

COPY

IN THE SUPREME COURT

STATE OF GEORGIA

JUL 7 2010

DISCIPLINARY PROCEEDINGS

IN THE MATTER OF: : SUPREME COURT DOCKET
: NO. S10Y1067
DENISE F. HEMMANN, :
Georgia Bar No. 345025, : STATE DISCIPLINARY BOARD
: DOCKET NO. 5674
Respondent. :

**MOTION TO VACATE ORDER AND
REJECTION OF NOTICE OF DISCIPLINE**

COMES NOW the DENISE F. HEMMANN, and shows her Motion to Vacate Order and Rejection of Notice of Discipline as follows:

1.

Respondent DENISE F. HEMMANN retained the undersigned attorney to represent her in the above matter and filed her Response to the Notice of Investigation in this matter. The Investigative Panel concluded its investigation and, after finding probable cause, recommended a public reprimand. (See attached Exhibit "A".)

2.

Respondent accepted the recommendation of the Investigative Panel and when served with the Notice of Discipline on April 8, 2010, read it to be a recommendation to this Court for the public reprimand consistent with the Investigative Panel's findings. (See attached Exhibit "B".) Since Respondent did not object to the recommended public

reprimand, it was not necessary for her to file a rejection as she anticipated this Court would enter an order for the recommended public reprimand. The preamble of the Notice of Investigation reads as follows:

The Investigative Panel of the State Disciplinary Board directed the Office of the General Counsel, State Bar of Georgia ("State Bar") to issue a **Notice of Discipline for a Public Reprimand** against Denise F. Hemmann ("Respondent") pursuant to Bar Rule 4-208-1. . . (Emphasis added)

3.

Respondent shows the order of disbarment entered by this Court on July 5, 2010 should be vacated and set aside as it appears to be based upon a drafting error in the Notice of Discipline at Paragraph 5 which makes reference to the procedure to be followed by the Investigative Panel in matters where disbarment is recommended, such not being the case in the instant matter.

4.

To the extent the Notice of Discipline in this matter recommends disbarment (which Respondent shows it does not), Respondent herewith objects to and rejects any recommendation in the Notice that disbarment is appropriate.

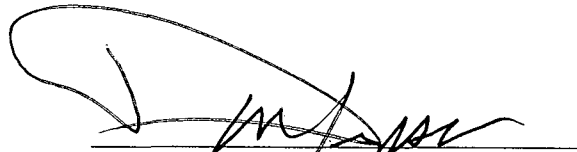
WHEREFORE, Respondent prays as follows:

- a) That this Motion to Vacate and Rejection of Notice of Discipline be allowed filed and be served as by law provided;
- b) That the Court vacate the order entered July 5, 2010;

- c) That the Court enter an order for a Public Reprimand as recommended in the Notice of Investigation; and
- d) For such other and further relief as the Court may deem just and proper.

This 7th day of July, 2010.

Respectfully submitted,



DAVID S. LIPSCOMB
Georgia Bar No. 453650
Attorney for Respondent
DENISE F. HEMMANN

Suite 304
242 Culver Street
Lawrenceville, GA 30046-4806
(770) 995-2515

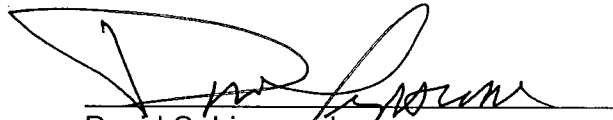
CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing **MOTION TO VACATE ORDER AND REJECTION OF NOTICE OF DISCIPLINE** on the State Bar of Georgia by hand delivering a copy to:

Kellyn O. McGee, Esq.
Assistant General Counsel
State Bar of Georgia
Suite 100
104 Marietta Street, N.W.
Atlanta, GA 30303

and via facsimile to 404.527.8744.

This 7th day of July, 2010.



