

IN THE SUPREME COURT OF OHIO

OHIO STATE BAR ASSOCIATION,  
Relator,

vs.

BRIDGET MARIE MCCAFFERTY,  
Respondent.

Case No. 2013-0939

Practice-of-Law Case

**Cross-Motion by Relator, Ohio State Bar Association, For Order Determining Whether an Expense Taxed as Costs in this Case Qualifies as a "Direct Expense" and For any Necessary Amendment to the Costs Taxed in the Order on Certified Report by the Board of Commissioner on Grievances and Discipline of The Supreme Court Entered on July 17, 2014, and Legal Memorandum Responding to "Motion to Amend Order"**

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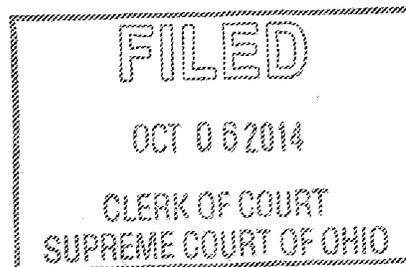
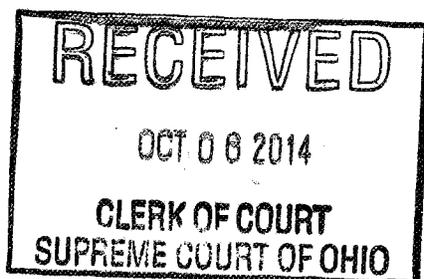
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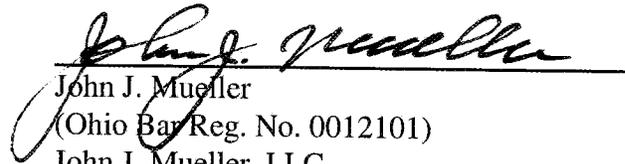
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## **Motion**

In response to the motion by Respondent, Bridget Marie McCafferty (“McCafferty”), to amend the order that this Court entered on July 17, 2014, by reducing the taxed costs in the amount of certain charges for “paralegal services,” Relator, Ohio State Bar Association (“OSBA”), through counsel, asks this Court to determine, and to instruct it, for purposes of all future disciplinary proceedings, whether charges for “paralegal services,” such as those the OSBA paid in this case, qualify as a “direct expense” within the meaning of Rule V, § 3(H)(2)(a), Supreme Court Rules for the Government of the Bar of Ohio. Based on that determination, OSBA asks this Court to enter any necessary or consequent amendment to the July 17 Order to reflect the amount of costs, or to re-tax the amount of costs, McCafferty must pay.

  
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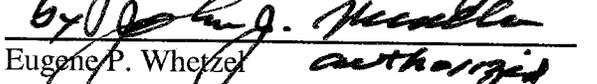
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### **Legal Memorandum Supporting Motion by OSBA and Responding to McCafferty's Motion to Amend Order**

As a matter of course, OSBA reimbursed its counsel in the disciplinary proceedings that underlie this case ("Godshall") for the amount of expenses for which he sought reimbursement in connection with the prosecution of the disciplinary proceedings. Godshall, a member of Pelini, Campbell, Williams & Traub, LLC, included in the amount of expenses for which he sought reimbursement charges for paralegal services, provided by Debbie Romanoski, supporting his

efforts as counsel in the disciplinary proceedings. Godshall billed these “paralegal services” at market rates, as opposed to the rate equal to the amount paid out of pocket for salary, payroll-related taxes, and benefits based on or related to salary. These charges for “paralegal services,” total \$ 2,530.00. *Exhibit C to Motion to Amend Order* (Statement of Costs and billings by Pelini, Campbell, Williams & Traub, LLC).

By letter dated July 25, 2013, Eugene P. Whetzel, OSBA’s General Counsel, submitted to Richard A. Dove, Secretary, Board of Commissioners on Grievances and Discipline of The Supreme Court of Ohio (“the Board”), a statement of costs that OSBA incurred in prosecuting the disciplinary proceedings. In the letter to Dove, Whetzel wrote:

I understand ... that some of the expenses may not be reimbursable, *i.e.*, paralegal charges. Accordingly, please make whatever adjustments deemed necessary.

*Exhibit C to Motion to Amend Order* (Whetzel letter to Dove).

When the Board submitted to this Court an amended “Statement of Necessary Expenses,” the source of the amount this Court taxed as costs in its July 17 order, the Board included in the total amount of necessary expenses the “paralegal charges” the OSBA paid to Godshall for Romanoski’s services.

