyers at the KBA Bar Counsel office who want to question my fitness could ever or have ever done what I have done or do what I do every day as a lawyer for 25 years.
2. My lawyers are overstressed and overburdened dealing with all the work on Kentucky cases I'd be handling. My workload was dumped on them. While less money comes in, they have a bigger burden.
3. My Kentucky clients are full of anxiety now that I could not return in 60 days. It's a hell of a thing to explain to them. Bar Counsel is hurting my clients.
4. There is a complete disconnect with reality and humanity with Bar Counsel.

I have not stolen money.

I have not committed crimes.

I do not have a drug problem.

I do not have an alcohol problem.

I do not have a gambling problem.

I do not have a porn problem.

I have not committed any acts of moral turpitude.

I have not had any more Rule 11 violations.

I have not committed any acts of legal malpractice.

I have not harmed clients.

I have a stable and good marriage.

I have normal, wonderful relationships with my children, parents and friends.

What is the legal basis to even accuse me of not being fit to serve the public as a practitioner? Bar Counsel is doing nothing less than torturing me.

5. I am what every Kentucky person would want in a lawyer. I'm smart; I have common sense; I'm personable to charming; I fight for them within the confines of ethics and rules; I'm honest; I work hard; I care; and I'm a good person.

Finally, what Kentucky Bar Counsel does harms me before Ohio and Florida. It is so wrong. States I've never had any independent disciplinary action have to take action because of Kentucky Bar Counsel.

A RECENT OPPORTUNITY

I have what can be considered a career case in Ohio. I represent over 300 individuals who suffered the harm from unnecessary spine surgeries at three hospitals by a spine surgeon

who is under federal indictment. I am their lawyer. My entire office is working on the case. The KBA Bar Counsel's action risks me being unavailable for a time in Ohio when I'm needed. These wonderful clients are aware of all I'm going through and support me. I meet with them as a group monthly. Ask them if I'm not fit to practice law. I'm battling the biggest Cincinnati law firms and winning. I'm outnumbered thirty to one.

HUMILITY

I'm not perfect. I may make a mistake. That's far from not being fit to practice law. That's what the discipline process is for.

CREDIT TO MY PROFESSION

I give free legal advice for anyone who texts or emails me no matter how small the legal issue.

The local Sprint office says they have never known anyone with 12,000 phone numbers in their phone. I do. I give access to myself to help people.

I'm the champion in the Cincinnati/Northern Kentucky area for those fighting bullying online and in the schools.

I'm the champion in the Cincinnati/Northern Kentucky area for those abused and mistreated in jail or by over aggressive police officers.

I've given free legal advice and free representation to Veterans who can't afford it.

Has anyone at Bar Counsel tried to a jury and won a medical malpractice case in more than one state?

Have any of them ever tried to a jury and won a federal civil rights case?

Have any of them ever built a law firm with 18 lawyers and a staff of over 25?

Have any of them ever had to deal with that type of payroll? Risk their money?

How many of them have defended someone charged with murder through a jury trial?

How many have represented a bank and drafted commercial lending documents for million dollar deals?

I have every reason to believe this is all about two things: vengeance and they don't like my style. Neither applies to my fitness to serve the public as a practitioner.

To be accused of this when so many seek me out to be their counsel is enough to drive me "insane." Yesterday, the stress of what they are doing put me in the hospital by ambulance with heart stress. Would killing me be enough for them? That's what they are doing to me. The 2012 ordeal put me on high blood pressure medicine for the first time. My family and I have zero heart history issues. This ordeal is pushing my stress and heart to the edge. It's not melodrama. It's fact.

Bar Counsel punishes me relentlessly with stress caused by their action. It's financial, emotional, client related, staff related, family related, health related and everything related. They have no conscience.

WILLINGNESS TO RESIGN

I stand willing to resign my Kentucky license so that Bar Counsel gets what they want and I can be left alone to practice law in Cincinnati. I'm tired of their hurting me past their jurisdiction. I love Elvis. He sang about being given a "mountain to climb." Bar Counsel keeps giving me mountains after mountains. Nothing appeases them. Yet, they won't let a lawyer resign unless it's permanent disbarment and then I'd be disbarred in Ohio.

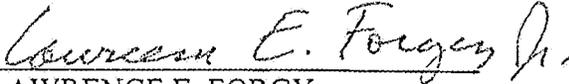
I would suspect never in the history of the KBA has a lawyer who has not committed any of those acts I outlined earlier in this pleading has been pursued so vigorously by Bar Counsel. The person in the shadows is the person I've left alone—Jay Garrett. He's still deputy bar

counsel and I'm still his mark to prove his power.