David S. Lipscomb
Georgia Bar No. 453650
Attorney for Respondent

Suite 304
242 Culver Street
Lawrenceville, GA 30046-4806
(770) 995-2515

COPY

STATE BAR OF GEORGIA
OFFICE OF THE GENERAL COUNSEL

WILLIAM P. SMITH, III
General Counsel
Bar Counsel
ROBERT E. McCORMACK
Deputy General Counsel
JOHN J. SHIPTENKO
Assistant General Counsel



Disciplinary Counsel
PAULA J. FREDERICK
Deputy General Counsel
JENNY K. MITTELMAN
JONATHAN HEWETT
Sr. Assistant General Counsel

KELLYN O. McGEE
REBECCA A. HALL
A. M. CHRISTINA PETRIG
Assistant General Counsel
CARMEN ROJAS RAFTER
Grievance Counsel

August 21, 2009

David S. Lipscomb
242 Culver Street
Suite 304
Lawrenceville, GA 30045

Re: *In the Matter of Denise F. Hemmann*
State Disciplinary Board Number 5674

Dear Mr. Lipscomb:

The Investigative Panel found probable cause in the above-referenced case and directed this office to file a Notice of Discipline for a Public Reprimand. Should you have questions or if you want to discuss this case, please contact me at the telephone number below by September 18, 2009.

Sincerely,


Kellyn O. McGee
Assistant General Counsel

EXHIBIT "A"

COPY

IN THE SUPREME COURT
STATE OF GEORGIA

DISCIPLINARY PROCEEDINGS

IN THE MATTER OF:)	SUPREME COURT DOCKET
)	NUMBER _____
DENISE F. HEMMANN,)	
BAR NUMBER 345025,)	STATE DISCIPLINARY BOARD
)	DOCKET NUMBER 5674
RESPONDENT.)	

NOTICE OF DISCIPLINE

The Investigative Panel of the State Disciplinary Board directed the Office of the General Counsel, State Bar of Georgia ("State Bar") to issue a Notice of Discipline for a Public Reprimand against Denise F. Hemmann ("Respondent") pursuant to Bar Rule 4-208.1. The Investigative Panel shows the following in support of this Notice:

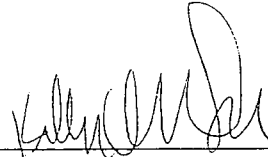
1. Respondent has been a member of the State Bar of Georgia since 1981. She is subject to the disciplinary jurisdiction of the Supreme Court of Georgia and the State Disciplinary Board of the State Bar of Georgia.
2. After full investigation, the Investigative Panel of the State Disciplinary Board found probable cause to believe that Respondent violated Rules 1.3 and 1.4 of the Georgia Rules of Professional Conduct.
3. The following facts support the Panel's finding of violations:

EXHIBIT "B"

- (a) JoAnne Woodall retained Respondent to defend her in a petition to revoke her visitation rights with her grandchild.
 - (b) Although Respondent answered the petition on Ms. Woodall's behalf, she failed to respond to discovery requests or to the plaintiff's a Motion to Compel Discovery.
 - (c) The court granted the plaintiff's motion, struck Ms. Woodall's answer, and revoked her visitation rights.
 - (d) The court later denied Respondent's Motion for New Trial and her Motion to Reconsider or Set Aside.
4. The Investigative Panel has determined that the appropriate disciplinary sanction to be imposed upon Respondent is a Public Reprimand.
5. Bar Rule 4-208.2(a) (4) requires that the Investigative Panel state the reasons it recommends that Respondent be disbarred. In aggravation of the level of discipline to be imposed in this case, the Investigative Panel considered the following:
- a. Respondent has had two Formal Letters of Admonition and an Investigative Panel Reprimand since 1997.
6. Bar Rule 4-208.3, Rejection of Notice of Discipline, is attached as Exhibit A and incorporated by this reference.
7. As required by Bar Rule 4-208.2(a) (6), the Memorandum of Grievance filed in this matter is attached as Exhibit B and incorporated by this reference.

WHEREFORE, the State Bar of Georgia prays that this Court enter an Order disbarring Respondent.

This 16th day of March 2010.

A handwritten signature in black ink, appearing to read 'Kellyn O. McGee', written over a horizontal line.

