

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Petitioner,

v.

DENNIS L. HORTON,

Respondent.

Supreme Court Case
No. SC17-782

The Florida Bar File
No. 2017-30,371 (07B) (CES)

MOTION TO STRIKE RESPONDENT'S REPLY BRIEF

COMES NOW Complainant, The Florida Bar, by and through its undersigned attorney, and moves this Court to strike respondent's Reply Brief due to his failure to comply with Fla. R. App. P. 9.210(a)(5)(B) and in support of its motion would show as follows:

1. Respondent's Reply Brief filed on August 9, 2018 is thirty pages in length. Although titled as a Reply Brief, respondent's brief is a Cross-Reply Brief.
2. The permissible length for a cross-reply brief is fifteen pages. Fla. R. App. P. 9.210(a)(5)(B). Respondent's brief exceeds this page limit by fifteen pages, thus making his brief twice as long as the rule permits.
3. Respondent has now sought leave of this Court for permission to file a brief in excess of the permissible page limit.

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4. The issues present in this matter do not require more than fifteen pages to address them adequately.

5. Further, Fla. R. App. P. 9.210(e) provides that the contents of a cross-reply brief are “. . . limited to rebuttal of argument of the cross-appellee.”

Respondent’s brief includes issues not raised by the bar in its Reply/Cross-Answer Brief.

6. Respondent’s Reply Brief also includes references to items outside the record in this case.

7. Respondent repeatedly has sought and received extensions of time in this appeal. On March 22, 2018, this Court granted respondent’s motion for extension of time to file his Answer/Cross-Initial Brief and permitted him to and including May 4, 2018 to file it. Respondent did not file his Answer/Cross-Initial Brief until May 7, 2018 (although the brief was electronically filed on May 5, 2018, because that date was a Saturday, the filing was not considered received until the following Monday, May 7, 2018). As a result, on May 10, 2018, this Court issued an order directing respondent to file a proper motion on or before May 30, 2018. On May 10, 2018, respondent filed his Motion for Permission to File Amended Brief and his Amended Answer Brief/Initial Brief on Cross-Appeal, which this Court granted on May 30, 2018. On June 9, 2018, respondent then filed a Motion for Extension of Time to File Reply Brief. This Court granted

respondent's motion by order dated June 20, 2018, granting respondent to and including August 9, 2018 to file his cross-reply brief. Respondent filed his cross-reply brief that exceeded fifteen pages with this Court on August 9, 2018 at 4:46 PM.

WHEREFORE, The Florida Bar prays this Honorable Court will issue an order striking respondent's Reply Brief and deny respondent permission to file a cross-reply brief.

Respectfully submitted,

A handwritten signature in cursive script that reads "Carrie C. Lee".

Carrie Constance Lee, Bar Counsel
The Florida Bar
Orlando Branch Office
The Gateway Center
1000 Legion Place, Suite 1625
Orlando, Florida 32801-1050
(407) 425-5424
Florida Bar No. 552011
clee@floridabar.org
orlandooffice@floridabar.org

CERTIFICATE OF SERVICE

I certify that this document has been e-filed with The Honorable John A. Tomasino, Clerk of the Supreme Court of Florida with a copy provided via email to Brett Alan Geer, The Geer Law Firm, 3030 North Rocky Point Drive West, Suite 150, Tampa, Florida 33607-7200 and via E-Mail to brettgeer@geerlawfirm.com; and to Staff Counsel, The Florida Bar, Lakeshore Plaza II, Suite 130, 1300 Concord Terrace, Sunrise, Florida 33323 via E-mail at aquintel@floridabar.org, on this 14th day of August, 2018.

A handwritten signature in cursive script that reads "Carrie C. Lee".

Carrie Constance Lee, Bar Counsel