

ORIGINAL

IN THE SUPREME COURT OF OHIO

The State of Ohio, ex rel.)
)
Melissa N. Siler-Stoll, et al.,)
)
Relators,)
)
v.)
)
Ohio Department of Developmental)
Disabilities, et al.,)
)
Respondents.)

Case No. 14-1617

VERIFIED ANSWER OF RESPONDENT ROBERT C. ANGELL, ESQ.

David V. Patton (0070930)
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Counsel for Relators

Robert C. Angell (0061151)
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Pro Se

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SUPREME COURT OF OHIO

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VERIFIED ANSWER OF RESPONDENT ROBERT C. ANGELL, ESQ.

Now comes Respondent Robert C. Angell, Esq., and for his Answer to the Complaint of Relators admits, denies, avers, and states as follows. These are the admission, denials, and averments of this answering Respondent only.

ADMISSIONS AND DENIALS

1. Denies, for lack of knowledge, the allegations in paragraphs 1 and 2 of the Complaint.
2. Admits the allegations in paragraphs 3, 4, and 5 of the Complaint.
3. Neither admits nor denies the allegations in paragraphs 6, 7, and 8 of the Complaint.
4. Admits the allegations in paragraph 9 of the Complaint.
5. Denies, for lack of knowledge, the allegations in paragraphs 10, 11, and 12 of the Complaint.
6. Denies the allegations in paragraphs 13 and 14 of the Complaint in their entirety.

7. Denies, for lack of knowledge, the allegations in paragraph 15 of the Complaint.
8. Neither admits nor denies the allegations in paragraph 16 of the Complaint.
9. Admits the allegations in paragraphs 17 and 18 of the Complaint.
10. Denies, for lack of knowledge, the allegations in paragraph 19 of the Complaint.
11. Admits the allegations in paragraph 20 of the Complaint.
12. Denies the allegations in paragraph 21 of the Complaint in their entirety.
13. Neither admits nor denies the allegations in paragraph 22 of the Complaint.
14. Denies the allegations in paragraphs 23 and 24 of the Complaint in their entirety.
15. Neither admits nor denies the allegations in paragraph 25 of the Complaint.
16. Denies the allegations in paragraphs 26 through 31, inclusive, of the Complaint in their entirety.
17. Admits that Relators have never spoken to Respondent, for the purpose of providing any consent to him or for any other purpose, as alleged in paragraph 32 of the Complaint, and denies the remaining allegations in that paragraph in their entirety.
18. Admits that he has denied Relators' motion for recusal in the administrative proceeding, as alleged in paragraph 33 of the Complaint, and denies the remaining allegations in that paragraph in their entirety.
19. Neither admits nor denies the allegations in paragraph 34 of the Complaint.
20. Admits the allegations in paragraph 35 of the Complaint.
21. Denies the allegations in paragraphs 36 and 37 in their entirety.
22. Denies the allegations in paragraph 38 of the Complaint, except for the quotation of Rule 1.2 of the Code of Judicial Conduct.

23. Denies the allegations in paragraphs 39, 40, and 41 of the Complaint in their entirety.
24. Neither admits nor denies the allegations in paragraph 42 of the Complaint.
25. Admits the allegations in paragraphs 43 and 44 of the Complaint.
26. Neither admits nor denies the allegations in paragraph 45 of the Complaint.
27. Denies the allegations in paragraph 46 of the Complaint in their entirety.
28. Neither admits nor denies the allegations in paragraph 47 of the Complaint.
29. Neither admits nor denies the allegations of law in paragraph 48 of the Complaint, and denies the remaining allegations in that paragraph.
30. Denies the allegations in paragraph 49 of the Complaint in their entirety.
31. Neither admits nor denies the allegations in paragraph 50 of the Complaint.
32. Denies the allegations in paragraph 51 of the Complaint in their entirety.
33. Denies that Relators are entitled to any relief as prayed for in the Complaint.

AVERMENTS

34. Respondent has never spoken to Relator Melissa N. Siler-Stoll, to any other representative of Relator Open Arms, or any other person at any time or for any purpose, whether or not relating to the matters raised in the allegations against Relator Open Arms by the Ohio Department of Developmental Disabilities (“Department”).

