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ATTORNEY DISCIPLINE BOARD  
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**State of Michigan**  
**Attorney Discipline Board**

**Grievance Administrator,  
Michigan Attorney Grievance Commission,**

Petitioner,

Case No. 17-20-GA

**v**

**David B. Rosenberg, P27407**

Respondent.

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**Formal Complaint**

**(Parties and Jurisdiction)**

1. Petitioner, Grievance Administrator, is authorized by MCR 9.109(B)(6) to prosecute this Formal Complaint by the Attorney Grievance Commission, which is the prosecution arm of the Supreme Court for the discharge of its constitutional responsibility to supervise and discipline Michigan attorneys.

2. As a licensed Michigan attorney, Respondent is subject to the jurisdiction of the Supreme Court and the Attorney Discipline Board as set forth in MCR 9.104.

3. Michigan attorneys have a duty to conduct themselves personally and professionally at all times in conformity with the standards imposed on members of the bar as a condition of the privilege to practice law.

4. Respondent is a Michigan attorney who was licensed in 1977 and who resides or has his place of business in the County of Oakland.

**Count One**  
**(Factual Allegations)**

5. On October 24, 2015, Svitlana Kucheryava retained Respondent to file a complaint for annulment.

6. Ms. Kucheryava paid Respondent an advance fee of \$500 and a filing fee of \$180.

7. Respondent drafted a complaint, which Ms. Kucheryava signed on November 5, 2015.

8. Following the drafting and signing of the complaint, Respondent did not file the complaint.

9. In January 2016, Respondent contacted Ms. Kucheryava and told her that the complaint had been filed improperly due to a mistake of his secretary and that the complaint needed to be "re-filed."

10. Respondent never filed the complaint, therefore, Respondent knowingly made a false statement to Ms. Kucheryava by stating the complaint needed to be re-filed.

11. On March 24, 2016, Ms. Kucheryava signed another copy of the complaint for annulment.

12. Respondent filed the complaint on April 20, 2016, in the matter captioned *Svitlana Kucheryava v Gogita Bochorishvili*, Case No. 2016-841364-DO, Oakland County Circuit Court.

13. Respondent did not serve the defendant with the complaint for annulment.

14. Respondent did not seek substitute or alternate service, nor an extension from the court.

15. The summons expired on July 20, 2016.

16. On July 30, 2016, the case was dismissed for lack of service.

17. Respondent did not advise Ms. Kucheryava of the dismissal of her case.

18. In August of 2016, Ms. Kucheryava tried repeatedly to contact Respondent by telephone about the case. Respondent did not respond to her calls or messages.

19. On two occasions, Ms. Kucheryava scheduled office appointments with Respondent to discuss the case.

20. Both times, Respondent canceled his appointment with Ms. Kucheryava within an hour of their meeting time.

21. Subsequently, Ms. Kucheryava had a separate attorney – a family friend – help her obtain copies of the court filings.

22. Ms. Kucheryava learned from the court records that the court dismissed the case.

23. Ms. Kucheryava retained new counsel and re-filed her case on September 7, 2016.

24. To date, Respondent has not refunded any portion of the fee paid by Ms. Kucheryava.

**(Grounds for Discipline)**


25. By reason of the conduct described above in this Formal Complaint, Respondent has committed the following misconduct and is subject to discipline under MCR 9.104 as follows:

- a) neglect of a matter entrusted to him, in violation of MRPC 1.1(c);
- b) failure to seek the lawful objectives of the client, in violation of MRPC 1.2(a);
- c) failure to act with diligence and promptness in representing a client, in violation of MRPC 1.3;
- d) failure to keep the client informed of the status of the matter and comply promptly with reasonable requests for investigation, in violation of MRPC 1.4(a);
- e) failure to refund the unearned portion of an advance fee, in violation of MRPC 1.16(d);
- f) engaging in conduct involving dishonesty, fraud, deceit, misrepresentation, where such conduct reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer, in violation of MRPC 8.4(b);

- g) engaging in conduct prejudicial to the proper administration of justice, in violation of MCR 9.104(1);
- h) engaging in conduct that exposes the legal profession or the court to obloquy, contempt, censure, or reproach, in violation of MCR 9.104(2); and,
- i) engaging in conduct that is contrary to justice, ethics, honesty, or good morals, in violation of MCR 9.104(3).

Wherefore, Respondent should be subjected to such discipline as may be warranted by the facts or circumstances of such misconduct, including any restitution owed.

Dated: March 8, 2017

  
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**Alan M. Gershel, P29652**  
Grievance Administrator  
Attorney Grievance Commission  
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