

RECEIVED

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

APR 25 2016

BOARD OF PROFESSIONAL CONDUCT

In re:

Complaint against

Michelle Lynn Demasi, Esq.
233 Fields Park Road
Morgantown, West Virginia 26508

No. 16 - 016

Attorney Registration No. (0078628)

Respondent,

Disciplinary Counsel
250 Civic Center Drive, Suite 325
Columbus, Ohio 43215-7411

Relator.

COMPLAINT AND CERTIFICATE

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

FILED

APR 29 2016

BOARD OF PROFESSIONAL CONDUCT

Now comes the relator and alleges that Michelle Lynn Demasi, an Attorney at Law, duly admitted to the practice of law in the state of Ohio, is guilty of the following misconduct:

1. Respondent, Michelle Lynn Demasi, was admitted to the practice of law in the State of Ohio on February 16, 2005. Respondent is subject to the Rules of Professional Conduct and the Rules for the Government of the Bar of Ohio.
2. On November 3, 2015, the Supreme Court of Ohio suspended respondent from the practice of law in the State of Ohio for failing to register.

COUNT ONE

3. On November 26, 2012, Credit Union of Ohio, Inc. filed a civil complaint against respondent in the Barberton Municipal Court, alleging that she defaulted under the terms of a credit card agreement by accruing \$9,798.19 in charges and failing to pay.

4. Respondent was served with a copy of the complaint via certified mail at her home address. Respondent accepted delivery on December 8, 2012.
5. On March 27, 2013, respondent answered the complaint and asserted multiple counterclaims against both the plaintiff and a third-party defendant.
6. On August 28, 2013, the third-party defendant filed a Motion for Summary Judgment.
7. On September 16, 2013, Credit Union of Ohio, Inc. filed a Motion for Summary Judgment.
8. On March 21, 2014, the Court granted summary judgment in favor of Credit Union of Ohio, Inc. and against respondent. Respondent resolved her claims against the third-party defendant and dismissed them.
9. On April 16, 2014, the Court dismissed respondent's counterclaims for failure to prosecute.
10. On September 8, 2014, the Court issued a Notice of Hearing, scheduling a mandatory Debtor's Exam for October 30, 2014.
11. On September 12, 2014, respondent was personally served with the Notice of Hearing by the Outside Bailiff, Bill Braman, at her residence.
12. On October 30, 2014, both respondent and counsel for the plaintiff appeared for the debtor's exam; however, respondent refused to participate. Despite admonishments from the judge, respondent continued to refuse to answer any questions. As a result, the judge held respondent in contempt of court and remanded her to the Barberton City Jail.
13. The next day, the respondent agreed to participate in the debtor's exam. The judge ordered respondent's release from jail and ordered that the debtor's exam be rescheduled.

The judge advised respondent that if she completed the debtor's exam prior to the rescheduled date, he would vacate the hearing date.

14. The debtor's exam was initially rescheduled for December 1, 2014, however, Credit Union of Ohio, Inc. moved for a continuance with respondent's consent. The debtor's exam was then scheduled for December 16, 2014.
15. On December 9, 2014, respondent filed an Affidavit of Disqualification against the judge presiding over her case, which stayed the proceedings.
16. On January 26, 2015, the Affidavit of Disqualification was denied.
17. The court rescheduled the debtor's exam for February 11, 2015. Respondent failed to appear, and the court scheduled an OSC hearing for respondent to show cause why she should not be held in contempt for failing to comply with a court order. The show cause hearing was scheduled for April 24, 2015.
18. On or about March 23, 2015, the bailiff for the Barberton Municipal Court, Bill Braman, attempted to serve respondent at her home address with notice of the show cause hearing.
19. Although, respondent was present at her home, she attempted to refuse service, stating that she did not know who Braman was and demanding that he provide identification. Respondent persisted in acting as if she did not know who Braman was despite having been served with court documents by him on multiple prior occasions.
20. On April 13, 2015, Braman returned to respondent's residence to affect service of the notice of the show cause hearing. Braman successfully served her and attempted to leave; however, respondent exited her home and stood in the path of Braman's vehicle, preventing him from leaving.

