

Attorney Grievance Commission of  
Maryland,

Petitioner,

vs.

Allen R. Dyer, Esq.

and

Susan B. Gray, Esq.

Respondents.

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**IN THE  
COURT OF APPEALS  
OF MARYLAND**

Misc. Docket AG No. 36

September Term, 2015

**RESPONDENTS' RECOMMENDATIONS  
AND  
STATEMENT OF COSTS**

**Allen Ray Dyer** and **Susan Baker Gray**, Respondents, *pro se*, exercise their rights, pursuant to MARYLAND RULE 19-728(b ) to make recommendations to the Court and submit a Statement of Costs, as follows:

**RESPONDENTS' RECOMMENDATIONS**

1. In light of the *Findings of Fact and Conclusions of Law* by Judge Silkworth, all charges against Respondents should be dismissed and all of Respondents costs, a copy of which is attached hereto as Exhibit 1 and incorporated herein, shall be paid by the Petitioner.
2. In light of the unrelenting efforts of the Respondents to engage in fully open proceedings before the Attorney Grievance Commission and the Commission's inability to provide such open process due to its interpretation of the Attorney

Grievance rules and procedures, Respondents' respectfully request the Court to order the Rules Committee to review the Attorney Grievance rules and procedures and propose amendments to the Attorney Grievance rules and procedures to provide for fully open attorney grievance proceedings at the request of any attorney or client and, thereby, bring Maryland attorney grievance proceeding into accordance with the FIRST AMENDMENT rulings in the cases referenced in Respondent Dyer's *Petition for Prohibition*, January 7, 2015, a copy of which is attached hereto as Exhibit 2 and incorporated herein.

WHEREFORE, for the above reasons, Respondents prays this Court to grant *Respondents' Recommendations* in order to do justice and to improve the practice of law in Maryland.

Nov. 2, 2016.

Respectfully submitted,

\_\_\_\_\_  
/s/  
Allen R. Dyer, *pro se*  
13340 Hunt Ridge  
Ellicott City, Maryland 21042  
410-531-3965  
aldyer@lawlab.com

\_\_\_\_\_  
/s/  
Susan B. Gray, *pro se*  
6510 Paper Place  
Highland, Maryland 20777  
240-426-1655  
Susan@CampSusan.com

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 2nd day of November, 2016, I electronically sent, via MDEC, a copy of the foregoing paper to: Lydia E. Lawless, Assistant Bar Counsel and Glenn M. Grossman, Bar Counsel; Attorney Grievance Commission of Maryland, 200 Harry S. Truman Parkway, Suite 300, Annapolis, MD 21401, counsel for Petitioner.

\_\_\_\_\_/s/\_\_\_\_\_  
Allen R. Dyer

**CERTIFICATE OF COMPLIANCE WITH RULE 1-322.1**

I HEREBY CERTIFY THAT this filing was prepared in compliance with Rule 1-322.1.

\_\_\_\_\_/s/\_\_\_\_\_  
Allen R. Dyer

ATTORNEY GRIEVANCE COMMISSION  
OF MARYLAND

\*

IN THE  
COURT OF APPEALS  
OF MARYLAND

\*

Petitioner

\*

Misc. Docket AG No. 36

vs

\*

September Term, 2015

ALLEN RAY DYER, et al

\*

Respondents

\*

**Exhibit 1**

**STATEMENT OF COSTS**

Dear Ms. Decker:

Below please find the cost for which Respondents desire to be reimbursed:

1. Cynthia Violette, Notary Public, 2/24/2016 deposition (Mickley)	137.30
2. Cynthia Violette, Notary Public, 2/26/2016 deposition (Erskine)	199.84
3. AccuScribes, Invoice date 3/21/2016	253.00
4. AccuScribes, Invoice date 3/24/2016	2,564.00
5. AccuScribes, Invoice date 6/1/2016	2,359.50
6. AccuScribes, Invoice date 6/15/2016	375.75
7. AccuScribes, Invoice date 6/22/2016	213.50
8. Reimbursement to Alan Schneider for cost of CD's (17 Court CD's @ \$35 each)	<u>595.00</u>
<b>TOTAL</b>	<b>\$6,697.89</b>

Thank you for your attention to this matter.

Very truly yours,  
/s/

Susan Baker Gray

Invoice for Services from Cynthia  
Violette Notary Public Howard County  
Maryland

Date	Service	Hours	Total
2/24/2016	AO	1	35
	TR	6.2	3.348
	ST		0
	WI	1.98	99
	DR	0.25	12.5
Total			<u>137.3</u>

Service Code	Rate
AO	\$35 @ Hour
TR	\$0.54 @ Mile
ST	\$5 @
WI	\$50 @ Hour
DR	\$50 @ Hour



Invoice for Services from Cynthia Violette Notary  
Public Howard County Maryland

Date	Service Code	Hours	Total
2/26/2016			
	AO	1	35.00
	TR	13.6	7.34
	ST	0	0.00
	WI	3.15	157.50
	DR	3.15	157.50
Total			<u>199.84</u>

Service Code	Rate
AO	\$35 @
TR	\$0.54 @ mile
ST	\$5 @
WI	\$50 @ Hour
DR	\$50 @ Hour

## Accounts

### Account History

Search Details

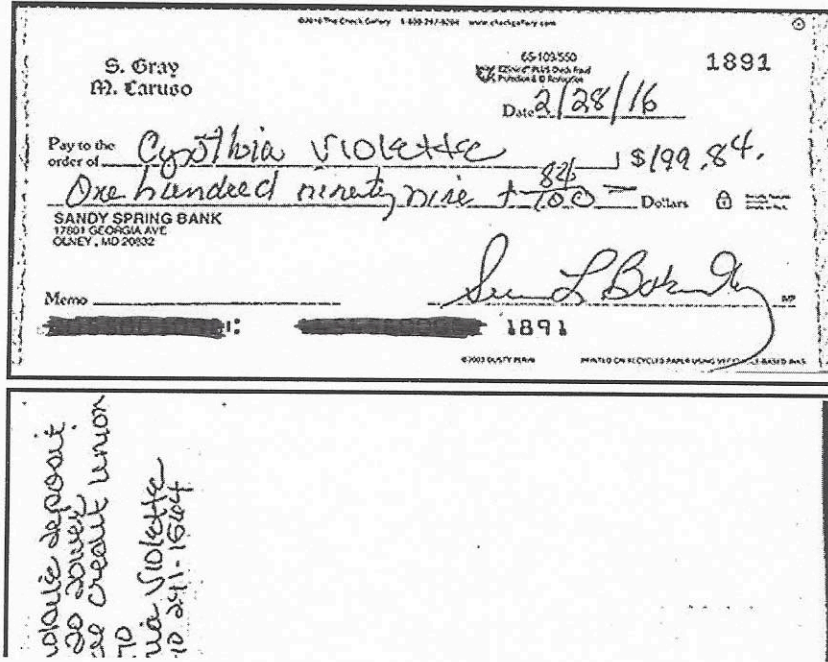
For Account: My Free Banking : \*0006 Account Name: Michael L Caruso Amount: from \$199.84 to \$199.84  
 Transaction Categories: [Unassigned]

