

DEC 11 2014

BEFORE THE BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE OF THE SUPREME COURT OF OHIO BOARD OF COMMISSIONERS ON GRIEVANCES & DISCIPLINE

FILED

In re:

JAN 20 2015

Complaint against

D. Richard Roseman, Esq. 6016 Cleveland Ave. Columbus, OH 43231

RESPONDENT

Columbus Bar Association 175 South Third Street, S-1100 Columbus, Ohio 43215

RELATOR

BOARD OF PROFESSIONAL CONDUCT

No. 15 - 003

COMPLAINT AND CERTIFICATE (Rule V of the Supreme Court Rules for the Government of the Bar of Ohio.)

Now comes the Relator and alleges that D. Richard Roseman (0064756), an Attorney at Law, duly admitted to the practice of law in this State of Ohio in 1995, is guilty of the following misconduct:

MICHAEL WILLIAMS MATTER:

- 1. On May 17, 2007, Michael Williams hired D. Richard Roseman, "Respondent," to file a personal injury case on his behalf after Mr. Williams was struck by a negligent driver while crossing a street.
2. On the same day, Mr. Williams signed a Rule 1.4 notice, medical authorizations and wage loss authorization acknowledging Respondent's lack of malpractice insurance, as well as giving Respondent the authority to obtain documentation on Mr. Williams' behalf.
3. Respondent filed Mr. Williams' lawsuit on May 6, 2009, the last day allowed by the statute of limitations.

4. On May 14, 2009, Respondent received a letter from Westfield Insurance company, the insurance company for the defendant in Mr. Williams' case, which stated in part, "[p]er our request, you will be submitting over an injury package for consideration in an attempt to resolve your client's injuries."

5. On May 22, 2009, Respondent replied "I will work on getting you a brochure, fully documented!"

6. In July, 2009, Respondent received the answer and discovery request from the defendant's counsel.

7. Respondent failed to respond to defendant's counsel's interrogatories and requests for production of documents.

8. On December, 2009, defendant's counsel wrote Respondent a letter noting the lack of a response from Respondent, and threatening to file a Motion to Compel if Respondent did not respond to the discovery requests.

9. On January 28, 2010, due to Respondent's failure to respond to the discovery requests, a motion to compel was filed.

10. On February 10, 2010, Judge Julie Lynch ordered Respondent to provide, within seven days, responses to discovery.

11. On February 18, 2010, the final day Respondent was given to respond to the discovery requests, Respondent dismissed the case under Civ. R. 41(A)(1).

12. On February 19, 2010, Respondent notified defendant's counsel that he would be working with Westfield Insurance Company directly to settle Mr. Williams lawsuit.

13. On July 20, 2010, Westfield Insurance, in a letter, requested supporting documentation for Mr. Williams' claim from Respondent.

14. On July 25, 2010, Respondent informed Westfield Insurance he and his staff were putting a brochure together and that it would include all the information they required.

15. On September 25, 2010, Westfield Insurance company informed Respondent that the claim could not be evaluated without the previously requested information and supporting documents.

16. On February 7, 2011, eleven days before Respondent was required to re-file Mr. Williams' lawsuit, Mr. Williams spoke with Respondent via telephone, to ensure the lawsuit would be re-filed and to provide Respondent with his new contact information.

17. According to Mr. Williams and a witness, Respondent grew angry and hostile during this conversation, and told Mr. Williams he would call him back.

18. Later that same day, Mr. Williams received a telephone call from Respondent and was informed that Respondent would re-file the lawsuit before the February 18, 2011, deadline.

19. Respondent failed to re-file Mr. Williams' lawsuit, resulting in Mr. Williams' claims becoming time-barred.

20. In a letter dated February 22, 2011, Respondent noted that "[s]everal weeks ago, you called me and indicated that you had terminated my services \* \* \* \*".

21. Mr. Williams strongly denies this termination taking place.

22. Included in Respondent's file is a letter to Mr. Williams dated February 1, 2011, stating in part, "This letter acknowledges your termination of my services in the above-captioned matter. Your heated telephone calls surprises me because as I told you, your case must be settled or re-filed as a lawsuit no later than February 18, 2011. If your case is not settled or re-filed in court as a suit no later than February 19, 2011, all of your legal rights in this matter expire on that date."

23. Mr. Williams denies receiving the February 1, 2011, letter.
24. After receiving the February 22, 2011, letter from Respondent, Mr. Williams contacted Respondent and was informed that Respondent had in fact, failed to re-file Mr. Williams' suit.
25. On September 28, 2011, Mr. Williams, through attorney Stanley Myers, filed a legal malpractice suit against Respondent.
26. In February 2013, Attorney Myers served interrogatories and requests for production of documents on Respondent, who represented himself in the case.
27. On August 9, 2013, Judge Cain issued an order compelling Respondent to respond to the discovery requests after he failed to respond to Mr. Myers' earlier discovery requests.
28. Respondent failed to respond to this order.
29. On September 10, 2013, Judge Cain issued a second order compelling Respondent to respond to the discovery requests by September 23, 2013.
30. Respondent again failed to respond to the order.
31. Due to Respondent's failure to provide the discovery, Mr. Myers filed a motion for default judgment against Respondent, which was granted on October 9, 2013.
32. On August 11, 2014, the Judge granted damages to Mr. Williams in the amount of \$135,000, due to Respondent's actions during his representation.