21. Because respondent refused to move, Braman was forced to call the New Franklin Police Department. An officer responded, but respondent refused to cooperate with the officer, yelling and screaming at him. As a result, the officer was forced to place her in the back of the police cruiser until she calmed down.
22. While inside the police cruiser, respondent called 911 and reported that she was being kidnapped.
23. Based upon her refusal to cooperate, the officer charged her with Obstruction of Official Business, a violation of R.C. 2921.31(A). The officer also served respondent with the notice of the show cause hearing scheduled for April 24, 2015.
24. On April 23, 2015, respondent filed a Writ of Prohibition, seeking to prohibit any further action by the judge with respect to the underlying civil case.
25. On April 23, 2015, respondent appeared in Barberton Municipal Court to be arraigned on her criminal charge, and she was served again with notice of the show cause hearing scheduled for April 24, 2015. Respondent moved the court to continue her arraignment, which it did. After further requests for a continuance, the court scheduled respondent's arraignment for July 13, 2015.
26. On April 23, 2015, respondent filed a motion to continue the show cause hearing, falsely claiming that she "was just given the...notice of hearing."
27. Despite the false statement, the court granted her request for a continuance. The show cause hearing was rescheduled for May 15, 2015.
28. Respondent, opposing counsel, and the judge all appeared on May 15, 2015; however, because the judge had a criminal docket, the parties had to wait until the conclusion of

- the criminal docket to begin the debtor's exam. Instead of waiting, respondent fled in her vehicle. As a result, the judge issued a warrant for respondent's arrest.
29. On June 15, 2015, respondent filed a motion to dismiss the warrant. In that motion, respondent falsely stated that opposing counsel failed to appear for the May 15th hearing. The motion was denied on June 17, 2015.
 30. On July 13, 2015, respondent failed to appear for her arraignment. As a result, a second warrant for her arrest was issued.
 31. Respondent was arrested on July 23, 2015 and released the next day on a \$10,000 recognizance bond.
 32. On August 11, 2015, respondent finally completed the debtor's exam.
 33. On November 6, 2015, the court dismissed respondent's criminal case based upon her completion of 55.45 hours of community service.
 34. Respondent's conduct, as alleged in Count One, violates the following Rules of Professional Conduct: Prof. Cond. Rule 3.3(a)(1) [a lawyer shall not knowingly make a false statement of fact to a tribunal]; Prof. Cond. Rule 8.4(d) [engaging in conduct prejudicial to administration of justice]; and respondent's conduct is sufficiently egregious to violate Prof. Cond. Rule 8.4(h) [engage in any other conduct that adversely reflects on the lawyer's fitness to practice law].

COUNT TWO

35. On August 1, 2013, Pamela Craven retained respondent to represent her in a contract dispute between Craven and a carrier for whom Craven was a driver. Craven signed a contingency-fee agreement, agreeing to pay respondent 33% of any recovery.

36. On February 4, 2014, respondent filed a civil complaint on behalf of Craven.
37. On May 12 and 13, 2014, the defendants deposed Craven and her husband.
38. On January 29, 2015, the Court granted summary judgment in favor of the defendants and against Craven on all but one of Craven's claims.
39. On February 20, 2015, counsel for the defendants served respondent with discovery requests, including interrogatories, requests for production, and requests for admission related to the sole remaining claim.
40. On March 16, 2015, opposing counsel contacted respondent seeking Craven's availability for a second deposition.
41. On March 19, 2015, respondent contacted Craven, provided Craven with a copy of the March 16th letter, and instructed Craven to respond to the written discovery. Respondent also informed Craven that she intended to object to the deposition. Respondent failed to object to the deposition.
42. On March 20, 2015, counsel for the defendants served notices to conduct further depositions of Craven and her husband on April 2, 2015.
43. On March 23, 2015, Craven provided respondent with her responses to the interrogatories and the requests for admission.
44. Despite having received Craven's responses, respondent failed to provide the discovery responses to opposing counsel. Additionally, respondent failed to appear for the April 2nd deposition. In reliance on respondent's promise that she would object to the deposition, Craven also did not appear.

