

COPY

BEFORE THE BOARD OF PROFESSIONAL CONDUCT  
OF THE SUPREME COURT OF OHIO

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JAN 09 2015

BOARD OF PROFESSIONAL CONDUCT

In re: )  
 )  
 COMPLAINT AGAINST )  
 )  
 FRANK FAGNANO )  
 )  
 Atty Reg. No. 0081516 )  
 )  
 4370 Yakata Dora Drive )  
 )  
 Youngstown, Ohio 44511 )  
 )  
 Respondent )  
 )  
 MAHONING COUNTY BAR )  
 )  
 ASSOCIATION )  
 )  
 114 E. Front Street )  
 )  
 Suite 100 )  
 )  
 Youngstown, Ohio 44503 )  
 )  
 Relator )

CASE NO.

15 - 007

COMPLAINT

FILED

JAN 16 2015

BOARD OF PROFESSIONAL CONDUCT

(Rule V Section 4 of the Supreme Court  
Rules for the Government of the Bar of Ohio)

Relator, Mahoning County Bar Association, states for its causes of action against,  
Respondent, Frank Fagnano:

**I. Parties**

1. Relator is a local bar association which maintains a certified grievance committee pursuant to Gov. Bar R. V, Section 5.

2. Respondent is an attorney at law and is duly licensed to practice law in the State of Ohio. He is not currently registered. Respondent has a prior disciplinary record, including an interim default suspension (July 8, 2013, GEN-2013-0812), an attorney registration suspension (Nov. 1, 2013) and an indefinite suspension (March 17, 2014, GEN-2013-0812).

3. Respondent's last known business address is 5375 Market Street, Youngstown, Ohio 44512.

## **II. Factual Background**

### **A. Colpetro**

4. On June 8, 2013, grievant Patricia Colpetro entered into a flat rate fee agreement with Respondent to obtain driving privileges during her license suspension, which was opposed during sentencing by Judge Elizabeth Kobly of the Youngstown Municipal Court. The agreement calls for payment of \$1,000.00. Colpetro presented receipts for \$750.00 in two payments.

5. On August 8, 2012, Colpetro discharged Respondent by email due to his lack of service, formally severing all ties to Respondent and demanding a full refund of her \$750.00.

6. A review of the court dockets reveal that Respondent failed to file a notice of appearance or failed to file any pleadings on Colpetro's behalf. Ultimately, Colpetro pursued the matter *pro se* and was successful in obtaining a valid driver's license.

7. Colpetro filed a grievance with the Relator in which she alleged that Respondent took her money and failed to provide her with legal representation, failed to provide an itemized statement, and failed to refund unused fees.

8. Following the receipt of the grievance, Relator assigned an investigator. Thereafter, the investigator attempted to contact Attorney Fagnano. The investigator was unable to contact the grievant by telephone or mail.

9. Likewise, the investigator was unable to contact the Respondent. The investigator made numerous attempts to contact Respondent at various addresses, as well as telephone numbers, to no avail.

10. The investigator also made requests to several court prosecutors to have Respondent contact her about an urgent matter, since Respondent was still appearing in various

municipal and county courts on criminal cases. Respondent was provided the investigator's home, cell and office numbers and did contact her on one occasion.

11. During that conversation, the investigator advised Respondent that he was seriously delinquent in responding to three grievances and he needed to provide a written response immediately. The investigator did not hear from Respondent again. On one subsequent occasion, when the investigator saw Respondent in person, Respondent turned around and walked in the opposite direction.

12. Respondent's conduct set forth in paragraphs 4 through 11 violates Ohio Rule of Professional Conduct 1.3 (a lawyer shall act with reasonable diligence and promptness in representing a client).

13. Respondent's conduct set forth in paragraphs 4 through 11 violates Ohio Rule of Professional Conduct 1.4(a)(4) (a lawyer shall not fail to comply as soon as practicable with reasonable requests for information from the client).

14. Respondent's conduct set forth in paragraphs 4 through 11 violates Ohio Rule of Professional Conduct 1.5(a) (a lawyer shall not make an agreement for, charge or collect an illegal or clearly excessive fee).

15. Respondent's conduct set forth in paragraphs 4 through 11 violates Ohio Rule of Professional Conduct 1.5(b) (the nature and scope of the representation and the basis of the rate of the fee and expenses for which the client will be responsible shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation).

16. Respondent's conduct as set forth in paragraphs 4 through 11 constitutes a violation of Gov. Bar R. V(4)(G) (failure to cooperate).

**B. Sanders**

17. Grievant William Sanders entered into a flat rate fee agreement with Respondent to represent him in three criminal court cases and one traffic court case pending in Mahoning County Court, Area No. 2 (Boardman). The flat rate fee agreement called for payment of \$2,500.00 for services.

18. Mr. Sanders made an initial payment of \$100.00. However, the remaining \$2,400.00 was never paid by him.

19. Although the agreement is not signed by either party, Mr. Sanders received a receipt for \$100.00 in support of the agreement.

20. Sanders filed a grievance with the Mahoning County Bar Association, indicating that he wanted “to drop him [Respondent] as a lawyer” because he “has not done any work on my case, refuses to return calls or do what he promised.”

21. Respondent did not file a notice of appearance on Mr. Sanders behalf in any case, nor did he appear at any hearings.

22. Following the receipt of the grievance, Relator signed an investigator to investigate the grievance allegations. The investigator was unable to contact the grievant by telephone or mail.

23. Likewise, the investigator was unable to contact the Respondent. The investigator made numerous attempts to contact Respondent at various addresses, as well as telephone numbers, to no avail.

24. The investigator also made requests to several court prosecutors to have Respondent contact her about an urgent matter, since Respondent was still appearing in various

municipal and county courts on criminal cases. Respondent was provided the investigator's home, cell and office numbers and did contact her on one occasion.

25. During that conversation, the investigator advised Respondent that he was seriously delinquent in responding to three grievances and he needed to provide a written response immediately. The investigator did not hear from Respondent again. On one subsequent occasion, when the investigator saw Respondent in person, Respondent turned around and walked in the opposite direction.

26. Respondent's conduct as set forth in paragraphs 17 through 25 constitutes a violation of Gov. Bar R. V(4)(G) (failure to cooperate).

**C. Oliver**

27. Grievant Willie Oliver was involved in an automobile accident, with his adult son Derrick Oliver as a passenger, in November of 2007.

28. Thereafter, the Olivers retained Respondent and entered into what Willie Oliver believes was a one-third contingency fee agreement with Respondent.