Respectfully Submitted,



ERIC C. DETERS
Pro Se
5247 Madison Pike
Independence, Kentucky 41051
(859) 363-1900 - telephone
(859) 363-1444 - facsimile



LAWRENCE E. FORGY
83 C. Michael Davenport Blvd. *permanently to the*
P.O. Box 4292
Frankfort, KY 40601
(502) 227-3155

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate ^{copy} of the foregoing was sent via regular U.S. mail, postage prepaid, on this 14th day of ^{October} 2013, to Elizabeth Feamster, Director and General Counsel, Character & Fitness Committee, Suite 156, 1510 Newton Pike, Lexington, Kentucky 40511-1255; Sarah V. Coker, Esq. Deputy Bar Counsel, Kentucky Bar Association, 514 West Main Street, Frankfort, Kentucky 40601; Thomas Glover, Kentucky Bar Association, 514 West Main Street, Frankfort, Kentucky 40601 and John Meyer, Kentucky Bar Association, 514 West Main Street, Frankfort, Kentucky 40601.



Exhibit 7: Supreme Court Opinion and Order

Supreme Court of Kentucky

2012-SC-000666-KB

2012-SC-000667-KB

KENTUCKY BAR ASSOCIATION

MOVANT

V.

IN SUPREME COURT

ERIC C. DETERS

RESPONDENT

OPINION AND ORDER

This Opinion and Order resolves two KBA disciplinary files, Nos. 16037 and 19366, against Eric C. Deters.

Eric Deters was admitted to the practice of law in Kentucky on October 10, 1986, and his bar roster address is 5247 Madison Pike, Independence, Kentucky 40151. His Kentucky Bar Association (KBA) Member Number is 81812.

In KBA File No. 16037, the Board of Governors of the Kentucky Bar Association has, under SCR 3.370(5), recommended to this Court that Deters be found guilty of three counts of professional misconduct and be suspended from the practice of law in this Commonwealth for 60 days.

In KBA File No. 19366, the Board has recommended that Deters be found guilty of one count of misconduct and be suspended from the practice of law for 30 days, with that time to be served concurrently with the suspension in KBA File No. 16037.

C. Deters is not entitled to credit for the previous 52 days' suspension.

As Deters himself admits in his brief, his focus is not on whether his conduct violated the rules. Instead, he “for the sake of argument’ prefers to focus on the punishment issue.” He argues that he should be given credit for the additional 52 days he was suspended in his earlier case and that he should be given a “break” and not required to serve the remaining 8 days.

This Court need not address in depth Deters’s arguments as to why he should be given credit for the 52 days. The simple fact is that the Supreme Court Rules allow for a suspension of a definite term to be effectively extended when Bar Counsel objects to automatic reinstatement and provides “such information as may exist to indicate that the member does not, at that time, possess sufficient professional capabilities and qualifications properly to serve the public as an active practitioner or is not of good moral character.” SCR 3.510(b).

As noted above, the KBA’s Office of Bar Counsel objected to Deters’s automatic reinstatement for several reasons, including several then-pending disciplinary matters¹⁰ and his possible failure to comply with aspects of this Court’s order related to ceasing all advertising, paying costs, etc. While this Court and the Character and Fitness Committee ultimately concluded that Deters should be reinstated, there is no question that Bar Counsel’s objection was brought in good faith.

¹⁰ Though it is not clear from the record, it appears that originally, Deters had nine different disciplinary matters pending at the time. Five of these have since been dismissed, two have gone through the disciplinary process—KBA File Nos. 16037 and 19366—and two are still being processed.

#2

Deters complains that if he is not given credit for the additional suspension, then he will essentially be punished twice for the same behavior, since the disciplinary matters resolved in this opinion were part of Bar Counsel's reason for objecting to his reinstatement. That might be the case if these disciplinary cases were the *only* basis for that objection, but that is not the case here. As noted above, part of the reason Bar Counsel objected was that Deters had not complied completely with this Court's order in the previous disciplinary matter.

Moreover, it has long been the case that a license to practice law "is not an absolute right, but a privilege only." *Commonwealth ex rel. Ward v. Harrington*, 266 Ky. 41, 98 S.W.2d 53, 57 (1936). The privilege is conditioned not just on a lack of wrongdoing but also on the lawyer's proven professional capability and good moral character. And this Court is charged by the Constitution to police the membership of the bar. See Ky. Const. § 116. This the Court does largely by rule. See *id.*; see also SCR 3.010 – .530. Our rules specifically contemplate that a lawyer's suspension may extend beyond the time ordered by this Court where Bar Counsel has reason to believe the lawyer is not currently qualified to practice law.

Deters's 52 days of additional suspension in his previous case was the result of the process laid out in these rules. The suspension he has earned for the misconduct described above is solely the result of this Court's final resolution of the disciplinary proceedings for that misconduct. Deters has received due process from these proceedings. Thus, this Court concludes that

Deters is not entitled to credit for any previous suspension and must serve the entire 60 days resulting from this case.