Kellyn O. McGee
Assistant General Counsel
State Bar Number 491555

STATE BAR OF GEORGIA
104 Marietta Street
Suite 100
Atlanta, Georgia 30303

Rule 4-208.3. Rejection of Notice of Discipline.

(a) In order to reject The Notice of Discipline the respondent or the Office of General Counsel must file a Notice of Rejection of the Notice of Discipline with the Clerk of the Supreme Court of Georgia within thirty (30) days following service of the Notice of Discipline. In the event service was accomplished by certified mail, the respondent shall have thirty-three (33) days from the date the Notice of Discipline was mailed to file the Notice of Rejection.

(b) Any Notice of Rejection by the respondent shall be served upon the Office of the General Counsel of the State Bar of Georgia. Any Notice of Rejection by the Office of the General Counsel of the State Bar of Georgia shall be served upon the respondent. No rejection by the Respondent shall be considered valid unless the Respondent files a written response to the pending grievance at or before the filing of the rejection. A copy of such written response must also be filed with the Clerk of the Supreme Court at the time of filing the Notice of Rejection.

(c) The timely filing of a Notice of Rejection shall constitute an election for the Supreme Court to appoint a Special Master and the matter shall thereafter proceed pursuant to Rules 4-209 through 4-225.

STATE BAR OF GEORGIA	
EXHIBIT #	A
CASE #	EG74



STATE BAR OF GEORGIA GRIEVANCE CONFIDENTIAL

RECEIVED
AUG 5 2008

Please type or print legibly.

YOUR NAME: JoAnne Woodall

MAILING ADDRESS: 423 Heard St. Flowilla, GA. 30216
Street or P. O. Box City State Zip

YOUR PHONE NUMBERS: (W) 770-775-1762 (H) _____

NAME OF THE ATTORNEY: Denise F. Hermann
Fill out a separate form for each attorney. Do not list law firms.

ADDRESS OF THE ATTORNEY: 250 McDonough Rd. (P.O. Box 500) Jackson, GA 30223
mailing address

DATE OF FIRST CONTACT WITH ATTORNEY: _____ DATE OF LAST CONTACT WITH ATTORNEY: _____

DOES THIS ATTORNEY CURRENTLY REPRESENT YOU? _____

STATE WHAT THE ATTORNEY HAS DONE OR HAS NOT DONE THAT CAUSES YOU TO SUBMIT THIS REPORT.

My attorney said she had done everything right in this case and that the judge signed a order ruling in this case. What I want you to look into is why I never got to get my case heard in a court. I did everything I was told to do. I took Parent classes filled out a question sheet for the other lawyer. My attorney still has not mailed a copy of the order I went and got it myself. My daughter read the order to a lawyer at your office and he said it states I failed to do all paper work. But I did all the lawyer asked of me. I spent 7000.00 I feel like for nothing. I want to have my case heard in a court room. I am so upset as to all this time & money and I didn't even get to hear my case heard. - on back ->

If more space is needed, please attach other pages. Please do not write on the back.

"I affirm that the information I have provided here is true to the best of my knowledge."

Return to: State Bar of Georgia
Office of the General Counsel
104 Marietta Street, NW
Suite 100
Atlanta, Georgia 30303

SIGNATURE: JoAnne Woodall
DATE: 8-2-08

OPTIONAL: PLEASE PROVIDE THE NAME AND PHONE NUMBER OF SOMEONE WE CAN CONTACT IF WE HAVE DIFFICULTY CONTACTING YOU:

NAME OF CONTACT PERSON: Diane Fincher - 404-827-2220 - 770-775-0233

PHONE NUMBERS OF CONTACT PERSON: (W) _____ (H) _____

IF YOU HAVE A DISABILITY AND PLEASE CONTACT THE ADA CO

STATE BAR OF GEORGIA
EXHIBIT # B
CASE # 5674

THE GRIEVANCE PROCESS,
27-8720 OR (800) 334-6865.

I would like to know what I can do. I have spent all my money, and I know I will need another lawyer. But can I get back some of my money my attorney said. They knew the judge that's why I didn't get to have my case heard. I miss my granddaughter all I wanted was to see her since my son's death. please let me know what I can do.