29. Willie and Derrick Oliver thereafter met with Respondent in his office on Market Street in Boardman, Ohio. Respondent then relocated his office without notifying the Olivers. Subsequently, the Olivers located Respondent downtown and met with him at his new location a second time. Respondent then relocated his office an additional time to another office on Market Street and the Olivers met with him there at this third office.

30. At some point, Willie Oliver states that Attorney Fagnano "set up something at the courthouse" and someone offered him \$200.00 in settlement.

31. William Oliver gave Respondent a total of \$250.00. Willie Oliver further claims that the insurance issued a check to him and it was not for enough money to fix his car. Willie

Oliver returned the check to Respondent and was told that it would be returned to the insurance company.

32. A review of the docket reflects that Respondent filed a claim on behalf of the Olivers in Case No. 2009-CV-4085 in the Mahoning County Court of Common Pleas. Nationwide Insurance represented the defendant, and this case was dismissed under Ohio Civ. R. 41(A) on January 26, 2011 upon motion of Respondent, which had been filed January 21, 2011.

33. The docket then reflects that the Oliver matter was refiled in Case 2011-CV-1292 on April 25, 2011. That case was dismissed without prejudice on August 16, 2012 for failure to prosecute. The matter was dismissed, with prejudice, as to defendant Eddie Hudson on July 17, 2012 after a suggestion of his death was filed on behalf of defendant Eddie Hudson.

34. Willie Oliver learned from his father of the dismissal with prejudice, and was unable to locate Respondent from that point forward.

35. Willie Oliver failed to hire other counsel to pursue the claim.

36. Following the receipt of the grievance, Relator signed an investigator to investigate the grievance allegations. The investigator attempted to contact Respondent on numerous occasions.

37. Likewise, the investigator was unable to contact the Respondent. The investigator made numerous attempts to contact Respondent at various addresses, as well as telephone numbers, to no avail.

38. The investigator also made requests to several court prosecutors to have Respondent contact her about an urgent matter, since Respondent was still appearing in various municipal and county courts on criminal cases. Respondent was provided the investigator's home, cell and office numbers and did contact her on one occasion.

39. During that conversation, the investigator advised Respondent that he was seriously delinquent in responding to three grievances and he needed to provide a written response immediately. The investigator did not hear from Respondent again. On one subsequent occasion, when the investigator saw Respondent in person, Respondent turned around and walked in the opposite direction.

40. Respondent's conduct set forth in paragraphs 27 through 39\_ violates Ohio Rule of Professional Conduct 1.3 (a lawyer shall act with reasonable diligence and promptness in representing a client).

41. Respondent's conduct set forth in paragraphs 27 through 39 violates Ohio Rule of Professional Conduct 1.4(a)(4) (a lawyer shall not fail to comply as soon as practicable with reasonable requests for information from the client).

42. Respondent's conduct set forth in paragraphs 27 through 39 violates Ohio Rule of Professional Conduct 1.5(a) (a lawyer shall not make an agreement for, charge or collect an illegal or clearly excessive fee).

43. Respondent's conduct set forth in paragraphs 27 through 39 violates Ohio Rule of Professional Conduct 1.5(b) (the nature and scope of the representation and the basis of the rate of the fee and expenses for which the client will be responsible shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation).

44. Respondent's conduct as set forth in paragraphs 27 through 39 constitutes a violation of Gov. Bar R. V(4)(G) (failure to cooperate).

**D. Carson**

45. Melissa Marie Carson ("Carson") retained Respondent on April 6, 2011 to pursue a complaint against the Giant Eagle Pharmacy in Austintown, Ohio for incorrectly filling a

prescription which resulted in Carson becoming ill, seeking emergency room treatment, and incurring medical bills.

46. After making numerous attempts to contact Respondent after the April 6, 2011 meeting, Respondent finally contacted Carson in October of 2011 requesting that Carson deliver to him the \$125.00 complaint filing fee.

47. On October 27, 2012, Carson provided Respondent with a money order in the amount of \$125.00 made payable to the Austintown County Court.

48. After providing Respondent with the \$125.00, Carson made repeated attempts to contact Respondent, without success.

49. Thereafter, Carson called Respondent's office numerous times and left messages that she wanted to terminate his services and get her \$125.00 back.

50. At some point during these attempts, Respondent's phone voice mail became full and Carson could not leave a message.

51. Carson also went to Respondent's office to wait for him, but his office was closed because he moved it and did not notify Carson.

52. Carson had absolutely no communication from Respondent after she gave Respondent the \$125.00 filing fee.

53. Carson filed the grievance complaint against Respondent on February 22, 2013, when she checked with the Austintown court and as of that date Respondent had not filed her lawsuit.

54. In addition, Carson claims that Respondent advised her not to pay her medical expenses relative to the alleged negligence on Giant Eagle's pharmacy's part.

55. As a result, Carson was turned into collections by the medical providers.

56. At the time, Carson was a full-time student at YSU and a single mother of a one year old. Carson had no extra funds.

57. On March 29, 2013, Relator's investigator sent a letter to Respondent via email, via certified mail, and via ordinary mail. The investigator did not receive any indication that the email was not delivered to Respondent. The ordinary mail was not returned to the investigator. The certified mail was signed by Shelly Berara on March 30, 2013.

58. On April 1, 2013, Respondent filed a complaint in the Austintown County Court. As of that date, Carson had not heard anything from Respondent. Further, Respondent filed the Complaint even though Carson had previously left messages with him that he was terminated and that he was to return her \$125.00.

59. Having not received a response from the Respondent, Relator's investigator again sent a letter to Respondent via email, certified mail, and ordinary U.S. Mail on May 28, 2013. The certified mail was returned to the investigator, signed for by Ken Fagnano on May 30, 2013.

60. On June 13, 2013, Relator's investigator sent a third letter to Attorney Fagnano, by email and ordinary mail. Again, there was no response.

61. Finally, on June 21, 2013, Relator's investigator sent a fourth certified mail letter to a new address obtained for Respondent. The investigator forwarded all prior letters to Respondent with a return receipt being signed for by another Fagnano, on June 24, 2013.

62. On June 6, 2013, a pretrial was held in the Austintown County Court. Respondent appeared on behalf of Carson. Attorney Rogers Williams appeared on the Defendant's behalf. An agreement was made that discovery would be completed within 60 days. Dispositive motions were to be filed within 90 days. A final pretrial was to be set within 120 days.

63. On July 16, 2013, Giant Eagle, by and through Attorney Williams, filed a motion to compel against the Plaintiff.

64. On July 22, 2013, the motion to compel was granted.

65. On August, 8, 2013, Attorney Susan Ragone filed an appearance on behalf of Carson.

66. Thereafter, the matter was continued at the request of Attorney Ragone.

67. On October 23, 2013, the parties settled the case and the matter was dismissed, with prejudice, at defendant's costs.