Transactions from 02/01/2016 to 04/02/2016

Date	Ref/ Check	Description/ Memo	Category	Debit/ Withdrawal	Credit/ Deposit
03/01/2016	1891		Select One	\$199.84	

Item Image

No more history for the se







NEW ADDRESS!

2007 W. Rogers Avenue  
Baltimore, Maryland 21209

Fed ID #20-4939671

Phone: 410-466-2033 Fax: 410-494-7015

Law Offices of Susan B. Gray  
Susan B. Gray, Esquire  
6510 Paper Place  
Highland, MD 20777

Invoice No.	Invoice Date	Job No.
45421	4/21/2016	COPY
Case Date	Transcriptionist	
4/1/2016	KT	
Case Info:		
Attorney Grievance Comm v. Allen Dyer, et		
C-02-CV-16-000465		
Terms		
COD		

Description	# of Pages	Page Rate	Amount
One copy of the transcripts in the above captioned matter delivered to the requesting attorney - TOTAL PAGES	506	0.50	253.00
BREAKDOWN: 4/1/16 - 180 PGS 4/4/16 - 140 PGS 4/5/16 - 186 PGS TOTAL PAGES = 506  AA CO TRANSCRIPT ORDER #: AA-16-121			



American Association of  
Electronic  
Reporters and Transcribers

Member & Certified Transcribers

We accept:



www.accuscribes.com

Invoice No. : 45421

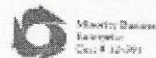
Date: 4/21/2016

Payments/Credits: \$0.00

Balance Due: \$253.00

Case Info: C-02-CV-16-000465

Attorney Grievance Comm v. Allen D...



From: **Kelly Taylor** Kelly@accuscribes.com  
 Subject: Invoice 45421 from Accuscribes Transcription Service, LLC -  
 Date: November 2, 2016 at 3:42 PM  
 To: susan@campsusan.com

KT

Accuscribes Transcription Service, LLC

**Invoice** *Due:04/21/2016*  
 45421

Amount Due: **\$0.00**

Please find invoice in attachment.



**AccuScribes**  
 TRANSCRIPTION SERVICE, LLC  
 2007 W. Rogers Avenue  
 Baltimore, Maryland 21209

NEW ADDRESS!  
 Fed ID #20-4939671

Phone: 410-466-2033 Fax: 410-494-7015

Law Offices of Susan B. Gray  
 Susan B. Gray, Esquire  
 6510 Paper Place  
 Highland, MD 20777

Invoice No.	Invoice Date	Job No.
45421	4/21/2016	COPY
Case Date	Transcriptionist	
4/1/2016	KT	
Case Info:		
Attorney Grievance Comm v. Allen Dyer, et C-02-CV-16-000465		
Terms		
COD		

Description	# of Pages	Page Rate	Amount
One copy of the transcripts in the above captioned matter delivered to the requesting attorney - <b>TOTAL PAGES</b>	506	0.50	253.00
BREAKDOWN: 4/1/16 - 180 PGS 4/4/16 - 140 PGS 4/5/16 - 186 PGS <b>TOTAL PAGES = 506</b>			
AA CO TRANSCRIPT ORDER #: AA-16-121			



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[www.accuscribes.com](http://www.accuscribes.com)

Invoice No. : 45421

Date: 4/21/2016

Payments/Credits: -\$253.00

Balance Due: \$0.00

Case Info: C-02-CV-16-000465

Attorney Grievance Comm v. Allen D...



State of Maryland  
Department of General Services  
Office of Information Technology



Enterprise Systems  
License # 10-591



The State of Maryland  
Department of General Services  
Office of Information Technology  
License # 10-591

From: Kelly Taylor Kelly@accuscribes.com  
 Subject: Invoice 45352 from Accuscribes Transcription Service, LLC -  
 Date: November 2, 2016 at 3:40 PM  
 To: susan@campususan.com

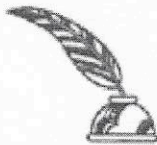
KT

Accuscribes Transcription Service, LLC

**Invoice** Due: 03/24/2016  
 45352

Amount Due: **\$0.00**

Please find invoice in attachment.



**AccuScribes**  
 TRANSCRIPTION SERVICE, LLC  
 2007 W. Rogers Avenue  
 Baltimore, Maryland 21209

NEW ADDRESS!

Fed ID #20-4939671

Phone: 410-466-2033 Fax: 410-494-7015

Law Offices of Susan B. Gray  
 Susan B. Gray, Esquire  
 6510 Paper Place  
 Highland, MD 20777

Invoice No.	Invoice Date	Job No.
45352	3/24/2016	6811
Case Date	Transcriptionist	
3/14/2016	DG	
Case Info:		
Attorney Grievance Comm v. Allen Dyer, et		
C-02-CV-16-000465		
Terms		
COD		

Description	# of Pages	Page Rate	Amount
Original transcript in the above captioned matter heard before Judge Silkworth was produced within one week of the order - TOTAL PAGES	641	4.00	2,564.00
BREAKDOWN: 3/14/16 - 179 PGS 3/15/16 - 174 PGS 3/16/16 - 164 PGS 3/17/16 - 124 PGS TOTAL PAGES = 641			
AA CO TRANSCRIPT ORDER #: AA-16-098			
\$896.00 REFUND ISSUED TO MASTERCARD ON 3/25/16			



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[www.accuscribes.com](http://www.accuscribes.com)

Invoice No. : 45352

Date: 3/24/2016

Payments/Credits: -\$2,564.00

Balance Due: \$0.00

Case Info: C-02-CV-16-000465

Attorney Grievance Comm v. Allen D...