## DISMISSAL ISSUES

33. Between 2001 and 2011, Respondent filed approximately one hundred and sixteen (116) cases.

34. Of those filed cases, sixty (60) were voluntarily dismissed without prejudice.

35. Of those sixty dismissals, forty-one (41) were refiled and fourteen (14) were not.

36. Ten dismissals involved motions to compel discovery, whether they were pending or granted, while another fourteen were dismissed for lack of prosecution.

37. Four other cases were resolved on motions for summary judgment that Respondent failed to file a response to.

38. Most dismissals occurred after Respondent failed to provide discovery, respond to motions to compel, or respond to motions for sanctions.

39. Additionally, most dismissals occurred on or near deadline dates for the imposition of sanctions by the court.

40. In the three other cases Respondent filed in 2013, one was refiled against multiple defendants, and while most were dismissed failure to prosecute, the main parties settled. The second case settled after the defendant obtained a continuance of the trial date due to Respondent's failure to answer discover. The final case was voluntarily dismissed by Respondent with a motion to dismiss for failure to prosecute pending.

41. This pattern is indicative of abuse of the civil justice system, lack of due diligence and lack of fairness to the opposing parties by Respondent.

ORPC 1.1	[failing to provide competent representation];
ORPC 1.16	[improperly declining or terminating representation];
ORPC 1.3	[failing to act with reasonable diligence in representing a client];
ORPC 1.4	[failing to <i>reasonably</i> communicate with client];
ORPC 3.4(c)	[lack of fairness to opposing party and counsel];
ORPC 4.1(a)	[lack of truthfulness in statements to others];

**CERTIFICATE**

*The undersigned Chair of the Certified Grievance Committee of the Columbus Bar Association hereby certifies that Robert D. Erney, Esq., Michael Loughry, Esq., Robert McAdams, Esq., A. Alysha Clous, Esq., and Bruce A. Campbell, Esq. are duly authorized to represent Relator in the premises and have accepted the responsibility of prosecuting the complaint to its conclusion. After investigation, Relator believes reasonable cause exists to warrant a hearing on such complaint.*

Dated: 11/7/14  
Signed: John C. Hartranft  
John C. Hartranft, Esq. Chair of  
the Certified Grievance Committee

**(Rule V of the Supreme Court Rules for the Government of the Bar of Ohio.)**

**Section (11)**

(11) *The complaint; Where Filed; By Whom Signed.* A complaint shall mean a formal written complaint alleging misconduct or mental illness of one who shall be designated as the Respondent. Six (6) copies of all such complaints shall be filed in the office of the Secretary of the Board. Complaints filed by a Certified Grievance Committee shall not be accepted for filing unless signed by one or more members of the Bar of Ohio in good standing, who shall be counsel for the relator, and supported by a certificate in writing signed by the President, Secretary of Chairman of the Certified Grievance Committee, which Certified Grievance Committee shall be deemed the Relator, certifying that said counsel are duly authorized to represent said Relator in the premises and have accepted the responsibility of prosecuting the complaint to conclusion. It shall constitute the authorization of such counsel to represent said Relator in the premises as fully and completely as if designated and appointed by order of the Supreme Court of Ohio with all the privileges and immunities of an offices of such Court. The complaint may also, but need not, be signed by the person aggrieved.

Complaints filed by the Disciplinary Counsel shall be filed in the name of Disciplinary Counsel as Relator.

Upon the filing of a complaint with the Secretary of the Board, Relator shall forward a copy thereof to Disciplinary Counsel, to the Certified Grievance Committee of the Ohio State Bar Association, to the local bar association and to any Certified Grievance Committee serving the county of counties in which the Respondent resides and maintains his office and for the county from which the complaint arose.

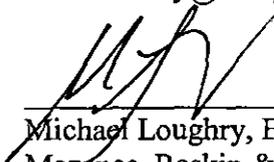
- OPRC 8.4(c) [engaging in conduct involving dishonesty, deceit, or misrepresentation];  
OPRC 8.4(d) [engaging in conduct that is prejudicial to the administration of justice]  
ORPC 8.4(h) [engaging in conduct that adversely reflects on the lawyer's fitness to practice law].

WHEREFORE, Relator prays that Respondent be found in violation of disciplinary regulations and sanctioned appropriately.

Respectfully submitted,



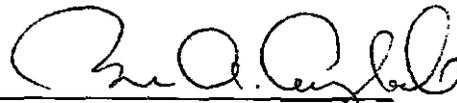
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