68. Respondent's conduct set forth in paragraphs 45 through 67 violates Ohio Rule of Professional Conduct 1.1 (A lawyer shall provide competent representation to a client. Competent representation requires a legal knowledge, skill, thoroughness, and preparation reasonably necessary for representation).

69. Respondent's conduct set forth in paragraphs 45 through 67 violates Ohio Rule of Professional Conduct 1.3 (a lawyer shall act with reasonable diligence and promptness in representing a client).

70. Respondent's conduct set forth in paragraphs 45 through 67 violates Ohio Rule of Professional Conduct 1.4(a)(3) (a lawyer shall keep the client reasonably informed about the status of the matter).

71. Respondent's conduct set forth in paragraphs 45 through 67 violates Ohio Gov. Bar R. V(4)(G) (failure to cooperate).

**E. Tillman**

72. Grievant Lauren Tillman retained Respondent to assist her in connection with the administration of her deceased father's probate estate.

73. Tillman's father died on September 12, 2009. Tillman hired Respondent on October of 2009 to assist her in the administration of the Estate.

74. Although the estate appears to have been handled properly, Respondent did not make arrangements to pay the Ohio estate tax.

75. The issue regarding failure to pay tax was addressed by Tillman to Respondent. Respondent ceased communicating with Tillman in 2010. Tillman tried on numerous occasions to communicate with Respondent. The communication attempts included traveling to Respondent's office.

76. On one occasion, Tillman learned that Respondent had closed his office, and did not provide any forwarding information to Tillman. Tillman was unable to locate Respondent and filed a grievance in February of 2013.

77. Relator's investigator determined that the errors in the Ohio state return were correctable, and Tillman retained another counsel to correct the deficiencies.

78. Relator's investigator attempted to contact Respondent both by certified mail and in person.

79. The investigator was able to have a face-to-face meeting with Respondent on April 22, 2013. At that time, Respondent was advised of the importance of responding to the grievance.

80. Thereafter, the investigator had no other communication, written or otherwise, from Respondent regarding the grievance.

81. The investigator determined he was unable to complete his investigation as a result of the Respondent's failure to address these issues.

82. Respondent's conduct set forth in paragraphs 72 through 81 violates Ohio Rule of Professional Conduct 1.4(a)(3) (a lawyer shall keep the client reasonably informed about the status of the matter).

83. Respondent's conduct set forth in paragraphs 72 through 81 violates Ohio Gov. Bar R. V(4)(G) (failure to cooperate).

**F. MaGaha**

84. On or about February 15, 2011, L'ruthliyn S. McGaha retained Respondent in regard to a personal injury case involving injuries sustained by McGaha due to ceiling tiles falling onto her at her rented house.

85. McGaha turned over all of her medical records and associated paperwork to Respondent.

86. Thereafter, McGaha and Respondent communicated in regard to the case during early 2012. However, Respondent failed to communicate with McGaha after October of 2012.

87. McGaha reports that she has not been able to reach Respondent by phone or mail since that time.

88. As a result of the inability to communicate with Respondent, McGaha filed the grievance with Relator on January 10, 2013.

89. Relator assigned an investigator, who attempted to communicate with Respondent. The investigator made numerous attempts to contact Respondent, which the investigator describes as "futile".

90. However, the investigator ran into Respondent on May 15, 2013 in a Mahoning County Common Pleas Court room. At that time, the investigator took Respondent aside and

inquired as to whether or not Respondent intended to address the grievance which had been filed with the Relator.

91. Respondent was also advised by the investigator that there were other grievances which had been filed with the Relator and that Respondent should contact the Bar Association immediately.

92. At that time, the investigator was advised by Respondent that Respondent was unaware of these matters.

93. The investigator had Respondent provide an address where copies of the grievance (and other correspondence) could be forwarded.

94. Respondent provided the address of 2505 Walden Court, Youngstown, Ohio 44509.

95. Thereafter, the investigator forwarded a copy of the grievance to the Respondent at that address. The Respondent failed to address the grievance.

96. Respondent's conduct set forth in paragraphs 84 through 95 violates Ohio Rule of Professional Conduct 1.4(a)(3) (a lawyer shall keep the client reasonably informed about the status of the matter).

97. Respondent's conduct set forth in paragraphs 84 through 95 violates Ohio Rule of Professional Conduct 1.3 (a lawyer shall act with reasonable diligence and promptness in representing a client).

98. Respondent's conduct set forth in paragraphs 84 through 95 violates Ohio Gov. Bar R. V(4)(G) (failure to cooperate).

**G. Bonner**

99. Janet Bonner retained Respondent some time in 2007 to represent her in connection with a personal injury claim that arose from injuries sustained at Gabriel Brothers in Boardman, Ohio on July 14, 2007.

100. Bonner had very little contact with Respondent from the time she hired him in 2007 and throughout the pendency of the matter. According to grievant, there was no written fee agreement; however, Bonner paid the filing fee in the amount of \$200.00 and her understanding was that Respondent would receive a percentage of any money recovered.

101. Respondent filed a lawsuit against Gabriel Brothers on July 14, 2009. Ultimately, the parties entered into a settlement agreement following a mediation on September 3, 2010. The parties agreed to settle the matter for \$5,000.00 with Bonner satisfying the Medicare lien. However, Respondent requested defense counsel temporarily delay the issuance of the final settlement funds so that he could negotiate the Medicare lien.

102. On November 18, 2010, defense counsel sent Respondent a letter requesting a status update as to the Medicare lien.

103. On January 19, 2011, defense counsel sent another letter to Respondent against requesting a status update stating that “my attempts to reach you by telephone have been unsuccessful.” According to Bonner, she was aware that the matter had been settled for \$5,000.00, but she, too, had been unable to reach Respondent regarding when she would be receiving the settlement proceeds.

104. On May 13, 2011, defense counsel filed a motion to enforce the settlement citing that after eight months “defendant is still waiting for plaintiff’s counsel to resolve this issue and has had no response to multiple telephone and letter inquiries as to the status of the Medicare lien.”

105. On November 4, 2011, the Court issued a judgment entry sustaining the motion and ordering “Defendant to forward plaintiff’s counsel (Respondent) a check in the amount of \$5,000.00 payable to plaintiff, plaintiff’s counsel and the appropriate party responsible for the Medicare lien...”

