

Exhibit 12 to Refute ¶ 12
of
SLIP OPINION No. 2007-2007-OHIO
5588
Disciplinary Counsel v. Squire

for her to do so. On January 18, she received the CPO, held a hearing that day, and ruled that day.⁹⁷ There is nothing inappropriate about this timeline. Further, the record is clear and the evidence will show Lantz “pre-screened” several potential *ex parte* ECO motion scenarios before Respondent – all of which Respondent told her would be unsuccessful for insufficient evidence – before Lantz filed her actual motion with the same supporting evidence on January 28 after 12:00 p.m., when Respondent was unavailable.⁹⁸ Therefore, Lantz took this information to Judge Lias, who was the Duty Judge that week, and obtained her signature on it at 3:59 p.m. that day before Respondent ever had the opportunity to evaluate the motion herself.⁹⁹ The only inappropriate behavior in that matter was Lantz’s in taking a matter before a Duty Judge she knew the presiding judge would deem insufficient for obtaining an Order and failing to apprise the Duty Judge of that earlier opinion.

V. Respondent was not required to stay the proceedings following the affidavit of bias and prejudice.

Ohio R.C. § 2701.03(A) permits a party or a party’s counsel to file an affidavit of disqualification under this statute with the Clerk of the Ohio Supreme Court. Section (B) states the affidavit “shall be filed with the clerk of the supreme court not less than seven calendar days before the day on which the next hearing in the proceeding is scheduled and shall include [an enumerated list of substantive requirements].”

Section (C) prohibits the Clerk from accepting an affidavit that is untimely (*i.e.*,

⁹⁷ Exhibits F1, F4, and F5.

⁹⁸ Exhibit G2.

⁹⁹ Exhibit G4.

inside seven days of a hearing) or that fails the substantive requirements of Section (B).

A disqualifying interest of a judge is waived unless objection is made at the earliest available opportunity; and if known to the complaining party at or before the trial, and no objection is made in the trial court, it will be deemed to be waived: *Tari v. State*, 117 Ohio St. 481, 159 N.E. 594 (1927).

If the Clerk *does* accept the affidavit for filing, the judge is typically deprived of authority to preside in the proceeding until Chief Justice Moyer (or another justice he designates) rules on the affidavit. However, Section (D)(2) sets forth a few exceptions: Two apply here: Section (D)(2)(a) states a judge may go ahead with the next hearing if the affidavit was untimely filed but accepted for filing anyway. Moreover, Section (D)(2)(b) provides for the uninterrupted proceedings of Domestic Relations matters that involve temporary orders relating to spousal support and the support, maintenance, and allocation of parental rights and responsibilities for the care of children. Both exceptions applied here. Consequently, there is no clear and convincing evidence Respondent violated the Canons.

Count III – Fleming v. Fleming

In Count III, Relator accuses Respondent of violating the Codes in presiding over a divorce action, *Fleming v. Fleming*. Relator will attempt to demonstrate Respondent (1) failed to display an appropriately judicial temperament in the administration of the case ; (2) engaged in improper *ex parte* communication; and (3) was not forthcoming in her recusal entry. These claims fail.