



## COUNT ONE

4. Beginning in 2012, respondent provided legal representation to Arthur Goldner & Associates, Inc. and NC Plaza LLC in the matter known as *Whitt Sturtevant LLP v. NC Plaza LLC and Arthur Goldner & Associates, Inc.*, Franklin County Court of Common Pleas Case No. 12-CV-015282.
5. The *Whitt Sturtevant* lawsuit was filed against respondent's clients on December 12, 2012.
6. Arthur Goldner & Associates, Inc. is the authorized agent of NC Plaza LLC.
7. Arthur Goldner is the President, Chief Executive Officer, and an authorized representative of Arthur Goldner & Associates, Inc.
8. On behalf of NC Plaza LLC and Arthur Goldner & Associates, Inc., Arthur Goldner signed the lease between Whitt Sturtevant LLP and NC Plaza LLC that was at issue in the *Whitt Sturtevant* litigation.
9. Arthur Goldner hired respondent to represent NC Plaza LLC and Arthur Goldner & Associates, Inc. in the *Whitt Sturtevant* litigation.
10. During the *Whitt Sturtevant* litigation, respondent knew that Arthur Goldner was the principal decision-maker for his clients, NC Plaza LLC and Arthur Goldner & Associates, Inc.
11. Respondent did not inform the appropriate representative(s) of his clients NC Plaza LLC and Arthur Goldner & Associates, Inc. including Arthur Goldner, that he did not maintain professional liability insurance.
12. A bench trial was held in the *Whitt Sturtevant* litigation in July 2014.

13. On September 8, 2014, the trial court rendered an initial judgment against respondent's clients that included compensatory damages of \$63,509.57, damages for defamation *per se* of \$100,000, and, punitive damages of \$25,000.
14. Respondent's representation of NC Plaza LLC and Arthur Goldner & Associates, Inc. ended on or about October 2, 2014.
15. Franklin County Loc.R.18.01 states that "[a]n attorney desiring to withdraw from representation of a client in civil or criminal cases shall file a motion to withdraw stating the reasons for the withdrawal. The motion shall also include the last current address and phone number of the client and certification by the attorney that the following conditions have been met: (a) notice has been given to the client advising the client of all orders and all upcoming assignment dates affecting the client; [and], (b) notice has been given to all counsel, or if unrepresented, notice has been given to the parties."
16. Respondent never filed a motion to withdraw from the *Whitt Sturtevant* litigation.
17. On October 9, 2014, the trial court issued a "corrected judgment entry" adding an additional award to the defendants for attorney fees in the amount of \$168,519.78.
18. *In toto*, the trial court's judgment against respondent's clients was \$357,029.35.
19. Arthur Goldner & Associates, Inc. and NC Plaza LLC retained Attorney Stephen D. Jones and the law firm of Roetzel & Andress, LPA to represent them on an appeal of the aforementioned judgment and a potential malpractice claim against respondent.
20. On January 16, 2015, Jones contacted respondent by letter.
21. Jones' January 16, 2015, letter placed respondent on notice of a possible legal malpractice claim against respondent and asked respondent to "kindly forward to me a

copy of the declaration page of your legal malpractice policy indicating the coverage that you or your firm had in place during your representation of the Clients in this matter.”

22. *Inter alia*, the basis of the possible malpractice claim against respondent was respondent’s alleged failure to advise Arthur Goldner & Associates, Inc. and NC Plaza LLC to submit a claim for coverage to their general liability insurance carrier, American Zurich Insurance Co., regarding the *Whitt Sturtevant* matter.
23. Respondent did not respond to Jones’ January 16, 2015 letter.
24. Jones sent a second letter to respondent dated February 4, 2015.
25. Jones’ February 4, 2015 letter states, “[a]ccording to my clients, you did not provide any disclosure regarding the lack of, or termination of your professional liability insurance during the course of your representation of them. I am therefore assuming that you had the required coverage in place, and again request that you forward to me immediately all information, including declaration pages, verifying the existence of this insurance.”
26. Respondent did not respond to Jones’ February 4, 2015 letter.
27. Jones sent a third letter to respondent dated February 13, 2015.
28. Jones’ February 13, 2015 letter states, in relevant part, “Mr. Goldner has requested that I advise you that if we do not receive this information from you by the end of this month, we will assume that you did not meet the requirements of Rule 1.4(c) of the Ohio Rules of Professional Conduct, and we will proceed accordingly.”
29. On March 3, 2015, respondent sent an email to Jones and to Arthur Goldner that was entirely unresponsive to Jones’ previous requests for information.
30. In its entirety, respondent’s March 3, 2015 email to Jones and Goldner states:

Gentlemen ... I intend to respond to your detailed request ... providing a written response not later than March 16, 2015. If however you

choose to proceed as intimated please so advise in advance of my intended provision in which case I will not respond. The Roetzel communications thus far are threats of many different types both legal and or administrative actions. Please recall that I offered a full detailed review with the good folks at Roetzel when they came on board and took over ... but I have never heard from anyone to have accomplished this conversation.