106. Bonner never received a settlement statement reflecting the payments made from the gross settlement proceeds; she only received a check from the Respondent in the amount of \$1,000.00 “sometime last year.” At some point after receiving the check, Bonner spoke with Respondent who told her that he had negotiated the Medicare lien down to \$50.00 and a chiropractic bill down to \$1,000.00.

107. It is unclear when Bonner and Respondent had this discussion about the breakdown of the settlement proceeds; however, according to Respondent, it was around the same time that she had hired him for another personal injury case for an incident that occurred in 2011.

108. Thereafter, Bonner received a letter from Medicare Secondary Payer Recovery contractor (“MSPRC”) regarding an unpaid Medicare bill for treatment received in connection with the July 14, 2007 incident in the amount of \$97.66. Bonner tried to reach Respondent to find out whether he ever sent payment to Medicare but was unsuccessful.

109. Without any response from Respondent and assuming that the Medicare lien did not get paid, Bonner then sent a check directly to MSPRC in the amount of \$50.63 based on Respondent initially told her negotiated the amount down to.

110. Bonner then received a letter from MSPRC indicating the receipt of \$50.66 payment in reference to the principal balance due of \$53.74.

111. Bonner then received a letter from the Department of Treasury, Financial Management Service dated April 17, 2013 which stated that \$97.66 was deducted from her Social Security check. It is unclear whether this amount was ultimately returned to Bonner.

112. Bonner filed her grievance with Relator on July 2, 2013.

113. Relator's investigator attempted to contact Respondent by regular and certified mail. In the investigator's letter, the investigator not only requested an interview but also requested that Respondent provide a copy of the grievant's file (including all IOLTA records) relative to the Gabriel Brothers matter. The letter was not returned.

114. On August 21, 2013, the investigator mailed a second letter to Respondent to his Market Street address both by regular and certified mail. He also sent copies of the correspondence to Respondent at 2505 Walden Court in Youngstown and to 2454 Vollmer Drive in Youngstown. The letter sent by certified mail to the Market Street address was signed for by "Angelo Fagnano."

115. Despite the investigator's attempts to contact Respondent requesting information, the Respondent failed to contact the investigator or otherwise cooperate with the investigation.

116. Respondent's conduct set forth in paragraphs 99 through 115 violates Ohio Rule of Professional Conduct 1.1 (A lawyer shall provide competent representation to a client. Competent representation requires a legal knowledge, skill, thoroughness, and preparation reasonably necessary for representation).

117. Respondent's conduct set forth in paragraphs 99 through 115 violates Ohio Rule of Professional Conduct 1.3 (a lawyer shall act with reasonable diligence and promptness in representing a client).

118. Respondent's conduct set forth in paragraphs 99 through 115 violates Ohio Rule of Professional Conduct 1.15(a) (a lawyer shall hold property of clients or third persons that is in the lawyer's possession in connection with a representation separate from the lawyer's own property).

119. Respondent's conduct set forth in paragraphs 99 through 115 violates Ohio Rule of Professional Conduct 1.15(c) (a lawyer shall deposit in a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees as earned or expenses incurred).

120. Respondent's conduct set forth in paragraphs 99 through 115 violates Ohio Gov. Bar R. V(4)(G) (failure to cooperate).

#### **H. Boxler**

121. On March 11, 2011, Bonnie Boxler hired Respondent to represent her in a medical malpractice stemming from medical treatment she received in 2010.

122. On March 11, 2011, Mrs. Boxler's husband, William Boxler, executed a contingency fee agreement on her behalf to pay respondent 33-1/3 percent of any settlement amount received before litigation and 40 percent of any settlement or award amount received after litigation began.

123. The fee agreement stated that the contingency fee would convert to a \$225 hourly fee if either party terminated the fee agreement during litigation regardless of whether the total hourly fee exceeded the original contingent fee.

124. As required by the fee agreement, Mrs. Boxler gave Respondent the \$200 filing fee necessary to file the complaint.

125. On July 3, 2011, Mrs. Boxler passed away.

126. In the months that followed, Mr. Boxler periodically met with Respondent at his office to discuss the case. During these meetings, Respondent discussed a potential wrongful death case and advised Mr. Boxler that Respondent was handling the matter.

127. By May 2012, Respondent had not filed a malpractice and/or wrongful death complaint.

128. On May 29, 2012, Mr. Boxler had a final meeting with Respondent's at his office. At that meeting, Respondent again told Mr. Boxler that Respondent was handling the matter.

129. Respondent never filed a complaint.

130. On June 21, 2012, Mr. Boxler sent Respondent a letter by certified mail terminating Respondent's representation and requesting a copy of the client file.

131. Respondent neither responded to Mr. Boxler's June 21, 2012 letter nor delivered the file to Mr. Boxler at that time.

132. On July 17, 2012, Mr. Boxler filed a grievance with the Office of Disciplinary Counsel alleging that Respondent neglected the representation and failed to deliver the client file after he was terminated.

133. On August 31, 2012, the Office of Disciplinary Counsel sent a letter of inquiry and a copy of Mr. Boxler's grievance to Respondent by certified mail.

134. On September 14, 2012, Respondent responded in writing to the office of disciplinary counsel's letter of inquiry stating "[Mrs. Boxler's] file is rather voluminous, and [respondent is] having it copied by a professional, since most of the document included are multi-fold page size ... [a]gain the file is extensive."

135. On September 29, 2012, Mr. Boxler met Respondent at his office to pick up the client file. The client file that Respondent produced to Mr. Boxler was not voluminous and contained approximately 20 pages.

136. In October 2012, Mr. Boxler hired Attorney Norman Moses to file a wrongful death case regarding Mrs. Boxler.

137. On October 26, 2012, Attorney Moses sent Respondent an email requesting a copy of the purported voluminous file, offering to reimburse Respondent the copying costs, and offering to pick up the file.

138. Respondent never responded to Attorney Moses' October 26, 2012 email.

139. On October 21, 2012, Attorney Moses sent Respondent a letter again requesting a copy of the voluminous file, offering to reimburse the copying costs, and offering to pick up the file.

140. Respondent never responded to Attorney Moses' December 21, 2012 letter.

141. Respondent never refunded the \$200.00 filing fee in this matter.

142. Respondent's conduct set forth in paragraphs 121 through 141 violates Ohio Rule of Professional Conduct 1.1 (A lawyer shall provide competent representation to a client. Competent representation requires a legal knowledge, skill, thoroughness, and preparation reasonably necessary for representation).

143. Respondent's conduct set forth in paragraphs 121 through 141 violates Ohio Rule of Professional Conduct Rule 1.3 (a lawyer shall not fail to act with reasonable diligence and promptness in representing a client).