National Association of  
Broadcasters  
1900 M Street, N.W.  
Washington, D.C. 20036



National Arbitration and  
Mediation Center  
1000 17th Street, N.W.  
Washington, D.C. 20036



The National Association of  
Broadcasters  
1900 M Street, N.W.  
Washington, D.C. 20036

From: Kelly Taylor Kelly@accuscribes.com  
 Subject: Invoice 45515 from Accuscribes Transcription Service, LLC -  
 Date: November 2, 2016 at 3:44 PM  
 To: susan@campususan.com

KT

Accuscribes Transcription Service, LLC

**Invoice** Due:06/01/2016  
 45515

Amount Due: **\$0.00**

Please find invoice in attachment



**AccuScribes**  
 TRANSCRIPTION SERVICE, LLC  
 2007 W. Rogers Avenue  
 Baltimore, Maryland 21209

NEW ADDRESS!  
 Fed ID #20-4939671

Phone: 410-466-2033 Fax: 410-494-7015

Law Offices of Susan B. Gray  
 Susan B. Gray, Esquire  
 6510 Paper Place  
 Highland, MD 20777

Invoice No.	Invoice Date	Job No.
45515	6/1/2016	6991
Case Date	Transcriptionist	
5/9/2016	KT	
Case Info:		
Attorney Grievance Comm v. Allen Dyer, et		
C-02-CV-16-000465		
Terms		
COD		

Description	# of Pages	Page Rate	Amount
Original transcripts in the above captioned matter heard before Judge Silkworth were produced within 10 days of the order - TOTAL PAGES	726	3.25	2,359.50
BREAKDOWN: 5/9/16 - 193 PGS 5/10/16 - 181 PGS 5/11/16 - 173 PGS 5/13/16 - 179 PGS  TOTAL PAGES: 726  AA CO TRANSCRIPT ORDER #: AA-16-189			

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**Invoice No. : 45515**

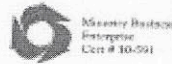
**Date: 6/1/2016**

**Payments/Credits: -\$2,359.50**

**Balance Due: \$0.00**

**Case Info: C-02-CV-16-000465**

**Attorney Grievance Comm v. Allen D...**



From: **Kelly Taylor** Kelly@accuscribes.com  
 Subject: Invoice 45553 from Accuscribes Transcription Service, LLC -  
 Date: November 2, 2016 at 3:45 PM  
 To: susan@campususan.com



**Accuscribes Transcription Service, LLC**

---

**Invoice** *Due:06/15/2016*  
 45553

Amount Due: **\$0.00**

please find invoice in attachment



**AccuScribes**  
 TRANSCRIPTION SERVICE, LLC  
 2007 W. Rogers Avenue  
 Baltimore, Maryland 21209

NEW ADDRESS!  
 Fed ID #20-4939671

Phone: 410-466-2033 Fax: 410-494-7015

Law Offices of Susan B. Gray  
 Susan B. Gray, Esquire  
 6510 Paper Place  
 Highland, MD 20777

<b>Invoice No.</b>	<b>Invoice Date</b>	<b>Job No.</b>
45553	6/15/2016	6991
<b>Case Date</b>	<b>Transcriptionist</b>	
3/9/2016	CG	
<b>Case Info:</b>		
Attorney Grievance Comm v. Allen Dyer, et		
C-02-CV-16-000465		
<b>Terms</b>		
COD		

Description	# of Pages	Page Rate	Amount
Original transcript of the hearing dated 3/9/16 before Judge Silkworth was produced within 10 days of the order	77	3.25	250.25
Reprint transcripts in the above captioned matter before Judge Silkworth were produced within 10 days of the order - TOTAL PAGES	251	0.50	125.50
Breakdown: 5/5/16 - 94 pgs 5/6/16 - 157 pgs TOTAL REPRINT PAGES = 251			
AA CO TRANSCRIPT ORDER #: AA-16-190			



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[www.accuscribes.com](http://www.accuscribes.com)

Invoice No. : 45553

Date: 6/15/2016

Payments/Credits: -\$375.75

Balance Due: \$0.00

Case Info: C-02-CV-16-000465

Attorney Grievance Comm v. Allen D...



American Arbitration  
Association  
100 North Zeeb Road  
Schaumburg, IL 60196  
Tel: 815/399-2000



American Arbitration  
Association  
100 North Zeeb Road  
Schaumburg, IL 60196  
Tel: 815/399-2000

The National Academy  
of Arbitrators  
2015  
100 North Zeeb Road  
Schaumburg, IL 60196  
Tel: 815/399-2000

From: Kelly Taylor Kelly@accuscribes.com  
 Subject: Invoice 45574 from Accuscribes Transcription Service, LLC -  
 Date: November 2, 2016 at 3:46 PM  
 To: susan@campususan.com

KT

Accuscribes Transcription Service, LLC

**Invoice** Due: 06/22/2016  
 45574

Amount Due: **\$0.00**

please find invoice in attachment



**AccuScribes**  
 TRANSCRIPTION SERVICE, LLC  
 2007 W. Rogers Avenue  
 Baltimore, Maryland 21209

NEW ADDRESS!

Fed ID #20-4939671

Phone: 410-466-2033 Fax: 410-494-7015

Law Offices of Susan B. Gray  
 Susan B. Gray, Esquire  
 6510 Paper Place  
 Highland, MD 20777

Invoice No.	Invoice Date	Job No.
45574	6/22/2016	COPY
Case Date	Transcriptionist	
5/19/2016	KT	
Case Info:		
Attorney Grievance Comm v. Allen Dyer, et		
C-02-CV-16-000465		
Terms		
COD		

Description	# of Pages	Page Rate	Amount
One copy delivered electronically in PDF format to the requesting party - TOTAL PAGES	427	0.50	213.50
BREAKDOWN: 5/19/16 - 134 PGS 5/20/16 - 138 PGS 5/24/16 - 155 PGS TOTAL PAGES = 427			
AA CO TRANSCRIPT ORDER #: AA-16-227			



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We accept:



[www.accuscribes.com](http://www.accuscribes.com)

Invoice No. : 45574

Date: 6/22/2016

Payments/Credits: -\$213.50

Balance Due: \$0.00

Case Info: C-02-CV-16-000465

Attorney Grievance Comm v. Allen D...