Thanks
JW.

COURT/COUNTY COURT DOCKET SEARCH

8/5/2008 - 9:40 A.M.

PARTY NAME (F7)	CASE NUMBER (F8)	ASSOCIATED PARTY (F9)
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CASE OVERVIEW

Case Number: SUV2007000160 Active:

Judge: Filing Date: 2/5/2007

Minute Book: Filing Time:

Minute Page: Closed Date:

Microfilm Roll: Microfilm Frame:

DR16 OTHER DOMESTIC CONTEMPT

Remarks: PETITION FOR CONTEMPT AND REVOCATION OF GRANDPARENT VISITATION RIGHTS

Parties (F2) > Associated Parties (F3) > Offenses (F10) > Proceedings (F12) >

Display 10 record/s per page

44 Hit(s) Found

1 <

Select	Code	Description	Filing Date	Party Name	Offense	Comments
>	PET		02/05/07			PETITION FOR CONTEMPT AND REVOCATION OF GRANDPARENT VISITATION RIGHTS
>	SO		02/05/07			STANDING ORDER
>	SVC		02/21/07			ENTRY OF SERVICE
>	APL		03/05/07			APPLICATION FOR LEAVE OF ABSENCE / MCGINNIS / CERT OF SERVICE / SEE NOTICE FOR DATES
>	ANS		03/19/07			DEF'S DEFENSES AND ANSWER TO PETITION FOR CONTEMPT AND REVOCATION OF GRANDPARENT VISITATION RIGHTS / HEMMANN / CERT OF SERVICE
>	AME		03/26/07			PLAINTIFFS AMENDMENT PETITION FOR CONTEMPT AND REVOCATION OF GRANDPARENT VISITATION RIGHTS / CERTIFICATE OF SERVICE
>	MOT		05/23/07			MOTION TO STRIKE DEFENDANTS DEFENSES AND ANSWER TO PETITION FOR CONTEMPT AND REVOCATION OF GRANDPARENT VISITATION RIGHTS AND CITATIONS OF AUTHORITY IN SUPPORT THEREOF/ CERTIFICATE OF SERVICE
>	APL		06/14/07			APPLICATION FOR LEAVE OF ABSENCE / MCGINNIS
>	APL		06/14/07			APPLICATION FOR LEAVE OF ABSENCE / CERT OF SERVICE - MCGINNIS SEE NOTICE FOR DATES
						DEFENDANTS FIRST AMENDMENT TO DEFENSIVE

>	AME	06/22/07	PLEADINGS PREVIOUSLY FILED / HEMMANN / VERIFICATION / CERTIFICATE OF SERVICE
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44 Hit(s) Found

1 <



Case Management Web Access Module Version 3.8.6P
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COMPEL COUNTY COURT DOMESTIC SEARCH

8/5/2008 - 9:41 A.M.

PARTY NAME (F7) CASE NUMBER (F8) ASSOCIATED PARTY (F9)

CASE OVERVIEW

Case Number: SUV2007000160

Active:

Judge:

Filing Date: 2/5/2007

Minute Book:

Filing Time:

Minute Page:

Closed Date:

Microfilm Roll:

Microfilm Frame:

DR16 OTHER DOMESTIC CONTEMPT

Remarks: PETITON FOR CONTEMPT AND REVOCATION OF GRANDPARENT VISITATION RIGHTS

Parties (F2) > Associated Parties (F3) > Offenses (F10) > Proceedings (F12) >

NEW SEARCH GO BACK (F1) SEARCH HOME (F6)