35. More specifically, Respondent has never discussed with Relators, or either of them, or any representative of Relators, the substance of the Department’s allegations against Relators, or any other privileged or confidential information relating to the administrative proceeding.

36. Respondent has been provided no substantive information regarding the administrative proceeding by the Department. The notices of opportunity for hearing are public records, and were provided to Respondent by Relators' counsel in any event.

37. At no time has Respondent had an attorney-client relationship with Relators or either of them, and at no time has Respondent demanded a retainer payment from or quoted a fee to Relators, or either of them.

38. Respondent has no pecuniary interest in the outcome of the administrative proceeding, other than the remuneration for conducting the proceeding owed him by the Department pursuant to Respondent's contract with the Department.

39. At no time has Respondent ever stated to Relators, or either of them, or any representative of Relators, that he could influence the outcome of the administrative proceeding through an acquaintance with the Department's counsel or any other person.

40. By virtue of the fact that Respondent has never spoken to Relators, to either of them, or to any other representative of Relators, and Respondent has been provided no substantive information regarding the administrative proceeding, Respondent has no bias or predisposition whatsoever against Relators in that proceeding.

41. Relators and their counsel have engaged in a clear pattern of attempting to postpone and/or evade the administrative hearing on the Department's allegations through repetitive motions for continuance, for Respondent's recusal as hearing examiner, and now through resort to this Court via a complaint for prohibition. Contemporaneously with this Complaint, Relators have filed yet another motion for continuance of the administrative hearing.

FIRST AFFIRMATIVE DEFENSE

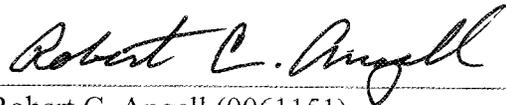
42. The affidavit filed, through counsel, by Relator Siler-Stoll, both in the instant matter and the administrative proceeding, constitutes a knowing false statement made under oath in an official proceeding which could affect the course or outcome of the proceeding, in violation of section 2921.11(A) and (B) of the Revised Code.

SECOND AFFIRMATIVE DEFENSE

43. The affidavit filed, through counsel, by Relator Siler-Stoll, both in the instant matter and the administrative proceeding, constitutes fraud on a tribunal as set forth in Rule 3.3(a) of the Rules of Professional Conduct.

WHEREFORE, this answering Respondent prays for an Order dismissing the Complaint, with prejudice and at Relators' costs, and for appropriate sanctions or other relief as the Court may find just in the circumstances.

Respectfully submitted,



Robert C. Angell (0061151)
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(614) 552-6987 – Facsimile
rangell0593@sbcglobal.net

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was forwarded to the following individuals by first class U.S. mail, postage prepaid, and/or electronic mail, this 19th day of September 2014:

David V. Patton, Esq.
P.O. Box 39192
Solon, Ohio 44139-0192

Ohio Department of Developmental Disabilities
Attn: Bradley C. Singer, Esq.
30 East Broad Street, 12th Floor
Columbus, Ohio 43215

Ohio Department of Developmental Disabilities
Attn: John L. Martin, Director
30 East Broad Street, 13th Floor
Columbus, Ohio 43215


Robert C. Angell (0061151)

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AFFIDAVIT OF ROBERT C. ANGELL, ESQ.

The Affiant, Robert C. Angell, Esq., having been first duly sworn and cautioned, hereby deposes and states as follows:

1. That he is an attorney in private practice, admitted in good standing in the State of Ohio since May 17, 1993 and in the State of Colorado since June 21, 1994, and that he is admitted to the bars of the U.S. District Court for the Southern District of Ohio (1994), the U.S. District Court for the Northern District of Ohio (1996), and the U.S. Sixth Circuit Court of Appeals (1996).
2. That he has no disciplinary record in any licensing jurisdiction.
3. That he is former general and trial counsel for the Ohio Department of Health, the Ohio Department of Aging, the Ohio Department of Rehabilitation and Correction, the Ohio Department of Mental Health, and the Ohio State Dental Board.
4. That he has practiced administrative agency law in the State of Ohio for approximately fifteen years, and has been involved in more than 500 administrative hearings as agency counsel, defense counsel, and hearing examiner.
5. That he currently holds contracts to serve as an administrative hearing examiner for the Ohio Department of Developmental Disabilities (2007-2009 and 2011-present) and the Ohio Department of Agriculture (2011-present); and that he was formerly an administrative hearing examiner for the Ohio Department of Health (2005-2009 and 2011-2013), and the Ohio Department of Commerce (2012-2013).