6) 03/17/16; P/U by Mr. Schneider	on 3/17/16 @ 4:45 pm	\$35.00
7) 04/01/16; P/U by Jane Gray	on 04/01/16 @ 5:00 pm	\$35.00
<b>BALANCE OWED</b>		<b>(Page 1 of 4)</b>
		<b>\$0.00</b>
<b>Please note: Check or Money Order should be made payable to: LAW LIBRARY FUND. WE DO NOT ACCEPT CREDIT CARDS.</b>		

Circuit Court for Anne Arundel County  
Court Reporters Office  
P.O. Box 2395  
Annapolis, MD 21404-2395  
Telephone: 410-222-1457

**BILL TO:**

**DATE**                      **INVOICE #**

Alan J. Schneider, Esquire  
Howard County Citizens Association  
12598 Clarksville Pike  
Clarksville, MD 21029  
Phone: 202-489-4831

03/14/16                      IND - AA-16-004

## INVOICE

DESCRIPTION	AMOUNT
<i>Case Name</i> Judge Attorney Grievance Commission of Maryland      Ronald A. Silkworth vs. Allen Dyer, et al. Case Number: C-02-CV-16-000465	
Balance Carried Forward	\$0.00
** 04/04/16, Received Check #3047 for daily CDs      from Alan J. Schneider	-\$70.00
8) Remake of 6 Audio CDs (wrong year on labels) P/U by Mr. Schneider                      on 04/04/16 @ 4:45	\$0.00
9) 04/04/16; P/U by Mr. Schneider                      on 04/04/16 @ 4:45	\$35.00
10) 04/05/16; P/U by Jane Gray & Susan Gray                      on 04/06/16 @ 3:32	\$35.00

<b>BALANCE OWED</b>	<b>(Page 2 of 4)</b>	<b>\$0.00</b>
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**Please note: Check or Money Order should be made payable to: LAW LIBRARY FUND.  
WE DO NOT ACCEPT CREDIT CARDS.**

Circuit Court for Anne Arundel County  
 Court Reporters Office  
 P.O. Box 2395  
 Annapolis, MD 21404-2395  
 Telephone: 410-222-1457

**BILL TO:**

**DATE                      INVOICE #**

Alan J. Schneider, Esquire  
 Howard County Citizens Association  
 12598 Clarksville Pike  
 Clarksville, MD 21029  
 Phone: 202-489-4831

03/14/16                      IND - AA-16-004

**INVOICE**

DESCRIPTION		AMOUNT
<i>Case Name</i>	<i>Judge</i>	
Attorney Grievance Commission of Maryland vs. Allen Dyer, et al.	Ronald A. Silkworth	
Case Number: C-02-CV-16-000465		
	Balance Carried Forward	\$0.00
** 05/05/16, Received Check #3018 for daily CDs	from Alan J. Schneider	-\$175.00
11) 05/05/16; Hand Delivered to Susan Gray	on 05/05/16 @ 4:49	\$35.00
12) 05/06/16; P/U by Ms. Susan Gray	on 05/06/16 @ 4:35	\$35.00
13) 05/09/16; P/U by Mr. Dyer & Mr. Schneider	on 05/09/16 @ 4:52	\$35.00
14) 05/10/16; P/U by Mr. Dyer & Mr. Schneider	on 05/10/16 @ 4:49	\$35.00
15) 05/11/16; P/U by Mr. Dyer	on 05/11/16 @ 4:45	\$35.00

<b>BALANCE OWED</b>	<b>(Page 3 of 4)</b>	<b>\$0.00</b>
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Please note: Check or Money Order should be made payable to: LAW LIBRARY FUND.  
WE DO NOT ACCEPT CREDIT CARDS.

Circuit Court for Anne Arundel County  
Court Reporters Office  
P.O. Box 2395  
Annapolis, MD 21404-2395  
Telephone: 410-222-1457

**BILL TO:**

Alan J. Schneider, Esquire  
Howard County Citizens Association  
12598 Clarksville Pike  
Clarksville, MD 21029  
Phone: 202-489-4831

**DATE**

**INVOICE #**

03/14/16

IND - AA-16-004

## INVOICE

DESCRIPTION		AMOUNT
<i>Case Name</i>	<i>Judge</i>	
Attorney Grievance Commission of Maryland vs. Allen Dyer, et al.	Ronald A. Silkworth	
Case Number: C-02-CV-16-000465		
	Balance Carried Forward	\$0.00
** 05/11/16, Received Check #3019 for daily CDs	from Alan J. Schneider	-\$35.00
16) 05/13/16; P/U by Mr. Dyer	on 05/13/16 @ 4:46	\$35.00
** 05/13/16, Received Check #2993 for daily CDs	from Alan J. Schneider	-\$35.00
17) 05/19/16; P/U by Mr. Dyer	on 05/19/2016 @ 4:20 p.m.	\$35.00
18) 05/20/16; P/U by Mr. Dyer	on 05/20/2016 @ 5:05 p.m.	\$35.00
19) 05/24/16; P/U by Jane Gray	on 05/24/2016 @ 4:20 p.m.	\$35.00
** 06/01/16, Received Check #0135 for Balance Due	from Jane Gray (Thank you!)	-\$70.00
<b>BALANCE OWED</b>	<b>(Page 4 of 4)</b>	<b>\$0.00</b>

Please note: Check or Money Order should be made payable to: LAW LIBRARY FUND.  
WE DO NOT ACCEPT CREDIT CARDS.

JAN 07 2015

Bessie M. Decker  
Clerk Court of Appeals of Maryland

IN THE  
COURT OF APPEALS OF MARYLAND

\_\_\_\_\_  
SEPTEMBER TERM, 2014  
\_\_\_\_\_

Misc. No. \_\_\_\_\_

**ALLEN R. DYER,**

Petitioner,

v.

**ATTORNEY GRIEVANCE COMMISSION  
OF MARYLAND,**

Respondent.  
\_\_\_\_\_

**PETITION FOR WRIT OF PROHIBITION AND/OR MANDAMUS  
OR OTHER APPROPRIATE RELIEF**

Allen R. Dyer, *pro se*  
13340 Hunt Ridge  
Ellicott City, Maryland 21042  
410-531-3965  
aldyer@lawlab.com

Petitioner.



