

State of Michigan
Attorney Discipline Board

FILED
ATTORNEY DISCIPLINE BOARD
17 JAN 20 PM 4:08

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

Petitioner,

Case No. 17-4-GA

v

Marcellus Long, Jr., P43630,

Respondent.

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 1984, and who resides or has her place of business in Wayne County.

Count One

5. In or about October 2011, Donna Richardson retained Respondent for representation in a personal injury matter after being injured in a motor vehicle accident.

6. Respondent agreed to represent Ms. Richardson on a contingency fee basis.

7. On September 11, 2012, Respondent sent a letter to Ms. Richardson's treating physician requesting copy of all of her medical records related to the accident.

8. Respondent took no further action on Ms. Richardson's case.

9. On July 17, 2014, Ms. Richardson filed a Request for Investigation against Respondent for his failure to pursue her case.

10. On October 17, 2014, three months after Ms. Richardson filed the Request for Investigation, Respondent filed suit on Ms. Richardson's behalf against the other drivers in the motor vehicle accident.

11. Respondent did not inform Ms. Richardson that the lawsuit had been filed.

12. On December 5, 2014, the attorney for the defendants filed a motion for summary disposition on the basis that the lawsuit was filed after the statute of limitations had expired.

13. Subsequently, the court entered an order granting summary disposition and found that Respondent had filed the lawsuit after the three-year statute of limitations had expired.

14. Respondent never informed Ms. Richardson that the lawsuit had been dismissed.

15. By reason of the conduct set forth in Count One of this Formal Complaint, Respondent has committed the following acts of professional misconduct:

- a) Neglecting a legal matter, in violation of MRPC 1.1(c);
- b) Failing to seek the lawful objectives of a client through reasonably available means, in violation of MRPC 1.2;
- c) Failing to act with reasonable diligence and promptness on a client's behalf, in violation of MRPC 1.3;
- d) Failing to keep a client reasonably informed regarding the status of a legal matter and respond promptly to reasonable requests for information, in violation of MRPC 1.4(a);
- e) Engaging in conduct that exposes the legal profession to obloquy, contempt, censure, and/or reproach, in violation of MCR 9.104(2); and,
- f) Engaging in conduct that is contrary to justice, ethics, honesty, or good morals, in violation of MCR 9.104(3).

Count Two

16. On or about August 29, 2011, Respondent was retained by Robin Nero to represent her on a third-party automobile negligence claim.

17. Respondent agreed to represent Ms. Nero on a contingency fee basis.

18. Ms. Nero was injured in the accident on February 19, 2010, and the applicable statute of limitations on any suit she could file against a third-party for her injuries was three years, expiring on February 19, 2013.

19. Respondent never filed suit on Ms. Nero's behalf.

20. On April 2, 2014, Ms. Nero sent Respondent an email detailing her efforts to contact him, and requesting an update on the status of her case.

21. On April 14, 2014, Respondent replied to that email and stated that he "anticipated having an offer of resolution" within 45 days.

22. Respondent did not advise Ms. Nero on that date that her suit was not filed prior to the expiration of the statute of limitations.

23. Ms. Nero subsequently filed a lawsuit for legal malpractice against Respondent in the matter captioned *Nero v. Marcellus Long, et.al.*, Case No. 14-142097-NM, Oakland County Circuit Court.

24. By reason of the conduct set forth in Count Two of this Formal Complaint, Respondent has committed the following acts of professional misconduct:

- a) Neglecting a legal matter, in violation of MRPC 1.1(c);
- b) Failing to seek the lawful objectives of a client through reasonably available means, in violation of MRPC 1.2;
- c) Failing to act with reasonable diligence and promptness on a client's behalf, in violation of MRPC 1.3;
- d) Failing to keep a client reasonably informed regarding the status of a legal matter and respond promptly to

reasonable requests for information, in violation of MRPC 1.4(a);

- e) Engaging in conduct that exposes the legal profession to obloquy, contempt, censure, and/or reproach, in violation of MCR 9.104(2); and,
- f) Engaging in conduct that is contrary to justice, ethics, honesty, or good morals, in violation of MCR 9.104(

Count Three

25. On October 28, 2014, Bonita Green retained Respondent to file a probate matter on behalf of the estate of her deceased mother.

26. Respondent charged Ms. Green a fee of \$650 for the matter, and Ms. Green paid that amount, along with a filing fee in the amount of \$227.

27. On November 14, 2014, Respondent filed numerous documents on Ms. Green's behalf including an Application for Informal Probate, Letters of Authority for Ms. Green to serve as personal representative, and a Certificate of Informal Probate of Will.

