NORTH CAROLINA

WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
NORTH CAROLINA STATE BAR
12 DHC 22

THE NORTH CAROLINA STATE BAR,	)	
	)	
Plaintiff,	)	
	)	ORDER GRANTING MOTION
v.	)	TO STAY
	)	
TRACEY E. CLINE	)	
	)	
Attorney,	)	
Defendant	)	

Upon consideration of the Defendant's Motion to Stay Proceeding and the Plaintiff's Objection to Defendant's Motion to Stay Proceeding, the undersigned Chair of the Hearing Committee finds and concludes as follows:

1. On March 2, 2012, the Honorable Robert H. Hobgood entered a judgment (herein the "Judgment") removing the Defendant herein from the office of District Attorney for Durham County, North Carolina. The Judgment was entered in that matter captioned *In Re: Tracey E. Cline*, in File No. 12 CVS 1614 in the office of the Clerk of Superior Court for Durham County.

2. Defendant has filed Notice of Appeal from the Judgment to the Court of Appeals, and this appeal is currently pending.

3. Defendant contends that one of the issues on appeal from the Judgment is whether the evidence supports the findings of fact and whether the evidence and the findings of fact support the conclusions of law.

4. The Plaintiff herein acknowledges that the Complaint filed herein includes allegations of misconduct that "track" the findings of fact made by Judge Hobgood in the Judgment as well as allegations of other misconduct by Defendant.

5. The Plaintiff herein further acknowledges that it will seek application of the doctrine of collateral estoppel to establish, as a matter of law, those facts found in the Judgment.

6. If the hearing panel proceeds during the pendency of the appeal from the Judgment, holds that those facts found by Judge Hobgood in the Judgment are

established facts that cannot be relitigated, and the Judgment is subsequently reversed by the Court of Appeals, any Order of Discipline entered in this matter will be subject to being set aside. In the alternative, the Plaintiff herein could be faced with proving facts that are already established as a matter of law to avoid any possibility that the Judgment would be reversed, causing this matter to be retried. Either alternative would result in a waste of resources and potential prejudice to the Defendant.

Based upon the foregoing findings of fact, the undersigned further finds and concludes as a matter of law as follows:

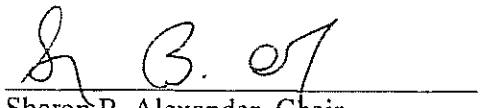
1. The Disciplinary Hearing Commission and the hearing panel have jurisdiction over the parties hereto and over the subject matter of this proceeding.

2. Pursuant to 27 N.C. Administrative Code Chapter 1, Subchapter B, Section .0114(k) the undersigned has authority to continue the hearing herein for good cause shown.

3. Defendant has shown good cause to continue the hearing currently set to begin on Monday, October 1, 2012, to a date to be scheduled following final determination of validity of the Judgment by the appellate courts of North Carolina.

It is therefore Ordered that the hearing set herein shall be continued to a later date to be set by the Clerk following final determination of the appeal from the Judgment.

This the 4th day of September, 2012.



Sharon B. Alexander, Chair
Disciplinary Hearing Panel