

IN THE TWELFTH DISTRICT COURT OF APPEALS
BROWN COUNTY, OHIO

STATE OF OHIO, ex rel
DENNIS J. VARNAU,

CASE NO. CA2009-02-10

Relator/Petitioner,

FILED
COURT OF APPEALS

RELATOR'S RENEWED
OBJECTIONS AND MOTIONS
TO STRIKE INADMISSIBLE
AFFIDAVITS/EVIDENCE

-vs-

MAR 09 2011

DWAYNE WENNINGER,

Respondent/Defendant

TINA M. MERANDA

BROWN COUNTY CLERK OF COURTS

Now comes the Relator, Dennis Varnau, by and through counsel, and hereby renews his previously filed Motions/Objections to the Summary Judgment Evidence presented by Respondent Wenninger.

As grounds for this renewal, counsel states that this Counsel filed on:

1) August 21, 2009, Relator's Objection to and Motion to Strike Respondent's Material in Support of Partial Reply to Petitioner's Motion for Summary Judgment and Relator's Reply to Respondent's Memorandum in Opposition to Relator's Motion for Summary Judgment, Pgs. 1-9;

2) September 16, 2009, Relator's Corrections to Objection and Motion to Strike;

3) October 14, 2009, Relator's Reply to Respondent's Memorandum in Opposition to Relator's Motion for Summary Judgment, Pg. 1;

4) June 30, 2010, Relator's Reply to Respondent's Memorandum in Response to Relator's Supplemental Authority, Pg. 3;

and therein, counsel objected to and/or moved to strike evidentiary material submitted by Respondent, that was inadmissible for purposes of Civil Rule 56, or otherwise. On January 6, 2011, the Court overruled as "moot" that request, indicating it did not consider any of the objectionable material.

The Ohio Supreme Court has reversed the Decision of this Court and remanded for consideration of the merits. Unless the Court grants Relator's Motion for Summary Judgment, and denies Respondents', again without consideration of that objectionable material, the objections/motions to strike it all is no longer moot.

Therefore, pursuant to Ohio R. Civ. P. 10(C), each of those aforementioned pleadings and objections are renewed, in full, to Respondent's affidavits and supporting material previously opposed, and same are incorporated herein by reference.


THOMAS G. EAGLE CO., L.P.A.



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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served upon Gary A. Rosenhoffer, 302 E. Main St., Batavia, OH 45103, and Patrick L. Gregory, 717 W. Plane, Bethel, OH 45106, Attorneys for Respondent, by ordinary U.S. mail this 2nd day of March 2011.



Thomas G. Eagle (#0034492)