III. Order

ACCORDINGLY, IT IS HEREBY ORDERED:

- (1) Eric C. Deters is found guilty of the violations of the Rules of Professional Conduct as described above in KBA File Nos. 16037 and 19366.
- (2) Deters is suspended from the practice of law in the Commonwealth of Kentucky for 60 days for his conduct in KBA File No. 16037. He is suspended for 30 days for his conduct in KBA File No. 19366, with this time to be served concurrently with that in KBA File No. 16037. Thus, for these two cases, he is suspended for a total of 60 days.
- (3) This order of suspension shall take effect on the tenth day following its entry. As required by SCR 3.390(a), Deters shall promptly take all reasonable steps to protect the interests of his clients, and shall not during the term of suspension accept new clients or collect unearned fees, and shall comply with the provisions of SCR 3.130-7.50(5).
- (4) In accordance with SCR 3.450, Deters is directed to pay all costs associated with these disciplinary proceedings against him, said sum being \$1,677.32 in KBA File No. 16037, and \$773.15 in KBA File No. 19366, for a total of \$2,450.47, for which execution may issue from this Court upon finality of this Opinion and Order.

Minton, C.J.; Abramson, Cunningham, Keller, Noble and Venters, JJ.,
concur. Scott, J., not sitting.

ENTERED: May 23, 2013.


CHIEF JUSTICE

Exhibit 8: Amendment to KBA
Objections to Automatic
Reinstatement

SUPREME COURT OF KENTUCKY
2012-SC-00666-KB and 2012-SC-00667-KB
KBA FILES 16037 and 19366

KENTUCKY BAR ASSOCIATION

PETITIONER

v.

AMENDMENT TO KBA
OBJECTION TO AUTOMATIC REINSTATEMENT

ERIC C. DETERS
KBA Member No. 81812

RESPONDENT

* * * * *

Pursuant to the provisions of SCR 3.510(2), the Kentucky Bar Association, Office of Bar Counsel, files this Amendment to KBA Objection to Automatic Reinstatement because the Respondent has now complied with SCR 3.675(1). The KBA Office of Bar Counsel maintains its original objection to automatic reinstatement on the basis the Respondent still has multiple pending disciplinary matters.

The Kentucky Bar Association, Office of Bar Counsel, filed its Objection to Automatic Reinstatement, pursuant to SCR 3.510(2), on October 23, 2013.

SCR 3.510(2) provides, in part:

[A] suspension shall not expire on its own terms if, not later than ten (10) days preceding the time the suspension would expire, Bar Counsel files with the Inquiry Commission an opposition to the termination suspension wherein Bar Counsel details such information as may exist to indicate that the member does not, at that time, possess sufficient professional capabilities and qualifications properly to serve the public as an active practitioner or is not of good moral character. A copy of such objection shall be provided to the Character and Fitness Committee, to the member concerned, and to the Registrar. If such an objection has been filed by Bar Counsel, and is not withdrawn within thirty (30) days, the Character and Fitness Committee shall conduct proceedings under SCR 2.300.

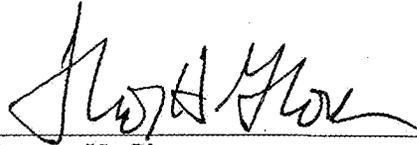
The basis for the Objection to Automatic Reinstatement was:

1. Respondent's failure to comply with SCR 3.675(1), as verified by the Assistant Director for Continuing Legal Education;
2. Respondent's multiple disciplinary matters pending with the Kentucky Bar Association Office of Bar Counsel.

Mr. Deters is now compliant with the CLE requirements set forth in SCR 3.675(1), however, Mr. Deters still has multiple pending disciplinary matters.

The Kentucky Bar Association, Office of Bar Counsel, now amends the original objection to remove the Respondent's non-compliance with SCR 3.675(1) as a basis for the objection. The Office of Bar Counsel maintains its original objection to automatic reinstatement on the basis the Respondent still has multiple pending disciplinary matters.

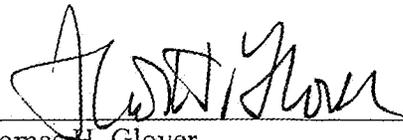
Therefore, the Kentucky Bar Association, Office of Bar Counsel, objects to the automatic reinstatement of Respondent as he does not at this time possess sufficient professional capabilities and qualifications to properly serve the public as a practitioner.



Thomas H. Glover
Chief Bar Counsel
Steven T. Pulliam
Deputy Bar Counsel
Kentucky Bar Association
514 West Main Street
Frankfort, Ky 40601
(502) 564-3795 Fax (502) 564-3225

CERTIFICATE OF SERVICE

This is to certify that the foregoing Objection to Automatic Reinstatement was mailed to Elizabeth S. Feamster, Director and General Counsel, Character & Fitness Committee, Suite 156, 1510 Newtown Pike, Lexington, Kentucky 40511-1255; John D. Meyers, Executive Director and Registrar, Kentucky Bar Association, 514 W. Main St., Frankfort, Kentucky 40601; and Eric C. Deters 5247 Madison Pike Independence, Kentucky 41051, this 14 day of November, 2013. This document has been filed with the Inquiry Commission as required.



Thomas H. Glover
Steven T. Pulliam