## TABLE OF AUTHORITIES

<b>CASES:</b>	<b>Page(s)</b>
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<i>Bridges v. California</i> 314 U.S. 252 (1941) .....	8
<i>City Council of L.A. v. Taxpayers for Vincent</i> 466 U.S. 789 (1984) .....	8
<i>Consolidated Edison</i> 447 U.S. at 530 (1980) .....	6
<i>Doe v. Supreme Ct. of Florida</i> 734 F.Supp. 981 (S.D. Fla. 1990) .....	5
<i>First Nat’l Bank of Boston v. Bellotti</i> 435 U.S. 765 (1978) .....	8
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<i>Landmark Communications v. Va.</i> 435 U.S. 829 (U.S. 1978) .....	8, 9
<i>Lewis v. NewsChannel 5 Network, L.P.</i> 238 S.W.3d 270 (Tenn. Ct. App. 2007) .....	6
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<i>Playboy Entertainment Group</i> 529 U.S. 803 (2000) .....	6
<i>Press, Inc. v. Verran</i> 569 S.W.2d 435 (1978) .....	7
<i>R.A.V. v. City of St. Paul</i> 505 U.S. 377 (1992) .....	6
<i>R.M. v. Supreme Court of N.J.</i> 185 N.J. 208 (N.J. 2005) .....	5, 7, 8
<i>Roth v. United States</i> 354 U.S. 476 (1957) .....	8
<i>Runkel v. Winemiller</i> 4 H. & McH. 429 (Gen. Ct. Oct. Term 1799) .....	3
<i>Shelton v. Tucker</i> 364 U.S. 479 (1960) .....	8
<i>Simon &amp; Schuster</i> 502 U.S. 105 (1991) .....	6
<i>Smith v. Daily Mail Publ'g Co.</i> 443 U.S. 97 (1979) .....	8
<i>Thompson v. M'Kim</i> 6 H. & J. 302 (1823) .....	3
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IN THE  
COURT OF APPEALS OF MARYLAND

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September Term, 2014

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MISC. NO. \_\_\_\_\_

ALLEN R. DYER,  
Petitioner,

v.

ATTORNEY GRIEVANCE COMMISSION  
OF MARYLAND,  
Respondent.

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**PETITION FOR WRIT OF PROHIBITION AND/OR MANDAMUS  
OR OTHER APPROPRIATE RELIEF**

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**STATEMENT OF THE CASE**

This is a case of first impression, arising from an action (BC Docket # 2014-1781) by the Attorney Grievance Commission of Maryland (“the Commission”) to conduct a secret investigation and, possibly, a secret adjudication of charges against Allen R. Dyer, Esq. (“the Petitioner”), a member in good standing, of the Maryland bar. Petitioner, *ab initio*, has openly and repeatedly exercised his FIRST and FOURTEENTH AMENDMENT rights and steadfastly refuses to participate in the ongoing secret Commission processes.

Appellant petitions the Court for a *writ of prohibition or mandamus* ordering the Commission to halt its process in this matter until the MARYLAND RULES, in particular MARYLAND RULE 16-723, have been revised to provide for an open process that is in compliance with the U.S. CONSTITUTION.

## **BASIS FOR THE COURT’S JURISDICTION**

The Court of Appeals has original jurisdiction over the Commission. *Att’y Griev. Comm’n v. Shaw*, 354 Md. 636, 646 (1999) (“[The Court of Appeals] has original and complete jurisdiction over attorney disciplinary proceedings”). Furthermore, even if the Court didn’t have original jurisdiction over the Commission, the Court, as discussed below, has long recognized the availability of the extraordinary writs “in aid of [the Court of Appeals] appellate jurisdiction”. *In re Petition for Writ of Prohibition*, 312 Md. 280, 297 (1988).

## **NATURE OF THE RELIEF SOUGHT**

Petitioner seeks a Writ of Prohibition or Mandamus from this Court precluding the Commission from secret proceedings in any matter involving Petitioner or any other person until the MARYLAND RULES governing the operations of the Commission have been amended to comply with the UNITED STATES CONSTITUTION.

## **PREROGATIVE OR POWER TO ISSUE EXTRAORDINARY WRITS**

In *In re Petition for Writ of Prohibition*, 312 Md. 280 (1988), the Court’s seminal opinion on prerogatory writs, the Court considered its authority to issue prerogatory or extraordinary writs such as writs of mandamus or prohibition. Although there is no express language authorizing the issuance of such writs by the Court as an aspect of its original jurisdiction in the MARYLAND CONSTITUTION, the power to do so as arises out of the Court’s appellate jurisdiction. As the Court explained:

The Maryland Constitution is silent as to any mandamus or prohibition power in this Court. The only general statutory provision dealing with mandamus jurisdiction is COURTS AND JUDICIAL PROCEEDINGS ARTICLE § 3-8B-01 and it relates only to the circuit courts. Nor is there any express grant of superintending power to this Court. Whether we have, as the highest court in this State, an inherent superintending or supervisory power over the courts below us in the judicial hierarchy, and whether any such power is implicit in Article IV, § 18 of the MARYLAND CONSTITUTION, are

questions we reserve for another day. We need not and do not address them today because we hold that under the circumstances of this case we have the power to issue a writ of mandamus or a writ of prohibition in aid of our appellate jurisdiction.

*In re Petition for Writ of Prohibition*, 312 Md. at 292-93 (citations omitted). Moreover, the Court stated that:

it is manifestly necessary, to the ends of justice, that there should be a power in special cases to suspend proceedings on the matter appealed from . . . .

*Id.* at 298. The Court then considered what circumstances would properly warrant issuing a writ in aid of its appellate jurisdiction:

[I]t appears that mandamus or prohibition may issue in aid of appellate jurisdiction even though no appellate proceeding is pending in the appellate court, at least where there is some potentiality of eventual appellate review by appeal or by certiorari. . . . If the writ is “necessary to enable . . . [the Court] to exercise appellate jurisdiction” it is in aid of that jurisdiction.

*Id.* at 302-03. Thus, the Court recognized that “by making possible the review of a potentially unreviewable question [writs such as mandamus and] prohibition aided the appellate process.” *Id.* at 299, 539 A.2d at 673 . These writs are used “to prevent disorder, from a failure of justice, where the law has established no specific remedy, and where in justice and good government there ought to be one.” *Id.* at 307 citing *Runkel v. Winemiller*, 4 H. & McH. 429, 449 (Gen. Ct. Oct. Term 1799). The power to issue prerogatory writs is “necessarily incident to this Court, to preserve the usefulness of its appellate jurisdiction. If it were otherwise, cases might arise in which the appeal would be but as a shadow, pending which the substance might be lost.” *In re Petition for Writ of Prohibition*, 312 Md. at 298, quoting *Thompson v. M’Kim*, 6 H. & J. 302, 333 (1823). Also, quoting freely from *Forster v. Hargadon*, 398 Md. 298 (2007).