144. Respondent's conduct set forth in paragraphs 121 through 141 violates Ohio Rule of Professional Conduct 1.4(a)(4) (a lawyer shall not fail to comply as soon as practicable with reasonable requests for information from the client).

145. Respondent's conduct set forth in paragraphs 121 through 141 violates Prof. Cond. R. 1.15(d) (a lawyer shall promptly provide a client or third party with any funds which the client or third party is entitled to receive).

146. Respondent's conduct set forth in paragraphs 121 through 141 violates Ohio Rule of Professional Conduct 1.16(d) (a lawyer, upon withdrawal or termination, shall promptly deliver the client's file).

147. Respondent's conduct set forth in paragraphs 121 through 141 violates Ohio Rule of Professional Conduct 8.1(a) (a lawyer shall not knowingly make a false statement of material fact in connection with a disciplinary matter).

148. Respondent's conduct set forth in paragraphs 121 through 141 violates Ohio Rule of Professional Conduct Rule 8.4(c) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation).

#### **I. Marco**

149. Respondent was appointed to represent Christopher Marco in Mahoning County Common Pleas Court Case No. 10-CR-248. The felony counts of the indictment consisted of one count of burglary and two counts of aggravated arson.

150. Marco alleges that Respondent failed to appear at hearings, instead sending "random attorneys" to cover for him. He further alleges that Respondent declined a plea offer in which Marco would have received a recommendation of six years of incarceration. Marco was

later sentenced to 14 years of incarceration. Marco also alleges that Respondent failed to file a notice of appeal.

151. On August 9, 2013, Relator's investigator sent a letter to Respondent's last known address. Additionally, an email was sent to Respondent's email address that was returned as undeliverable. The investigator also reviewed Respondent's Facebook account, and coincidentally, Respondent made posts concerning his imminent move out of the Youngstown area. The investigator sent Respondent a message on Facebook asking him to contact the investigator regarding Marco's grievance. The email letter was returned and Respondent failed to respond to the investigator's Facebook message.

152. Subsequently, the investigator spoke to an attorney who did cover a hearing on the Marco case for Respondent. The attorney advised that she had no other substantial knowledge or insight about the case. When questioned about the plea offer of six years and the recommendation to decline that offer the attorney stated "Marco spoke with [Respondent] directly on the phone about that." There is a journal entry in the docket that indicates that Marco rejected the six year offer.

153. On July 18, 2013, Marco was granted a delayed appeal by the Seventh District Court of Appeals (Case No. 13-MA-109). Attorney Jay Blackstone was appointed as appellate counsel.

154. On September 10, 2013, appellate counsel sought additional leave to file assignments of error as the transcript of the sentencing hearing was not in the record. The Seventh District granted counsel leave until October 5, 2013.

155. On October 4, 2013, Marco's appeal was dismissed.

156. On October 14, 2013, the investigator spoke with Attorney Blackstone. Attorney Blackstone reiterated all of Marco's allegations surrounding the rejection of the offer of six years and attorneys other than Respondent covering hearings. Attorney Blackstone indicated that, at the time of the plea, the prosecution stood silent as to sentencing. Attorney Blackstone is of the opinion that Marco's prior record – as reflected in the pre-sentence investigation – had a substantial impact on the trial court's sentencing decision.

157. As to the dismissal of the appeal, Attorney Blackstone felt, after reviewing the transcript, that the record did not reflect any alleged malpractice by Attorney Fagnano and that Marco might be better served by dismissing the appeal and seeking post-conviction relief from the trial court based upon Respondent's alleged professional misconduct.

158. During the investigation, Marco alleges that Respondent made misrepresentations to him during the course of the case. Specifically, Marco alleges that Respondent made misstatements to Marco's family members concerning the case and communications between the two of them.

159. While Marco alludes to "dealings behind the scenes" and something being "fishy", the investigator found no evidence to support those beliefs. However, the investigator also found that Respondent's representation of Marco in his criminal case did not rise to an acceptable, minimal level.

160. Respondent's conduct set forth in paragraphs 149 through 159 violates Ohio Rule of Professional Conduct Rule 1.1 (A lawyer shall provide competent representation to a client. Competent representation requires a legal knowledge, skill, thoroughness, and preparation reasonably necessary for representation.)

161. Respondent's conduct set forth in paragraphs 149 through 159 violates Ohio Rule of Professional Conduct Rule 1.3 (a lawyer shall not fail to act with reasonable diligence and promptness in representing a client).

162. Respondent's conduct set forth in paragraphs 149 through 159 violates Ohio Rule of Professional Conduct Rule 4.1(a) (in the course of representing a client, a lawyer shall not knowingly do either of the following ... make a false statement of material fact or law to a third person).

163. Respondent's conduct set forth in paragraphs 149 through 159 violates Ohio Rule of Professional Conduct Rule 8.4(c) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation).

164. Respondent's conduct set forth in paragraphs 149 through 159 violates Ohio Gov. Bar R. V(4)(G) (failure to cooperate).

**J. O'Connor**

165. On February 12, 2010, Arian S. O'Connor filed a complaint in the United States District, Northern District of Ohio (Youngstown) against Defendants Louis Clavarelli, Joe DeMatteo, Jimmy Hughes, John Kelty, Jose Morales, Officer Andrews, James Pasheilich, John Patton and Michael Shaeffer.

166. These defendants were employees of or individuals associated with the Youngstown Police Department. Mr. O'Connor alleged numerous violations of 42 U.S.C. §1983, as well as supplemental state law claim.

167. On July 2, 2010, the court entered a memorandum, opinion and order dismissing the claims against Officer John Kelty, Jose Morales, Louis Clavarelli, Joe DeMatteo, John Patton,

Michael Shaeffer, James Pasheilich, Officer Andrews, Hughes and Peacock in their official capacities. The claim alleging gross negligence was also dismissed by the trial court.

168. On August 3, 2010, an answer to the complaint was filed by counsel for James Pasheilich and Michael Shaeffer.

169. On August 3, 2010, an answer was also filed by separate counsel for defendants Clavarelli, DeMatteo, Hughes, Kelty, Morales, Andrews and Patton.

170. On August 19, 2010, a motion for summary judgment on the pleadings was filed on behalf of defendants Pasheilich and Shaeffer.

171. On October 13, 2010, O'Connor filed a response to the motion for judgment on the pleadings. Defendants Pasheilich and Shaeffer responded on October 14, 2010.