31. On March 4, 2015, Jones replied to respondent's March 3, 2015 email, stating, "Kinsley, do us all a favor, cut to the chase, and just tell us now if you had insurance or not."

32. Jones' March 4, 2015 email also asked respondent not to "communicate directly or indirectly again with representatives of Arthur Goldner and Associates, Inc. or NC Plaza LLC" without Jones' permission.

33. Respondent did not respond to Jones' March 4, 2015 email.

34. On March 6, 2015, Jones sent respondent an email stating:

Kinsley, for the fifth time, we are requesting that you immediately advise us if you had insurance. No drama please, just tell us, we need to know as soon as possible. Please respond to me only, this is the third notice that you are to have no direct contact with representative of your former clients on this matter. Also, you were instructed to file a notice of withdraw (sic) of counsel several months ago, but looking at the court's docket, it appears that you have failed to do so. If you did, I apologize, please send me a copy. I look forward to hearing from you today, return email is fine.

35. On March 16, 2015, respondent sent a threatening letter directly to Arthur Goldner of Arthur Goldner & Associates, Inc.

36. Respondent's March 16, 2015 letter to Goldner states:

I have received three letters and two emails from Stephen Jones at Roetzel concerning several topics but generally they relate to pre-disengagement matters in the case (October 2, 2014) and then questions regarding insurance (professional liability coverage).

\* \* \*

Additionally, Mr. Jones seeks information about professional liability insurance but he does not disclose why. Let me assume that litigation is considered and that I am the target of that consideration. If this is accurate then my belief that all of Mr. Jones (sic) communications have been, not thinly veiled, threats is accurate. If filed such a case will open a circumstance where I have to defend such a claim. In the event that I must defend I no longer have the restrictions to stay silent about case matters, documents and testimony, in the Whitt v NC Plaza case that are and will be required for my defense and likely counterclaims. Such a defense will be beneficial to me but will be an assuredly unwanted re-focusing upon the decision of the trial court by defendants in Whitt v NC Plaza.

\* \* \*

Please be clear that any case filed against me will not provide any insurance proceeds and that I will not agree to any resolution of any kind. There is not and will not be any coverage or payments in any way.

\* \* \*

My efforts to communicate with counsel Jones as preparation and insights for the appeal were rebuffed. Certainly neither you nor I like the decision and outcome of the case by the court, ok that, but such discontent does not open a window to insurance proceeds or any contribution for any reason by me.

37. By letter dated March 19, 2015, Jones sent a letter to relator regarding respondent's refusal to respond to Jones' and his clients' requests for information regarding respondent's professional liability insurance coverage.
38. On March 25, 2015, relator sent respondent Jones' letter and asked respondent to submit a response within 10 days.
39. On or about April 6, 2015, respondent submitted a written response to relator.
40. Respondent's April 6, 2015 response to relator did not include clear, direct or definitive information regarding respondent's professional liability insurance coverage or lack thereof.

41. Respondent's April 6, 2015 response to relator did not include a copy or copies of Rule 1.4(c) notices for NC Plaza LLC and for Arthur Goldner & Associates, Inc.

42. As set forth in Count One herein, respondent has violated the Ohio Rules of Professional Conduct:

- Rule 1.4(c) (A lawyer shall inform a client at the time of the client's engagement of the lawyer or at any time subsequent to the engagement if the lawyer does not maintain professional liability insurance in the amounts of at least one hundred thousand dollars per occurrence and three hundred thousand dollars in the aggregate or if the lawyer's professional liability insurance is terminated. The notice shall be provided to the client on a separate form set forth following this rule and shall be signed by the client).
- Rule 1.4(c)(1) (A lawyer shall maintain a copy of the [Rule 1.4(c)] notice signed by the client for five years after termination of representation of the client).
- Rule 1.16(c) (If permission for withdrawal from employment is required by the rules of tribunal, a lawyer shall not withdraw from employment in a proceeding before that tribunal without its permission).
- Rule 4.2 (In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or court order).
- Rule 8.4(c) (It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation).

- Rule 8.4(h) (It is professional misconduct for a lawyer to engage in any other conduct that adversely reflects on the lawyer's fitness to practice law).