## STATEMENT OF THE FACTS

### A. Proceedings by the Commission.

The Commission notified Petitioner on September 15, 2014 that it had docketed a

complaint (BC Docket No.: 2014-1781) against him and then “requested” a response with fifteen days. On September 30, 2014 Petitioner replied: “I decline to participate in any confidential Commission proceeding on FIRST AMENDMENT grounds” and attached a legal memorandum in support of Petitioner’s legal position.

Subsequently, the Commission and Petitioner exchanged letters on Oct. 3, 2014, Oct. 17, 2014, Oct. 29, 2014, Nov. 24, 2014, Dec. 4, 2014, Dec. 20, 2014 and Dec. 23, 2014. A copy of all letters exchanged and Petitioner’s attachments are attached hereto and incorporated herein.

**B. Petitioner’s Refusal to Participate in Secret Proceedings.**

From the beginning of the Commission’s process in this matter, Petitioner has refused to participate in the Commission’s process because previous behavior by the Commission and rulings by the Court of Special Appeals and the Court of Appeals place the Petitioner’s First Amendment rights subject to being forfeited due to a loss of standing before Maryland’s appellant courts should the Petitioner rely on a “factual” holding to prevent a court ruling that Petitioner waived his Constitutional rights. Accordingly, Petitioner presents full frontal conflict risking irreparable injury *ab initio*. See: Mar. 30, 1977 Letter to Paul Weinstein [Attached DYER-088]; *Dyer v. Bd. of Educ.*, 216 Md. App. 530, 542 (2014) (“Accordingly, we will not address the constitutional issues on appeal.”). *Writ of certiorari* denied, 2014 Md. LEXIS 460 (July 21, 2014).

The record before the Court does not give rise to a ruling on any factual question because the Petitioner will never surrender his FIRST AMENDMENT rights merely in order to avoid the loss of the privilege of practicing law in the State of Maryland. There simply is no question—on the record, Petitioner has made clear that protecting the freedom of speech guaranteed by the U.S. CONSTITUTION takes first priority. [Attached DYER-011, 087, 090, 093].

## Question Presented

**Does the U.S. CONSTITUTION (via AMEND. I & XIV) prohibit the Maryland Court of Appeals from issuing and enforcing a court confidentiality rule (i.e. MD Rule 16-723) that requires “[a]ll persons present at [an attorney grievance] peer review meeting [to] maintain the confidentiality of all speech, writing, and conduct made as part of the meeting” *ad infinitum*?**

In four of our sister states (Florida, New Hampshire, New Jersey and Louisiana) the courts have recently ruled confidential attorney grievance proceedings violate the United States First Amendment rights of hearing participants:

1990 Florida:	<i>Doe v. Supreme Ct. of Florida</i> , 734 F.Supp. 981 (S.D. Fla. 1990)
1996 N.H.:	<i>In re Petition of Brooks</i> , 140 N.H. 813 (N.H. 1996)
2005 New Jersey:	<i>R.M. v. Supreme Ct. of New Jersey</i> , 185 N.J. 208 (N.J. 2005)
2009 Louisiana:	<i>In re Warner</i> , 21 So. 3d 218 (La. 2009)

Regarding confidentiality requirements, the Supreme Court of Florida observed in *Doe v. Supreme Court of Florida*, 734 F. Supp. 981 (S.D. Fla. 1990):

Although freedom of speech is not absolute, legislation that aims at penalizing the publication of truthful information can seldom satisfy constitutional standards, ..., and **is generally presumed unconstitutional**. Additionally, legislation which acts as a prior restraint on expression must be evaluated with a particularly heavy presumption of unconstitutionality.

734 F. Supp. at 984 (emphasis added). Of special concern are content-based laws or rules restricting speech as explained by *R.M. v. Supreme Court of N.J.*, 185 N.J. 208, 221 (N.J. 2005):

We now address whether [the confidentiality rule] violates the First Amendment. **The parties and *amicus* agree that the rule is a content-specific restriction on speech because it prohibits comment on a particular topic, that is, a given disciplinary matter and the associated written records.** Therefore, the State bears the burden of demonstrating that the rule is necessary to serve a compelling interest and that it is narrowly tailored to achieve that end.

And, as further explained by *In re Warner*, 21 So. 3d 218, 244-245 (La. 2009):

Content-based laws include both regulations that target speech based on the viewpoints expressed and regulations that target speech on the basis of subject matter or topic. As the Court expressed in *Consolidated Edison: The First Amendment's hostility to content-based regulation extends not only to restrictions on particular viewpoints, but also to prohibition of public discussion of an entire topic. As a general matter, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content.*

21 So. 3d at 245 (emphasis added). The First Amendment analysis required by the U.S. Supreme Court starts with content-based laws being presumptively invalid and subject to strict scrutiny. As the Louisiana court stated in *In re Warner*, 21 So. 3d 218, 244 (La. 2009):

Regulations that are content-based are "presumptively invalid." *R.A.V. v. City of St. Paul*, 505 U.S. 377, 382, 112 S. Ct. 2538, 2542, 120 L. Ed. 2d 305 (1992). Except for a few well-defined exceptions, which do not apply in this case, [f.n. omitted] a content-based regulation will survive a constitutional challenge only if it passes the well-established two-part strict scrutiny test. Under strict scrutiny the government bears the burden of proving the constitutionality of the regulation by showing (1) that the regulation serves a compelling governmental interest, and (2) that the regulation is narrowly tailored to serve that compelling interest. *Playboy Entertainment Group*, 529 U.S. at 813, 120 S. Ct. at 1886 ; *R.A.V.*, 505 U.S. at 395-396, 112 S. Ct. at 2549-2550; *Simon & Schuster*, 502 U.S. at 118, 112 S. Ct. at 509 ; *Consolidated Edison*, 447 U.S. at 540, 100 S. Ct. at 2335 (the government must show that the regulation is a "precisely drawn means" of serving a compelling state interest).