172. On October 19, 2010, the court held a case management conference. The court noted, in an entry of November 12, 2010, that plaintiff was permitted to obtain counsel, who was to serve and file an entry of appearance on or before October 26, 2010. The Youngstown Police Officer defendants were ordered to produce documents from their investigation, including, but not limited, the report of the internal affairs unit of the Youngstown Police Department. O'Connor was also permitted to propound interrogatories to the Youngstown Police Officer defendants on or before November 18, 2010. Counsel for the plaintiff was also permitted to take the deposition of the Youngstown Police Officer defendants and lab analyst at the Ohio BCI and to subpoena documents from BCI.

173. The court further indicated it would treat Shaeffer's and Pasheilich's motion for judgment on the pleadings as one for summary judgment. The movants were ordered to file a supplemental memorandum in support of the motion on or before November 18, 2010. The plaintiff was then ordered to serve and file a supplemental memorandum in opposition to the

motion on or before December 20, 2010. The movants were ordered to serve and file a reply memorandum in support of their motion, if any, on or before January 3, 2011.

174. On October 27, 2010, Respondent filed his notice of appearance on behalf of O'Connor.

175. On November 17, 2010, Pasheilich and Shaeffer filed their supplemental memorandum in support of their motion for summary judgment.

176. On April 15, 2011, defendant Officer DeMatteo passed away.

177. On January 20, 2012, the court granted summary judgment in favor of Pasheilich and Shaeffer while simultaneously dismissing claims for slander and intentional infliction of emotional distress against all named defendants. The remaining claims include defamation and constitutional violations of the Fourth and Fourteenth Amendments against Chief Hughes, constitutional violations of the Fourth and Fourteenth Amendments against Sergeants Kelty and Morales, Officers DeMatteo, Patton, Clavarella and Andrews for false arrest, false imprisonment, fabrication of evidence, malicious prosecution and the denial of substantive due process. Claims for false arrest, false imprisonment, malicious prosecution under Ohio state law also remained pending.

178. On January 23, 2012, the remaining defendants filed a status report. That same day, a telephone status conference was held by the court. An order extending the discovery deadline to May 21, 2012 was granted. Dispositive motions were then due by June 4, 2012.

179. On January 25, 2012, a notice of suggestion of death was filed on behalf of defendant DeMatteo.

180. On March 8, 2012, a status report was again filed on behalf of the defendants. An additional status report was filed on April 25, 2012.

181. On June 4, 2012, a motion for summary judgment was filed on behalf of the defendants, which included an affidavit of Chief Foley, and the deposition of the plaintiff.

182. Respondent failed to respond to the motion for summary judgment, nor did he advise his client of its filing.

183. O'Connor learned of the motion when he ordered the docket sheet on December 6, 2012.

184. On December 17, 2012, O'Connor filed a motion to stay the proceedings until he could hire new counsel to respond to the pending motion for summary judgment. On December 18, 2012, the defendants the motion to stay the proceedings, and O'Connor filed a reply on January 2, 2013. The court noted, in a subsequent entry, that the defendants had filed the pending motion for summary judgment on June 4, 2012 and that plaintiff waited over six months before essentially seeking an extension of time to respond to the motion. The court found the pro se motion untimely and denied it.

185. On January 24, 2012, the court granted defendants' motion for summary judgment in its entirety. All of the plaintiff's claims were dismissed. At the time of the dismissal, respondent was still listed as counsel of record for the plaintiff.

186. At no time did respondent conduct discovery of the officers, respond to the motion for summary judgment or otherwise inform his client as to the status of the case.

187. Respondent's conduct set forth in paragraphs 165 through 186 violates Ohio Rule of Professional Conduct Rule 1.1 (A lawyer shall provide competent representation to a client. Competent representation requires a legal knowledge, skill, thoroughness, and preparation reasonably necessary for representation.)

188. Respondent's conduct set forth in paragraph 165 through 186 violate Ohio Rule of Professional Conduct 1.3 (a lawyer shall not fail to act with reasonable diligence and promptness in misrepresenting a client).

189. Respondent's conduct set forth in paragraphs 165 through 186 violates Ohio Rule of Professional Conduct 1.4(a)(3) (a lawyer shall keep the client reasonably informed about the status of the matter).

**K. Heiss**

190. Jason Heiss and Rayna Perdue retained Respondent to represent them in a lawsuit against James D. Zabotti.

191. Respondent filed a complaint against Zabotti in the Struthers Municipal Court, being Case No. CVF1100832 on that court's docket.

192. The complaint was filed on December 19, 2011. The summons and complaint were served on the defendant, via alias mail service, on January 10, 2012.

193. On February 17, 2012, the case was called by the court. Noting that the defendant had failed to plead or otherwise defend as provided by the Civil Rules, judgment was granted by default.

194. Respondent failed to notify his clients of the status of the case. In May of 2013, Heiss and Perdue filed a grievance with the Mahoning County Bar Association, alleging that they had not heard from the Respondent since June of 2012.

195. The grievants also alleged that Respondent had failed to return any of their phone calls, that he changed his telephone number without advising them, that he has avoided any contact with them, and that he changed his office location so that the clients were unable to locate him.

196. On June 16, 2013, the court docket was checked by the Mahoning County Bar Association and the grievants were advised that they should contact new counsel to address the issues of damages and to determine whether or not the tortfeasor had insurance for the damages sustained by them. An investigator was assigned by Relator to investigate the grievance.

197. The investigator forwarded a copy of the grievance to the Respondent for an answer. An answer was never provided.

198. However, the investigator was able to speak to the Respondent through the efforts of Respondent's parents.

199. Respondent advised the investigator that he was presently suspended from the practice of law, was working in Warren, Ohio helping his father in his father's business. Respondent had no trouble remembering the grievants, and stated their case was finished via default judgment. Respondent stated that he informed the grievants of that fact.

200. Both Mr. and Mrs. Heiss deny this fact. Again, they claim that he never advised them of the status of their case, that he did not return any of their calls, and did not inform them that he was changing either his telephone number or his office location.

201. Mr. and Mrs. Heiss advised that as a result of the accident, they had hospital bills which had not been paid and which were affecting their credit.

202. Mr. and Mrs. Heiss expressly denied that Respondent ever advised them that their case had concluded or that a default judgment had been awarded. In fact, they denied knowing what a "default judgment" was.

203. Respondent's conduct set forth in paragraphs 190 through 202 violates Ohio Rule of Professional Conduct 1.4(a)(3) (a lawyer shall keep the client reasonably informed about the status of the matter).

**L. Sandy**

204. Grievant Sherry Sandy retained Respondent on May 10, 2013 to represent her in Mahoning County Common Pleas Court case no. 2103-CR-489.