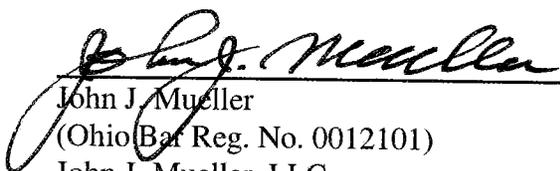
OSBA had the right to receive reimbursement from the Board, and it acknowledges that it had the right to receive reimbursement only, “for direct expenses incurred in performing the obligations imposed by this rule.” *Gov. Bar Rule V, § 3(H)(2)(a)*. The rule specifically limits costs qualifying for such reimbursement “to costs for depositions, transcripts, copies of documents, necessary travel expenses for witnesses and volunteer attorneys, witness fees, costs of subpoenas and the service of subpoenas, and compensation of investigators and expert witnesses authorized in advance by the Board.” *Gov. Bar Rule V, § 3(H)(2)(a)*. McCafferty’s motion and OSBA’s cross-motion both ask this Court to address the question whether the

“paralegal charges” OSBA paid Godshall, and the Board reimbursed OSBA, qualify as “direct expenses incurred in performing the obligations imposed by this rule” within the meaning of Rule V, § 3(H)(2)(a), Supreme Court Rules for the Government of the Bar of Ohio. McCafferty has objected to the inclusion of the “paralegal charges,” in the amount of \$ 2,530.00, as costs taxable in her case because, McCafferty contends, “paralegal charges” such as those OSBA paid Godshall, fail to qualify as “direct expenses incurred in performing the obligations imposed by this rule” within the meaning of Rule V, § 3(H)(2)(a), Supreme Court Rules for the Government of the Bar of Ohio.

OSBA acknowledges that even though it reimbursed Godshall for “paralegal services,” Rule V, § 3(H)(2)(a), Supreme Court Rules for the Government of the Bar of Ohio, neither lists “paralegal charges” or charges for paralegal services among the qualified, reimbursable “direct expenses,” nor contains any express authorization of such a charge as a qualified, reimbursable “direct expense.” OSBA also acknowledges that Rule V, § 3(H)(2)(a), Supreme Court Rules for the Government of the Bar of Ohio, expressly excludes from qualified, reimbursable “direct expenses” “reimbursement for the costs of the time of other bar association personnel or attorneys in discharging these obligations [such as Godshall].” Accordingly, for this case and for all future cases, OSBA asks this Court to determine whether the “paralegal charges” OSBA paid Godshall, qualify as “direct expenses” subject to reimbursement under Rule V, § 3(H)(2)(a), Supreme Court Rules for the Government of the Bar of Ohio.

If this Court determines that “paralegal charges” for paralegal services supporting or assisting attorneys in discharging obligations to prosecute disciplinary matters, fail to qualify for reimbursement under Rule V, § 3(H)(2)(a), Supreme Court Rules for the Government of the Bar of Ohio, as “direct expenses,” then OSBA joins with McCafferty in asking this Court to re-

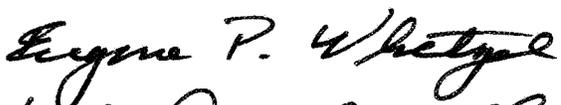
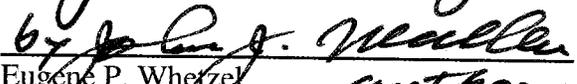
determine the amount of costs, or to re-tax the costs, this Court orders McCafferty to pay and to amend the order this Court entered on July 17 to reflect the correct amount of taxed costs, an amount excluding the "paralegal charges" included in the costs taxed in the July 17 Order.

  
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### Certificate of Service

I certify that by ordinary U. S. Mail, postage and fees prepaid, I served a copy of this Cross-Motion by Relator, Ohio State Bar Association, For Order Determining Whether an

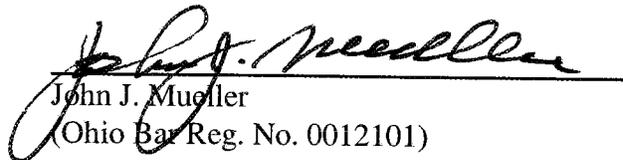
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Memorandum Responding to "Motion to Amend Order" on:

Mr. George D. Jonson  
Ms. Kimberly Vanover Riley  
Montgomery, Rennie & Jonson  
A Legal Professional Association  
36 East Seventh Street, Suite 2100  
Cincinnati, Ohio 45202-4452,

Counsel for Respondent, Bridget M. McCafferty

Date: October 3, 2014  
Cincinnati, Ohio



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