In addition, even though the reputations of lawyers and judges are at risk in attorney grievance testimony, the operation of our government has much in common with the core protection attached to political speech. As the Tennessee Court of Appeals explained about political speech, in *Lewis v. NewsChannel 5 Network, L.P.*, 238 S.W.3d 270, 288-289 (Tenn. Ct. App. 2007):

Discussion and debate regarding the actions of public officials and other matters of public interest is not always decorous. It often includes "vehement, caustic, and



sometimes unpleasantly sharp attacks." *New York Times Co. v. Sullivan*, 376 U.S. at 270, 84 S. Ct. at 721. It may likewise "disturb our tranquility," "vex our peace of mind," "outrage our sensibilities," or "shock our conscience." *Press, Inc. v. Verran*, 569 S.W.2d at 442. Nonetheless, both the United States Supreme Court and the Tennessee Supreme Court have held that the discussion and debate regarding the conduct of public officials and other subjects of public importance are so indispensable to our free society that they deserve constitutional protection, even when they contain factual mistakes or defamatory statements, *New York Times Co. v. Sullivan*, 376 U.S. at 273, 84 S. Ct. at 722, or even if they may be "distasteful, despicable, or shorn of all sense of fairness." *Press, Inc. v. Verran*, 569 S.W.2d at 442.

Finally, as footnoted in *R.M. v. Supreme Court of N.J.*, 185 N.J. at 218-220, the MARYLAND RULES, as currently approved by the Court of Appeals, contains a provision, MD RULE 16-723<sup>1</sup>, requiring the same secret, confidential meetings which our four sister states have ruled unconstitutional.

[footnote 2] **We note that fifteen states, including New Jersey, explicitly require grievants to preserve confidentiality.** See N.J. Ct. R. 1:20-9(a), (h); Ala. R. Discip. Proc. 30(a), (c); Alaska Bar R. 22(b); Ark. R. Prof'l Conduct § 6A(3); Del. Laws.' R. Discip. Proc. 13(g); Idaho Bar Comm'n R. 521(a)(1); Iowa Code Ann. R. 35.7; La. Sup. Ct. R. 19 § 16I; **Maryland Rule 16-723(f)(2)**; Miss. Code Ann. § 73-3-343; Mont. Law. Discip. Enforcement R. 20(D); Nev. Sup. Ct. R. 121; S.D. Codified Laws 16-19-99; Tex. R. Discip. Proc. 2.16E; Utah R. Law. Discip. & Disability 15(i). In contrast, **sixteen other jurisdictions either expressly exempt grievants from the confidentiality rule or provide that the rule applies only to disciplinary officials.** See 17A Ariz. Code Ann. Sup. Ct. R. 70(a); Colo. Ct. R. Ann. 251.31(a), (b); Fla. Stat. Ann. Bar R. 3-7.1; Ga. State Bar R. 4-221(d)(3); Kan. Discip. R. 222(d); Ky. Sup. Ct. R. 3.150(8); Me. Bar R. 7.3(k)(1); Mass Sup. Jud. Ct. R. 4:01 § 20(1)(c); N.Y. 1st Dep't Ct. R. § 605.24; N.D. Law. Discip. R. 6.1(A); Ohio Sup. Ct. R. Gov't Bar 5 § 11(E)(2)(a); Or. Rev. Stat. Bar R. 1.7; S.C. App. Ct. R. Law. Discip. Enforcement 12(b); Tenn. Sup. Ct. R. 9 § 25.5; Vt. Ct. R. Prof'l Resp. Program 12A; Wyo. R. Discip. Code § 5(a).

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<sup>1</sup> MARYLAND COURT RULE 16-723(f)(2). Confidentiality

(f) Permitted disclosure.

(1) ....

(2) In preparation for a hearing. The parties to a disciplinary or remedial action may use confidential information other than the records and proceedings of a Peer Review Panel to the extent reasonably necessary to prepare for a public hearing in the action but shall preserve the confidentiality of the information in all other respects.

**In the remaining jurisdictions, rules of attorney discipline do not specify which participants are obligated to maintain confidentiality. ....**

Emphasis added.

In *R.M. v. Supreme Court of N.J.*, 185 N.J. 208 (N.J. 2005), the New Jersey Supreme Court has held that its own court rule prohibiting complainants from publicizing their grievances before the disciplinary authorities file formal charges violates the First Amendment to the United States Constitution.

The First Amendment provides that "Congress shall make no law . . . abridging the freedom of speech." U.S. Const. Amend. I. The Free Speech Clause is applicable to the states through the Fourteenth Amendment. *Bigelow v. Virginia*, 421 U.S. 809, 811 (1975); *see also Township of Pennsauken v. Schad*, 160 N.J. 156, 176, 733 A.2d 1159 (1999) (holding protections of New Jersey Constitution's free speech clause co-extensive with First Amendment). Far from safeguarding only profound statements on topics of great import, the First Amendment protects "[a]ll ideas having even the slightest redeeming social importance." *Roth v. United States*, 354 U.S. 476, 484 (1957).

Although the protection of speech is not absolute, *City Council of L.A. v. Taxpayers for Vincent*, 466 U.S. 789, 812 (1984), laws that punish the dissemination of truthful information are generally presumed to be constitutionally infirm, *Smith v. Daily Mail Publ'g Co.*, 443 U.S. 97, 102 (1979). To sustain government proscription of the publication of truthful speech, the State has the burden of demonstrating that the law furthers a compelling interest. *First Nat'l Bank of Boston v. Bellotti*, 435 U.S. 765, 786 (1978). Moreover, even if the regulation of speech advances a compelling interest, the State must also show that the regulation is narrowly tailored to achieve that interest. *Shelton v. Tucker*, 364 U.S. 479, 488 (1960).

*R.M. v. Supreme Court of N.J.*, 185 N.J. 217. The failure of broad restrictions on speech was also addressed by the U.S. Supreme Court in *Landmark Communications v. Va.*, 435 U.S. 829 (U.S. 1978):

Admittedly, the Commonwealth has an interest in protecting the good reputation of its judges, like that of all other public officials. Our prior cases have firmly established, however, that injury to official reputation is an insufficient reason "for repressing speech that would otherwise be free." *New York Times Co. v. Sullivan*, 376 U.S., at 272-273. *See also Garrison v. Louisiana*, 379 U.S. 64, 67 (1964). The remaining interest sought to be protected, the institutional reputation of the courts, is entitled to no greater weight in the constitutional scales. *See New York Times Co. v. Sullivan*, *supra*. As Mr. Justice Black observed in *Bridges v. California*, 314 U.S., at 270-271:

"The assumption that respect for the judiciary can be won by shielding judges from published criticism wrongly appraises the character of American public opinion. . . . [An] enforced silence, however limited, solely in the name of preserving the dignity of the bench, would probably engender resentment, suspicion, and contempt much more than it would enhance respect."

*Landmark Communications v. Va.*, 435 U.S. 841-842.