28. On February 20, 2015, the Oakland County Probate Court issued a Notice of Deficiency to Respondent alerting him that an inventory had not been filed.

29. Respondent did not respond to that notice.

30. Due to Respondent's failure to respond to the notice, the court then issued an order suspending Ms. Green's powers as personal representative.

31. Between December 15, 2014, and May 8, 2015, Ms. Green placed at least (5) telephone calls to Respondent to discuss the matter. Respondent did not answer the telephone calls and did not respond to messages left by Ms. Green.

32. Ms. Green was able to reach Respondent one time by phone on February 25, 2015, when Respondent informed her that he needed to "tighten up" the inventory and then would submit it to the court.

33. On February 25, 2015, and March 17, 2015, Ms. Green also emailed Respondent regarding the Notice of Deficiency issued by the court.

34. Respondent did not respond to those emails.

35. On May 12, 2015, after learning that her powers as fiduciary had been suspended, Ms. Green corrected the deficiency and was reinstated as personal representative.

36. Due to Respondent's abandonment of her matter, Ms. Green hired separate counsel, Attorney Robert While, to finish the work on the estate.

37. As of this date, Respondent has not provided Ms. Green with a refund for any of the attorney fees paid for the work on the estate.

38. By reason of the conduct set forth in Count Three this Formal Complaint, Respondent has committed the following acts of professional misconduct:

- a) Neglecting a legal matter, in violation of MRPC 1.1(c);
- b) Failing to seek the lawful objectives of a client through reasonably available means, in violation of MRPC 1.2;
- c) Failing to act with reasonable diligence and promptness on a client's behalf, in violation of MRPC 1.3;

- d) Failing to keep a client reasonable informed regarding the status of a legal matter and respond promptly to reasonable requests for information, in violation of MRPC 1.4(a);
- e) Failing to refund an unearned fee paid in advance, in violation of MRPC 1.16(d);
- f) Engaging in conduct that exposes the legal profession to obloquy, contempt, censure, and/or reproach, in violation of MCR 9.104(2); and,
- g) Engaging in conduct that is contrary to justice, ethics, honesty, or good morals, in violation of MCR 9.104(3).

Count Four

39. On June 15, 2015, the Attorney Grievance Commission Request for Investigation captioned Green as to Long, AGC File No. 1008-15 was served upon Respondent at his State Bar of Michigan Rule 2 address.

40. Respondent failed to file an Answer to the Request of Investigation.

41. On July 15, 2015, Respondent was served with a Final Notice by regular and certified mail, notifying him that failure to answer the Request for Investigation would subject him to disciplinary proceedings.

42. Respondent failed to Respondent to the Final Notice.

43. On August 27, 2017, a certified letter was sent to Respondent, again alerting him of his failure to answer the Request for Investigation, and giving him yet another opportunity to file a written Answer. Again, Respondent failed to do so.

44. On September 17, 2015 and November 30, 2015, Respondent was subpoenaed to the office of the Attorney Grievance Commission to give a sworn statement with regard to the allegations in the Request for Investigation, and required to bring a written Answer to the Request for Investigation.

45. Respondent failed to appear pursuant to either subpoena, and failed to provide a written Answer to the Request for Investigation.

46. By reason of the conduct set forth in Count Four of this Formal Complaint, Respondent has committed the following acts of attorney misconduct:

- a) Failing to answer a Request for Investigation, in violation of MCR 9.104(A)(7) and MCR 9.113(A) and (B);
- b) Engaging in conduct that exposes the legal profession or the courts to obloquy, contempt, censure or reproach, in violation of MCR 9.104(A)(2); and,
- c) Violating or attempting to violate the Michigan Rules of Professional Conduct, in violation of MRPC 8.4(a) and MCR 9.104(A)(4).

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

Dated: January 16, 2017



Alan M. Gershel, P29652
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Discovery Demand

As permitted by MCR 9.115(F)(4), Petitioner makes the following demand for discovery:


- 1) Copies of all documentary evidence to be introduced at the hearing, or access to such documentary evidence so that it can be inspected and copied, in accordance with MCR 9.115(F)(4)(a); and,
- 2) The names and addresses of any persons to be called as witnesses at the hearing, in accordance with MCR 9.115(F)(4)(a)(i).

Under MCR 9.115(F)(4)(c), your failure to comply timely with the above demands may subject you to one or more of the sanctions set forth in MCR 2.313(B)(2)(a)-(c).

Dated: January 11th, 2017

Alan M. Gershel, P29652
Grievance Administrator

By:


John K. Burgess, P69256
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