## COUNT TWO

43. On or about June 8, 2015, through counsel and in response to a request from relator for a "direct answer" to the issues raised in the grievance from Jones, respondent submitted a letter and two documents.
44. The two documents produced by respondent on June 8, 2015 do not comply with the requirements of Rule 1.4(c).
45. The documents produced by respondent incorrectly reference "DR 1-104," a rule that has not been in existence since January 2007; they are undated; they were not executed by an appropriate representative of the limited liability company and corporation for which respondent provided representation in the *Whitt Sturtevant* litigation; they are not signed by respondent; and, they do not bear a client signature.
46. One of documents produced by respondent to relator on June 8, 2015, bears what appears to be a rubber-stamped or electronically generated signature of Rick A. Aronhalt, an employee of Arthur Goldner & Associates, Inc.
47. The other document produced by respondent to relator on June 8, 2015, is not signed and instead, displays the typewritten name, "Rick A. Aronhalt."
48. Respondent was and is unaware and/or unsure whether Rick Aronhalt was or is an officer, director, or principal of respondent's client, Arthur Goldner & Associates, Inc.
49. Respondent provided personal representation to Aronhalt prior to and separate from the *Whitt Sturtevant* litigation.

50. Respondent knew or should have known that Aronhalt did not have authority to execute a Rule 1.4(c) notice on behalf of NC Plaza LLC and/or Arthur Goldner & Associates, Inc.

51. During the course of relator's investigation of respondent and after relator received the June 8, 2015 letter from respondent, the parties agreed that respondent would appear for a deposition at relator's office on August 25, 2015.

52. In a further effort to obtain information from respondent, relator served respondent with a subpoena *duces tecum* to provide the following documents at the deposition:

A list of clients represented from January 1, 2012 through December 31, 2014 and a copy of the corresponding Rule of Professional Conduct 1.4(c) "Notice to Client" for each client represented from January 1, 2012 through December 31, 2014.

53. On August 25, 2015, respondent appeared for his deposition.

54. At the time of his deposition, respondent failed to provide relator with either the requested client list or copies of any of the notices to clients required by Rule 1.4(c).

55. Throughout the deposition, respondent knowingly made misrepresentations.

56. Examples of respondent's false deposition statements include, but are not limited to:

- a. Respondent falsely testified that his former client, Larry Garrett, signed a Rule 1.4(c) disclosure form.
- b. Respondent falsely claimed that he was never paid to represent Garrett and that Garrett owed him "in the realm of \$30,000."
- c. Respondent falsely testified that his former client, Ellen Shaffer, was aware that respondent did not maintain malpractice insurance.
- d. Respondent falsely testified that Ellen Shaffer signed a Rule 1.4(c) disclosure form.

- e. Respondent falsely testified that there was “no appellate case for” Alan Hamwi and falsely claimed that he did not file a notice of appeal on behalf of Alan Hamwi.

57. Throughout the deposition, respondent gave evasive and knowingly misleading responses.

58. Examples of respondent’s evasive and knowingly misleading deposition responses include, but are not limited to:

- a. After respondent testified that he does not maintain a list of client names and in response to the question of whether respondent had a “way of identifying who you represented in the last three years,” respondent answered, “I might.” Asked what he meant by “I might,” respondent answered, “I might be able to.”
- b. Asked what the “nature of his [law] practice” is, respondent answered, “I help people.”
- c. Asked what type of law he practices, respondent answered, “Good law.”
- d. When asked where particular client files would be after respondent’s representation ended, respondent repeatedly gave evasive responses or answered, “I don’t know,” “I have no idea,” “the file was archived, and I don’t know,” and, “I have no idea what files I have.”
- e. Respondent’s evasive and confusing answers to questions regarding the location of client files included answers to questions regarding particular, named clients whom respondent was currently representing and those clients for whom respondent provided representation as recently as eight months before the deposition.

- f. Asked what his “file retention policy” was, respondent answered that his “policy” was, “I give you back your file as immediately as humanly possible.”
- g. Asked if the “file retention policy” was “spelled out in the fee agreement,” respondent answered, “It’s spelled out in the way I give the file back, Counsel.”
- h. Asked whether his former client Justin Neme signed a Rule 1.4(c) form, respondent answered, “yes.” Asked what happened to Neme’s form after he signed it, respondent answered, “it was put away.” Asked whether the form was placed in Neme’s “file,” respondent answered, “Well, we can call it a file, but whatever, yeah.”
- i. Respondent gave evasive, confusing, and knowingly incomplete answers when asked about the existence of fee agreements with his clients.
- j. Asked whether he used a “template” for his “fee agreement,” respondent answered, “I never thought about the term, but I could guess. I don’t know.”
- k. Asked whether he “started from scratch in every fee agreement that you have in drafting the fee agreement,” respondent answered, “I don’t have fee agreements with everybody.”
- l. Asked what percentage of his clients have executed fee agreements, respondent answered, “I have no idea.”
- m. Respondent gave misleading and knowingly incomplete responses when asked whether Arthur Goldner testified during the *Whitt Sturtevant* litigation.