205. Sandy entered into a flat rate attorney fee contract for \$2500.00. Sandy paid \$850.00 on May 10, 2013 and \$850.00 on July 3, 2013, for a total of \$1700.00. The fee agreement was to cover all pre-trial, trial and post-trial proceedings up to the rendition of judgment and excluded appeal and other post-judgment proceedings.

206. Respondent entered a notice of appearance on May 14, 2013. On May 14, 2013, Respondent filed a request for discovery.

207. Respondent was 54 minutes late for the trial date on May 21, 2013, was found in contempt and fined \$150.00 by Judge Evans. The court order states "this court previously removed Attorney Fagnano from court appointment representation due to failures of the same nature as of this date. It appears that contempt would not have been enforced in this instance except for past history of failure to appear or late arrival."

208. On May 23, 2013, a waiver of speedy trial was filed on behalf of the defendant.

209. On May 23, 2013, Respondent also filed a motion for intervention in lieu of conviction.

210. The July 3, 2013 check was drawn on PNC Bank and was paid by PNC on July 10, 2013 in the amount of \$850.00. The check image indicates it was deposited at Chase Bank. It is not clear enough to read the date of deposit.

211. On July 8, 2013, the Ohio Supreme Court ordered an interim suspension of the Respondent. The order was to take effect immediately. The order further states that service shall

be deemed made on Respondent by sending the order by certified mail to the most recent address the Respondent has given the office of attorney service.

212. It is impossible to tell when the check was deposited without the records of Chase Bank. Based upon the check being paid on July 10, 2013, the date of deposit and the interim suspension order appear to be within the same few days.

213. On October 3, 2013, Sandy filed her grievance with the relator. Sandy requested that the July 3, 2013 payment be returned. She believes that the check was cashed after Respondent was suspended. Relator notes that an attorney who is suspended is entitled to fees earned prior to the suspension.

214. Sandy's grievance and complaint alleges:

- a. Respondent cashed the check for fees after he was suspended from practice;
- b. Respondent was 54 minutes late for a trial date on May 20, 2013 and was fined \$150.00 by Judge Evans.
- c. On July 23, 2013, Sandy requested the return of her July 10, 2013 payment. Sandy presented a Supreme Court printout that states Respondent's suspension was effective on July 8, 2013.
- d. Respondent never informed Sandy of the documents that she would need for referral to intervention. It was not until she hired a new attorney that she was informed of the documents needed and the procedure to be considered for intervention.
- e. Sandy first learned of the suspension when the court called her and was not notified of the suspension by Respondent.

f. When Sandy reached Respondent's office, she was given the name of another lawyer that would finish her case. This was not true and Sandy found her own counsel.

215. Relator appointed an investigator to investigate the grievance. The investigator requested meetings, on two occasions, with the grievant. He also requested that Respondent respond in writing to the grievance.

216. Neither Sandy nor Respondent met with the investigator nor provided oral or written responses to the inquiries.

217. The investigator reviewed the legal services contract and the copies of the cancelled checks, and noted that these documents support Sandy's version of the events.

218. Sandy retained Attorney John Shultz to represent her. Attorney Shultz filed a notice of appearance on July 19, 2013. On the same date, Attorney Shultz wrote to Sandy informing her of what she needed to do to receive intervention.

219. The investigator also reviewed the court docket and associated pleadings. The investigator noted that the filed documents do not justify the retention of the July 2, 2013 payment.

220. With respect to the documents required to obtain intervention, the investigator noted that Attorney Shultz supplied this information and Sandy was found eligible for ILC. The investigator noted that Respondent's failure(s) did not cause any substantial damage to Sandy's case, and instead is reflective upon the lack of work performed by Respondent.

221. The investigator further noted that the Supreme Court order directed Respondent to notify all clients by certified mail within 30 days of July 18, 2013 that he was suspended. Sandy states that she was never notified of Respondent's suspension by Respondent. No information to refute this fact was provided by Respondent.

222. After learning of the suspension, Sandy contacted Respondent regarding her case. Respondent stated that he had a colleague, Attorney Katherine Rudzik, who would finish her case. Sandy attempted to call Rudzik, but did not receive a return call. Sandy then called the court back and asked about Rudzik's representation of her.

223. Rudzik advised the investigator that she had received a call from the court inquiring as to whether she was taking over Respondent's cases and Sandy's case in particular. Rudzik informed the court that she had no such agreement and was not taking any of Respondent's cases. The court then advised Sandy of this fact.

224. Respondent's conduct set forth in paragraphs 204 through 224 violates Ohio Rule of Professional Conduct Rule 1.1 (A lawyer shall provide competent representation to a client. Competent representation requires a legal knowledge, skill, thoroughness, and preparation reasonably necessary for representation.)

225. Respondent's conduct set forth in paragraphs 204 through 224 violates Ohio Rule of Professional Conduct 1.5(a) (a lawyer shall not make an agreement for, charge or collect an illegal or clearly excessive fee).

226. Respondent's conduct set forth in paragraphs 204 through 224 violates Ohio Rule of Professional Conduct 8.4(d) (a lawyer shall not engage in conduct that is prejudicial to the administration of justice).

227. Respondent's conduct set forth in paragraphs 204 through 224 violates Ohio Rule of Professional Conduct Rule 8.4(c) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation).

228. Respondent's conduct set forth in paragraphs 204 through 224 violates Ohio Gov. Bar R. V(4)(G) (failure to cooperate).

**M. Ragone/Razo**

229. Grievant Thomas Razo, Sr. retained Respondent's service to handle a medical malpractice suit.

230. Respondent advised the grievant that he had filed a lawsuit against the appropriate parties.

231. After many unanswered telephone calls and missed appointments, the grievant discovered that Respondent had not, in fact, initiated any legal proceedings on behalf of the grievant.

232. Respondent sought the legal counsel of Attorney Suzanne Ragone who, upon further investigation, found that the entire matter was time barred due to the expired statute of limitations.

233. Further, Ragone believes that Respondent carried no malpractice insurance, and that he failed to inform Mr. Razo of this verbally or in writing.

234. Thereafter, both Razo and Ragone filed grievances with the Relator.

235. The grievance was assigned for investigation to Jill Landau in October 2012.

236. Thereafter, Landau sent a letter and a copy of the grievance to Respondent on October 12, 2012. The letter was mailed to Respondent's Market Street office.

237. On October 15, 2012, Landau sent another letter and a copy of the grievance to Respondent at his Walden Court address. Neither letter was returned to Landau's office.

238. Sometime in early November 2012, Landau physically encountered Respondent and advised him that there were grievances pending against him. Respondent provided Landau with his email address.