Display 10 record/s per page

44 Hit(s) Found

3 <

Select	Code	Description	Filing Date	Party Name	Offense	Comments
<input type="checkbox"/>	STA		10/15/07			STATEMENT OF COUNSEL / MCGINNIS
<input type="checkbox"/>	BRI		10/15/07			PLAINTIFFS BRIEF IN SUPPORT OF HER MOTION TO COMPEL / CERT OF SVC / MCGINNIS
<input type="checkbox"/>	FAX		11/08/07			NOTICE OF HEARING / CERT OF SERVICE - HEMMANN 11-15-2007 @ 9:00 AM
<input type="checkbox"/>	CAL		11/08/07			NOTICE OF HEARING / HEMMANN
<input type="checkbox"/>	FAX		11/14/07			FAX LETTER TO REMOVE FROM 11/15/2007 COURT CALENDAR / MCGINNIS
<input type="checkbox"/>	LET		11/15/07			LETTER TO REMOVE FROM 11/15/2007 COURT CALENDAR / HEMMANN
<input type="checkbox"/>	ORD		11/16/07			CONSENT ORDER / WL
<input type="checkbox"/>	CAL		12/04/07			
<input type="checkbox"/>	ORD		12/07/07			CONSENT ORDER WAIVING MEDIATION / WL
<input type="checkbox"/>	MOT		12/26/07			MOTION FOR CONTEMPT AND SANCTIONS

44 Hit(s) Found

3 <

CONWAY COUNTY COURT DOCKET SEARCH

8/5/2008 - 9:42 A.M.

PARTY NAME (F7)	CASE NUMBER (F8)	ASSOCIATED PARTY (F9)
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CASE OVERVIEW

Case Number: SUV2007000160 Active:

Judge: Filing Date: 2/5/2007

Minute Book: Filing Time:

Minute Page: Closed Date:

Microfilm Roll: Microfilm Frame:

DR16 OTHER DOMESTIC CONTEMPT

Remarks: PETITON FOR CONTEMPT AND REVOCATION OF GRANDPARENT VISITATION RIGHTS

Parties (F2) > Associated Parties (F3) > Offenses (F10) > Proceedings (F12) >

NEW SEARCH GO BACK SEARCH HOME

Display 10 record/s per page

44 Hit(s) Found

4 <

Select	Code	Description	Filing Date	Party Name	Offense	Comments
>	BRI		12/26/07			BRIEF IN SUPPORT OF MOTION FOR CONTEMPT AND SANCTIONS / CERT OF SERVICE
>	CON		01/10/08			CONFLICT LETTER / 1/17/2008 @ 9:00AM MCGINNIS
>	CON		01/15/08			CONFLICAT / HEMMANN / 01-17-2008 @ 9:00 A.M .
>	CON		01/16/08			CONFLICT LETTER / HEMMANN
>	RUC		01/22/08			RULE 5.2 CERTIFICATE / HEMMANN / CERT OF SERVICE
>	RES		01/22/08			DEF'S RESPONSE TO PLA'S MOTION FOR CONTEMPT AND SANCTIONS / HEMMANN / CERT OF SERVICE
>	MOT		02/29/08			PLAINTIFFS SUPPLEMENTAL MOTION FOR CONTEMPT AND SANCTIONS / CERTIFICATE OF SERVICE / MCGINNIS
>	AFF		02/29/08			AFFIDAVIT OF JAMES J MCGINNIS / CERT OF SERVICE
>	DSP		03/04/08			ORDER
>	MOT		04/02/08			MOTION FOR A NEW TRIAL / CERTIFICATE OF SERVICE

44 Hit(s) Found

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FILED IN OFFICE
CLERK OF
SUPERIOR/JUVENILE
COURT

IN THE SUPERIOR COURT OF COWETA COUNTY
STATE OF GEORGIA

2008 MAR -4 PM 4: 52

CINDY G. BROWN, CLERK
COWETA COUNTY, GA

PATRICIA THOMPSON GILBERT,)
)
Plaintiff,)
)
vs.)
)
JO ANNE WOODALL,)
)
Defendant.)

