

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS

December 21, 2007

[Cite as *12/21/2007 Case Announcements, 2007-Ohio-6842.*]

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## MOTION AND PROCEDURAL RULINGS

### **2006-0185. State v. Siler.**

Ashland App. No. 02 COA 028, 164 Ohio App.3d 680, 2005-Ohio-6591. This cause came on for further consideration upon appellant's motion for stay of mandate. Upon consideration thereof,

It is ordered by the court that the motion is denied as moot.

## DISCIPLINARY CASES

### **2006-2309. Cincinnati Bar Assn. v. Heisler.**

On May 30, 2007, this court suspended respondent, D. Daniel Heisler, Attorney Registration No. 0029005, last known business address in Cincinnati, Ohio, for a period of six months, stayed the suspension, and ordered him to pay board costs in the amount of \$1,840.48, on or before August 28, 2007. On October 10, 2007, this court issued an order to show cause why he should not be held in contempt for failing to comply with the court's order. Respondent did not file a response to the show cause order, and board costs and accrued interest remain unpaid. Upon consideration thereof,

It is ordered that respondent is found in contempt for failure to comply with the court's May 30, 2007, order. It is further ordered that respondent is suspended until board costs and accrued interest are paid in full.

It is further ordered that the respondent immediately cease and desist from the practice of law in any form and is hereby 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 hereby forbidden to counsel or advise or prepare legal instruments for others or in any manner perform such services.

It is further ordered that the respondent is hereby 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 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 the respondent pursuant to Gov.Bar R. VIII(7)(F), the 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 complies with this and all other orders of the court; and (4) 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 respondent's 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 that 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 the Disciplinary Counsel of the Supreme Court an affidavit showing compliance with this order, showing proof of service of notices required herein, and setting forth the address where the respondent 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 respondent shall keep the Clerk, the Cincinnati Bar Association, and the 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.

**2007-1570. Butler Cty. Bar Assn. v. Portman.**

The Board of Commissioners on Grievances and Discipline filed its final report in this court on August 21, 2007, recommending that pursuant to Gov.Bar R. V(6)(B)(1) the respondent, Clifford Scott Portman, Attorney Registration No. 0073390, last known business address in Hamilton, Ohio, be permanently disbarred. On October 17, 2007, respondent filed a motion to supplement the record, and the court granted that motion. Respondent filed objections to the final report, and this cause was considered by the court. On consideration thereof,

It is ordered that this matter is remanded to the Board of Commissioners on Grievances and Discipline for consideration of the claims in mitigation as raised in respondent's supplemental materials filed with the court on October 17, 2007, including, if appropriate, a mental health evaluation of respondent.

It is further ordered and decreed that respondent is suspended from the practice of law for an interim period, effective as of the date of this entry and

continuing until the court acts upon the further recommendation of the Board. Proceedings in this court are stayed until further order of this court. Costs to abide final determination of the case.

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 effective immediately, respondent is forbidden to counsel or advise or prepare legal instruments for others or in any manner perform legal services for others.

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 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 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 the respondent pursuant to Gov.Bar R. VIII(7)(F), the respondent shall reimburse that amount to the Clients' Security Fund within 90 days of the notice of such award.

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 respondent's 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 that are unearned or not paid, and account for any trust money or property in respondent's possession or control;
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 such 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 the Disciplinary Counsel of the Supreme Court an affidavit showing compliance with this order, showing proof of service of 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 respondent shall keep the Clerk, the Butler County Bar Association, and the Disciplinary Counsel advised of any change of address where respondent may receive communications.

It is further ordered that on or before 30 days from the date of this order, respondent shall surrender the attorney registration card for the 2007/2009 attorney registration biennium.

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.

**2007-1918. Disciplinary Counsel v. McShane.**

This cause is pending before the court upon the filing of a report by the Board of Commissioners on Grievances and Discipline. Upon consideration of respondent's motion for remand to the Board of Commissioners on Grievances and Discipline,

It is ordered by the court that the motion is denied. It is further ordered that the stay of the filing of objections imposed on November 26, 2007, is lifted.

Objections to the findings of fact and recommendation of the board, together with a brief in support thereof, shall be due on or before 20 days from the date of this order. An answer brief may be filed on or before 15 days after any objections and brief in support of objections have been filed. Pursuant to Sup.Ct.Prac.R. XIV(3)(B)(2), no further extension of time may be requested by respondent.

### **MISCELLANEOUS DISMISSALS**

**2007-1910. Hylant Group, Inc. v. Locker.**

Cuyahoga App. No. 90289. This cause is pending before the court as a discretionary appeal. Upon consideration of appellants' application for dismissal,

It is ordered by the court that the application for dismissal is granted. Accordingly, this cause is dismissed.

### **MEDIATION REFERRALS**

The following case has been referred to mediation pursuant to S.Ct.Prac.R. XIV(6):

**2007-2281. HealthSouth Corp. v. Levin.**

Board of Tax Appeals, No. 2005-A-1386.