

IN THE SUPREME COURT OF OHIO

Disciplinary Counsel,

Case No. 2015-1001

Relator,

**JOINT MOTION
FOR REMAND**

v.

James William Thomas, Jr.,

Respondent.

Come now Relator and Respondent and jointly move this Court, for the reasons stated in the attached Memorandum in Support, for an order remanding this case to the hearing panel for further consideration of the recommended conditions on Respondent's reinstatement to the practice of law.

Respectfully submitted,

/s/ George D. Jonson

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/s/ Scott Drexel – per authorization
7/9/15

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MEMORANDUM IN SUPPORT

In its Findings of Fact, Conclusions of Law, and Recommendation of the Board of Professional Conduct of the Supreme Court of Ohio (“Recommendation”) the full board modified the recommendation of the hearing panel contained in ¶23a of the Recommendation. The hearing panel had recommended, as set forth in ¶23a of the Recommendation, that Respondent’s reinstatement to the practice of law be subject to four conditions, including:

Respondent shall not seek reinstatement to the practice of law until he has completed his period of incarceration and has paid the restitution ordered by the court in *State of Ohio v. James W. Thomas, Jr.*, Preble County Case No. 14 CR 011521.

Instead, the full board recommended:

As a condition of reinstatement, Respondent be required to make full restitution in the amount of \$208,095.15, which includes all moneys owed to the victims of Respondent’s misconduct and his professional liability insurance carrier.

As reflected in ¶16 of the Recommendation, Respondent’s professional liability insurance carrier has paid the sum of \$89,950.00 to the guardian of Jeryl Sims, one of the victims of Respondent’s misconduct. That payment settled a malpractice claim asserted by the guardian of Jeryl Sims against Respondent. Respondent seeks this remand so that he may introduce evidence that his professional liability carrier is not legally entitled to, nor is it seeking, reimbursement of the \$89,950.00 it paid to the guardian of Jeryl Sims in settlement of that malpractice claim. Should this Court adopt the Board’s Recommendation with regard to restitution, Respondent will be obligated to repay monies he is not legally obligated to pay and which his professional liability

carrier may not be able to accept. As a result, that condition, if adopted, would effectively constitute a permanent bar to Respondent's reinstatement.

For these reasons, Relator and Respondent respectfully jointly request this Court remand the matter to the hearing panel for introduction of evidence on this narrow issue.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I served a copy of the foregoing by e-mail and First-Class U.S. Mail, postage prepaid, upon the following on this 10th day of July, 2015:

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