The blanket secrecy of the Commission records and proceedings destroys the presumption of legitimate official action. As the late Chief Justice Earl Warren stated:

When secrecy surrounds government and the activities of public servants, corruption has a breeding place... The minimum amount of secrecy needed for the proper operation of government should be fixed by law, and no secrecy beyond that point should be countenanced.<sup>2</sup>

Noticeably, however, the Maryland Court of Appeals and the Commission have failed to provide an overriding public interest for building a fortress of secrecy around its Commission records and proceedings.

## **Basis for Issuing the Writ**

### **A. The Commission is Acting without Jurisdiction.**

A writ is the only remedy for the Commission's extraordinary disregard for the most fundamental constitutional principles. The Commission claims to be proceeding in accordance with MARYLAND RULES, but-as discussed in detail below- the provisions provided by the MARYLAND RULES for secret Commission processes need immediate revision in order to come into compliance with the U.S. CONSTITUTION'S FIRST and FOURTEENTH AMENDMENTS.

The Commission has failed to recognize that the MARYLAND RULES cannot authorize any process that deprives American citizens of the protections offered by the U.S.

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<sup>2</sup> Warren, Earl. *Governmental Secrecy: Corruption's Ally*, 60 A.B.A. J. 550, 550 (1974).

CONSTITUTION.

**B. The Commission is Acting Erroneously and Threatening Irreparable Harm.**

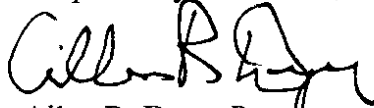
The continuation of secret proceedings by the Commission would violate all principles of due process and subject Petitioner to irreparable harm. As the attached documents between the Commission and Petitioner conclusively show, irreparable harm to the Petitioner is imminent.

**CONCLUSION**

Misled by the comfort and presumed legality of established MARYLAND RULES, the Commission is following a dangerously unconstitutional path that is out of touch with the precedents of all sister States that have considered the role of freedom of speech in the attorney grievance process. Due to the direct administrative control of the Commission by this Court, unless the proceedings below are halted by a writ, no one will be able to bring judicial action to correct the unconstitutional misbehavior of the Commission. No one will be able to undo the constitutional harm caused by the Commission browbeating individual attorneys into archaic Star Chamber proceedings.

Only the Court of Appeals has authority to amend unconstitutional rules of procedure. Accordingly, the appropriate writ can only issue from the Court of Appeals.

Respectfully Submitted,



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410-531-3965 / aldyer@lawlab.com

Petitioner *Pro se*

January 7, 2015

## **PERTINENT CONSTITUTIONAL PROVISIONS, STATUTES AND RULES**

### **UNITED STATES CONSTITUTION**

#### **U.S. CONST. AMEND. I      Religious and political freedom.**

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

#### **U.S. CONST. AMEND. XIV Due Process Clause.**

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

### **MARYLAND RULES OF PROCEDURE**

#### **MARYLAND COURT RULE 16-723. Confidentiality**

(a) Confidentiality of peer review meetings. All persons present at a peer review meeting shall maintain the confidentiality of all speech, writing, and conduct made as part of the meeting and may not disclose or be compelled to disclose the speech, writing, or conduct in any judicial, administrative, or other proceeding. Speech, writing, or conduct that is confidential under this Rule is privileged and not subject to discovery, but information otherwise admissible or subject to discovery does not become inadmissible or protected from disclosure solely by reason of its use at the peer review meeting.

(b)....(e)....

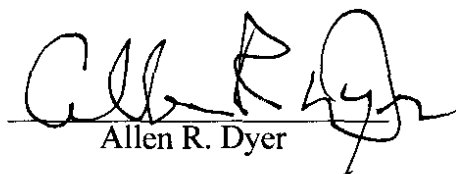
(f) Permitted disclosure.

(1) ....

(2) In preparation for a hearing. The parties to a disciplinary or remedial action may use confidential information other than the records and proceedings of a Peer Review Panel to the extent reasonably necessary to prepare for a public hearing in the action but shall preserve the confidentiality of the information in all other respects.

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7<sup>th</sup> day of January, 2015, a copy of the foregoing *Petition for Writ of Prohibition and/or Mandamus* and the attached Commission Correspondence were mailed, first class, postage pre-paid to: Lydia E. Lawless, Esq.; Assistant Bar Counsel, Attorney Grievance Commission; 100 Community Place, Suite 3301; Crownsville, MD 21032; Counsel for Respondent Attorney Grievance Commission.

  
Allen R. Dyer

JAN 07 2015

*Allen R. Dyer v. Attorney Grievance Commission of Maryland* Bessie M. Decker  
 Clerk Court of Appeals of Maryland

Petition for Writ of Prohibition and/or Mandamus  
 or Other Appropriate Relief

**Commission Correspondence Attachments**

	Date	Document Description	Bates ##	
1.	Sep. 15, 2014	Commission Letter #1	001	002
	Attachment	W.E. Erskine Aug. 22, 2014 Ltrr	003	004
	Attachment	W.E. Erskine Sep. 2, 2014 Ltrr.	005	010
2.	Sep. 30, 2014	Dyer Reply Letter #1	011	012
	Attachment	Legal Memorandum Re: Secrecy	013	022
	Attachment	Initial Commission Complaint Notice	023	024
	Attachment	1990 Florida: <i>Doe v. Supreme Ct. of Florida</i> , 734 F.Supp. 981 (S.D. Fla. 1990)	025	031
	Attachment	1996 N.H.: <i>In re Petition of Brooks</i> , 140 N.H. 813 (N.H. 1996)	032	038
	Attachment	2005 New Jersey: <i>R.M. v. Supreme Ct. of New Jersey</i> , 185 N.J. 208 (N.J. 2005)	039	050
	Attachment	2009 Louisiana: <i>In re Warner</i> , 21 So. 3d 218 (La. 2009)	051	085
3.	Oct. 3, 2014	Commission Letter #2	086	086
4.	Oct. 17, 2014	Dyer Reply Letter #2	087	087
	Attachment	Mar. 30, 1977 Letter to Paul Weinstein	088	088
5.	Oct. 29, 2014	Commission Letter #3	089	089
6.	Nov. 24, 2014	Dyer Reply Letter #3	090	090
7.	Dec. 4, 2014	Commission Letter #4	091	091
8.	Dec. 20, 2014	Dyer Reply Letter #4	092	093
9.	Dec. 23, 2014	Commission Letter #5	094	094