59. During his deposition, respondent testified that he provided legal representation to at least the following people and entities:

- a. NC Plaza LLC

- b. Arthur Goldner & Associates, Inc.
- c. Rick A. Aronhalt
- d. Larry Garrett
- e. Premier Sports Group Insurance
- f. Lee M. Stanley
- g. Riley L. Moore
- h. Jonathan D. Moore
- i. John Doyle
- j. Amy M. Ebmans
- k. Robert M. Huschka
- l. Brenda D. Custodio
- m. Nick Roberts
- n. Hallam Jackson
- o. Alan Hamwi
- p. Justin Neme
- q. John and Ellen Shaffer
- r. Norman Mullett
- s. All Star Commercial Services
- t. Spectrum Lighting
- u. Richard Vollhardt
- v. Paula McCloud
- w. Michael Saiia
- x. Princess Byrd

- y. Jason Thomas
- z. Ryan Reed
- aa. Bradley Smith
- bb. Alvin Cox
- cc. Timothy Hutton
- dd. Judy Hutton

- 60. Respondent's representation of the aforementioned clients referenced in paragraph 53 herein occurred within and between 2012 and 2015.
- 61. At the time of his deposition, respondent had either recently concluded or was continuing to render representation to the clients referenced in paragraph 53 herein.
- 62. For those clients of whom respondent's representation was complete, all of those matters were terminated within five years prior to August 25, 2015, the date of respondent's deposition.
- 63. At the deposition, respondent testified under oath that he "might" have "put" copies of his alleged Rule 1.4(c) notices in "a three-ring binder" or "just in a box" in his office.
- 64. To date and despite agreeing to look for copies of his alleged Rule 1.4(c) notices, respondent has not produced any notices that comply with Rule 1.4(c) for the aforementioned clients or for anyone else.
- 65. If they ever existed, respondent has failed to appropriately maintain copies of any Rule 1.4(c) notices for many of the clients referenced in paragraph 53 herein.
- 66. As set forth in Count Two herein, respondent has violated the Ohio Rules of Professional Conduct, to wit:

- Rule 1.4(c) (A lawyer shall inform a client at the time of the client's engagement of the lawyer or at any time subsequent to the engagement if the lawyer does not maintain professional liability insurance in the amounts of at least one hundred thousand dollars per occurrence and three hundred thousand dollars in the aggregate or if the lawyer's professional liability insurance is terminated. The notice shall be provided to the client on a separate form set forth following this rule and shall be signed by the client).
- Rule 1.4(c)(1) (A lawyer shall maintain a copy of the [Rule 1.4(c)] notice signed by the client for five years after termination of representation of the client).
- Rule 8.1(a) (In connection with a disciplinary matter, a lawyer shall not knowingly make a false statement of material fact).
- Rule 8.1(b) (In connection with a disciplinary matter, a lawyer shall not and in response to a demand for information from a disciplinary authority fail to disclose a material fact or knowingly fail to respond).
- Rule 8.4(c) (It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation).
- Rule 8.4(h) (It is professional misconduct for a lawyer to engage in any other conduct that adversely reflects on the lawyer's fitness to practice law).

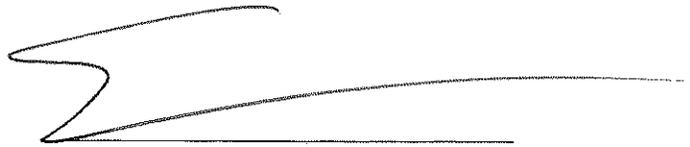
67. As set forth in Count Two herein, respondent has violated the Rules for the Government of the Bar of Ohio, to wit: Gov. Bar R.V(9)(G) (No attorney shall neglect or refuse to assist or testify in an investigation or hearing.)

**WHEREFORE**, relator submits that respondent, Knisley F. Nyce, should be found in violation of these Ohio Rules of Professional Conduct and Rules for the Government of the Bar of Ohio and be sanctioned appropriately.

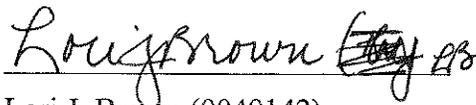
Respectfully submitted,



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COUNSEL FOR RELATOR

**CERTIFICATE**

The undersigned Chairperson of the Certified Grievance Committee of the Columbus Bar Association hereby certifies that Terry K. Sherman, Esq., Steven S. Nolder, Esq., Lori J. Brown, Esq., and A. Alysha Clous, Esq., are duly authorized to represent Relator in the premises and have accepted the responsibility of prosecuting this complaint to its conclusion. After investigation, Relator believes reasonable cause exists to warrant a hearing on such complaint.

Dated: 3/16/16

Signed: *Lisa Pierce Reisz*

Lisa Pierce Reisz, Esq., Chairperson  
Certified Grievance Committee, Columbus  
Bar Association