CIVIL ACTION FILE NUMBER
07-V-160

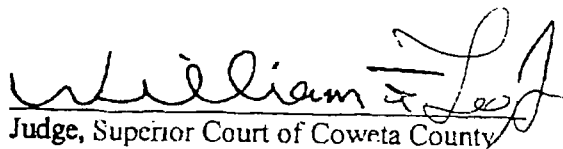
ORDER

The Court having considered the Motion for Contempt and Sanctions filed by the Plaintiff, and having considered the Defendant's Response to the Plaintiff's Motion for Contempt and Sanctions, and the Court having considered the Supplemental Motion for Contempt and Sanctions, it is hereby ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

The Plaintiff's Motion to Compel Discovery was granted on November 16, 2007. The Plaintiff had fifteen (15) days within which to provide full discovery responses. The Court finds, based upon the pleadings filed by the Defendant, that the Defendant did not respond to the discovery which was the subject of the Consent Order on the Motion to Compel.

Further, the Court finds that it was necessary for the Plaintiff to file a Motion for Contempt and Sanctions. Further, the Court finds that the Defendant has still not provided Plaintiff with the discovery responses that were served on July 12, 2007. For all of these reasons the Plaintiff's Motion for Contempt and Sanctions is GRANTED and the Defendant's Defenses and Answer to Petition for Contempt and Revocation of Grandparent Visitation Rights is hereby STRICKEN. The relief prayed for in the Plaintiff's Petition for Contempt and Revocation of Grandparent Visitation Rights is hereby GRANTED.

IT IS SO ORDERED THIS 7th DAY OF March, 2008.


Judge, Superior Court of Coweta County

IN THE SUPERIOR COURT OF COWETA COUNTY
STATE OF GEORGIA

FILED IN OFFICE
CLERK OF
SUPERIOR/JUVENILE
COURT

2008 APR 24 PM 12: 30

CINDY G. BROWN, CLERK
COWETA COUNTY, GA

PATRICIA THOMPSON GILBERT,)
)
 Plaintiff,)
)
 vs.)
)
 JO ANNE WOODALL,)
)
 Defendant.)

CIVIL ACTION FILE NUMBER
07-V-160

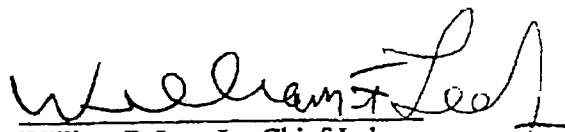
ORDER

This Court having considered the Defendant's Motion for New Trial as well as the Defendant's Motion to Reconsider and/or To Set Aside, and this Court having considered the Plaintiff's responses to both of Defendant's Motions and the entire record in this case, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

Most obviously, a trial was never held in this proceeding and therefore the Defendant's Motion for New Trial is an improper Motion and is DENIED. Further, the Defendant is not entitled to a hearing on her improper Motion for New Trial because there are no conceivable grounds on which her Motion can be granted. Additionally, the Defendant's Motion for New Trial and the Defendant's Motion to Reconsider and/or To Set Aside are both DENIED for, among other reasons, failing to set forth sufficient grounds pursuant to O.C.G.A. § 9-11-60(c) and O.C.G.A. § 9-11-60(d) to support either motion. Finally, neither of Defendant's Motions cite any legal authority in support of her position as required by Uniform Superior Court Rule 6.1 and therefore both Motions are improper and are DENIED for that reason as well.

IT IS SO ORDERED.

This 24th day of April, 2008.



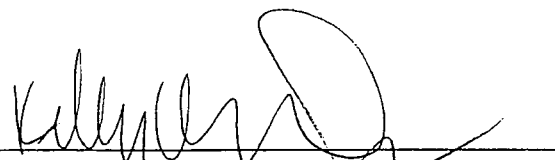
William F. Lee, Jr., Chief Judge
Superior Court of Coweta County
Coweta Judicial Circuit

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the *Notice of Discipline* upon the following individual by mailing a copy via United States First Class mail, in an envelope properly addressed with adequate postage to:

Ms. Denise F. Hemmann
c/o David S. Lipscomb
242 S. Culver Street
Suite 304
Lawrenceville, GA 30045-3

This 16th day of March, 2010.



Kellyn O. McGee
Assistant General Counsel
State Bar Number 491555

State Bar of Georgia
Office of the General Counsel
104 Marietta Street, N.W., Suite 100
Atlanta, Georgia 30303
(404) 527-8720