**SILER-STOLL, ET AL. V. OHIO DODD, ET AL.
ANSWER OF RESPONDENT ROBERT C.
ANGELL, ESQ.
EXHIBIT A**

*Case No. 14-1617
Affidavit of Robert C. Angell, Esq.
Page 1 of 3*

6. That in his capacity as attorney hearing examiner in R.C. Chapter 119 and non-119 administrative proceedings, Affiant has heard more than 300 administrative cases.
7. That the Department of Developmental Disabilities, by letter dated on or about April 14, 2014, appointed Affiant as attorney hearing examiner in the matter of Relator Open Arms, Inc.
8. That Relators, by and through their counsel, have raised several motions to continue the administrative hearing, originally scheduled for April 30, 2014 and now scheduled for September 23-25, 2014, which dates were agreed to by Relators' counsel.
9. That after Relators' motions for continuance were denied, Relators, through counsel, filed a motion to recuse Affiant in the administrative proceeding on or about September 15, 2014; that said motion was supported by an affidavit of Relator Siler-Stoll, filed in the instant action as Relators' Exhibit 3, alleging that Affiant has a conflict of interest that prohibits him from serving as hearing examiner and accusing Affiant of various unprofessional conduct in violation of the Rules of Professional Conduct.
10. That the allegations in Relator Siler-Stoll's affidavit are false in their entirety; that Affiant has never spoken to Ms. Siler-Stoll; and, more specifically, that Affiant has never received any substantive information regarding the administrative proceeding from Ms. Siler-Stoll, any other representative of Relator Open Arms, or any other person; that Affiant did not demand a retainer payment or quote a fee to Ms. Siler-Stoll; that Affiant did not represent to Ms. Siler-Stoll that he could influence the outcome of the administrative proceeding because of his acquaintance with any person; that Affiant has no pecuniary interest in the administrative proceeding, other than the remuneration owed him by the Department for serving as hearing examiner; that Affiant has no conflict of interest regarding the administrative proceeding; and that Affiant has no bias or predisposition against Relators whatsoever in the administrative proceeding.
11. That the affidavit filed, through counsel, by Relator Siler-Stoll, both in the instant matter and the administrative proceeding, constitutes a knowing false statement made under oath in an official proceeding which could affect the course or outcome of the proceeding, in violation of section 2921.11(A) and (B) of the Revised Code.
12. That the affidavit filed, through counsel, by Relator Siler-Stoll, both in the instant matter and the administrative proceeding, constitutes fraud on a tribunal as set forth in Rule 3.3(a) of the Rules of Professional Conduct, and, accordingly, that Respondent's counsel has an immediate affirmative duty to inform the tribunal of the fraud and rectify the same as instructed by that Rule.

13. That the statements made in Affiant's Answer to the Complaint in the instant proceeding are true to the best of his knowledge and belief.

FURTHER AFFIANT SAYETH NAUGHT.

Robert C. Angell
ROBERT C. ANGELL, AFFIANT

State of Ohio :
 :ss
County of Fairfield :

Before me, a Notary Public in and for said County and State, came ROBERT C. ANGELL, the Affiant herein, whose identity is known to me or proved by satisfactory evidence, and acknowledged that he signed the foregoing Affidavit and that the same was his free and voluntary act.

IN WITNESS WHEREOF, I have subscribed my hand and affixed my official seal at _____
PICKERINGTON CHASE, Ohio, this 19th day of September, 2014.



J. Whitley
Notary Public

My commission expires: July 25, 2017