239. On November 11, 2012, Landau emailed Respondent with copies of the grievances attached. Landau also sent Respondent another letter and copies of the grievances on January 4, 2014 to the Walden Court address by both regular and certified mail. Further, she sent a similar email to Respondent on January 4, 2013. Landau received no responses, and the certified mail was returned unclaimed.

240. In early January 2013, Landau again encountered Respondent in a parking lot adjacent to the Mahoning County Common Pleas Court. Landau again advised Fagnano to respond to her correspondence. Respondent stated he was working with the Ohio Lawyers Assistance Program (OLAP) in Columbus, and that Landau should contact them.

241. On February 25, 2013, Landau spoke with a representative of OLAP. The representative advised Landau that she had a release from Respondent and was authorized to speak.

242. The representative related that Respondent initially contacted the agency in late 2012, but had not made physical contact with the agency until February 12, 2013. Respondent had signed a three year contract to work with the agency, and had been diagnosed with mental health issues. Apparently, Respondent was also looking to get out of the practice of law and take a break.

243. OLAP advised Respondent to seek legal counsel to address the legal problems. Apparently, thereafter, Respondent had been unresponsive to the OLAP inquiries and it was only after much time had passed that Respondent actually kept an appointment with OLAP. Respondent was advised by OLAP to contact the Relator's investigator.

244. On February 27, 2013, Thomas Razo filed a complaint against Respondent.

245. On March 5, 2013, Landau again wrote to the Respondent at an address provided by the Ohio Supreme Court website (4370 Yakata Dora Drive, Youngstown, Ohio). The certified cards were signed by “Shelly Berena.”

246. On March 11, 2013, Landau again spoke with a representative of OLAP, who advised Landau that Respondent had stated that he had previously contacted Landau. The statement was not true. Landau did receive, subsequently, a letter from Respondent’s therapist who stated he had been diagnosed with a recognized mental health disorder and had been placed on medications.

247. On February 26, 2013, Ragone filed a complaint alleging malpractice against Respondent.

248. On March 31, 2014, Razo filed for a default judgment.

249. To date, Respondent has failed to respond to any inquiries by the Mahoning County Bar Association regarding this matter.

250. Respondent’s conduct set forth in paragraphs 229 through 249 violates Ohio Rule of Professional Conduct Rule 1.1 (A lawyer shall provide competent representation to a client. Competent representation requires a legal knowledge, skill, thoroughness, and preparation reasonably necessary for representation.)

251. Respondent’s conduct set forth in paragraphs 229 through 249 violates Ohio Rule of Professional Conduct 1.3 (a lawyer shall act with reasonable diligence and promise in representing a client).

252. Respondent’s conduct set forth in paragraphs 229 through 249 violates Ohio Rule of Professional Conduct 1.4(a)(2) (a lawyer shall reasonably consult with a client about the means by which a client’s objectives are to be accomplished).

253. Respondent's conduct set forth in paragraphs 229 through 249 violates Ohio Rule of Professional Conduct 1.4(c) (a lawyer shall inform a client at the time of the client's engagement of the lawyer or any time subsequent to the engagement if the lawyer does not maintain professional liability insurance in the amounts of at least \$100,000.00 per occurrence and \$300,000.00 in the aggregate, or if the lawyer's professional liability insurance is terminated).

254. Respondent's conduct set forth in paragraphs 229 through 249 violates Ohio Rule of Professional Conduct Rule 8.4(c) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation).

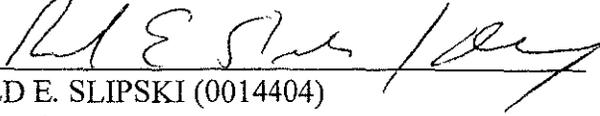
255. Respondent's conduct set forth in paragraphs 229 through 249 violates Ohio Gov. Bar R. V(4)(G) (failure to cooperate).

### III. Conclusion

WHEREFORE, pursuant to Gov. Bar R. V, the Code of Professional Conduct and the Rules of Professional Conduct, Relator alleges that Respondent is chargeable with misconduct; therefore, Relator requests that Respondent be disciplined pursuant to Rule V of the Rules for the Government of the Bar of Ohio.

MAHONING COUNTY BAR ASSOCIATION

  
\_\_\_\_\_  
DAVID C. COMSTOCK, JR. (0040145)  
Bar Counsel  
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\_\_\_\_\_  
RONALD E. SLIPSKI (0014404)  
Bar Counsel  
P.O. Box 4338  
Youngstown, Ohio 44515  
(330) 797-0086

**CERTIFICATE OF SERVICE**

Pursuant to Gov. Bar R. V, Section 5, I certify that a copy of the foregoing complaint has been mailed by U.S. regular mail on this 8<sup>th</sup> day of January, 2015, to:

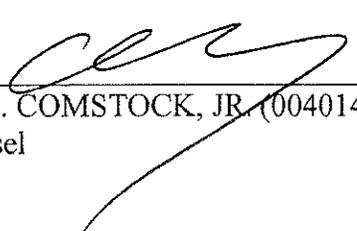
**Frank Fagnano**  
4370 Yakata Dora Drive  
Youngstown, Ohio 44511

**Office of Disciplinary Counsel**  
Bicentennial Plaza One  
250 Civic Center Drive, Suite 325  
Columbus, Ohio 43215-5454

**The Certified Grievance Committee  
of the Ohio State Bar Association**  
65 South Front Street, 5th Floor  
Columbus, Ohio 43215

**Mahoning County Bar Association**  
114 East Front Street  
Youngstown, Ohio 44503

MAHONING COUNTY BAR ASSOCIATION

  
\_\_\_\_\_  
DAVID C. COMSTOCK, JR. (0040145)  
Bar Counsel

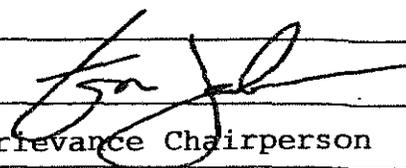
CERTIFICATE

The undersigned Eric C. Johnson, Esq.  
(President, Secretary, Chairman of the Grievance Committee or Disciplinary Counsel)  
of the Mahoning County Bar Association

hereby certifies that David C. Comstock, Jr., Esq. & Ronald E. Slipski, Esq.

\_\_\_\_\_ are (is or are) duly authorized to  
represent Relator in the premises and have (has or 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 \_\_\_\_\_, 20 \_\_\_\_\_



Grievance Chairperson

(Title)

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

Section (4)

(4) (I) (8) *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 or 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 officer 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 or counties in which the Respondent resides and maintains his office and for the county from which the complaint arose.