45. On April 10, 2015, at the request of counsel for the defendants, the Court conducted a telephone conference to discuss the discovery issues. Respondent participated in that telephone conference and agreed to the following:
 - a. That Craven and her husband could be deposed.
 - b. That the defendants could reissue their written discovery and that she would respond to the requests of admission within two weeks of being served and that she would answer the interrogatories within 28 days of being served.
46. On April 13, 2015 counsel for the defendants served respondent with revised requests for admission and interrogatories.
47. Despite possessing Craven's responses, respondent again failed to respond to the discovery requests.
48. On April 24, 2015, the defendants again served respondent with notices to depose both Craven and her husband on May 22, 2015.
49. In April 2015, respondent's malpractice insurance lapsed and her coverage ended. Respondent failed to inform Craven that she no longer had malpractice insurance.
50. Because respondent failed to respond to the requests for admission, on May 1, 2015, counsel for defendants filed a motion to deem the requests admitted.
51. On May 22, 2015, respondent failed to appear for the previously noticed depositions. Respondent also failed to inform Craven and her husband that she had received notice of their depositions. As a result, Craven and her husband did not appear.
52. On May 15, 2015, counsel for the defendants filed and served a motion seeking sanctions for the failure to appear for their deposition and the failure to respond to its discovery requests. Respondent failed to respond.

53. On May 25, 2015, respondent emailed Craven. Respondent failed to inform Craven that respondent had failed to respond to the discovery requests, that the defendants had filed a motion seeking sanctions, and that Craven was at risk of the Court finding that she had admitted the statements contained in the requests for admission.
54. On June 2, 2015, the defendants filed a motion to dismiss the complaint for the failure to comply with the court-ordered discovery. Respondent failed to inform her client that this motion had been filed, and respondent failed to respond to the motion.
55. On June 15, 2015, the Court granted the defendant's motion for sanctions, ordering both that Craven was deemed to have admitted the statements contained in the requests for admission and that Craven was prohibited from testifying either in support of her claims or in opposition to the counterclaims.
56. Between June 21, 2015 and June 25, 2015, respondent and Craven exchanged several emails. Respondent failed to inform Craven that the defendant's motion for sanctions had been granted.
57. On July 1, 2015, the defendants renewed their motion for summary judgment seeking to rely upon the statements deemed admitted as a result of respondent's failure to respond to the requests for admission.
58. Respondent failed to inform her client that a motion for summary judgment had been filed, and respondent failed to respond to the renewed motion for summary judgment.
59. On August 4, 2015, based upon the statements deemed admitted according to the Court's June 15th order, the Court granted summary judgment in favor of the defendants regarding Craven's single remaining claim. Respondent failed to inform her client of the court's decision.

60. On August 11, 2015, the defendants dismissed its counterclaims.
61. On August 12, 2015, the final judgment entry was issued in favor of the defendants, dismissing all of Craven's claims with prejudice. Costs were assessed against Craven.
62. Respondent failed to inform Craven that her case was dismissed. Craven only learned of the dismissal when she received a letter from the clerk on August 18, 2015.
63. On August 18, 2015, Craven called respondent. During that conversation, Craven informed respondent that she wanted respondent to appeal the dismissal, which had to be done by September 11, 2015. Respondent stated that she would provide additional information by the end of that week. Respondent failed to contact Craven.
64. On August 26, 2015, Craven emailed respondent again. Respondent failed to respond.
65. On August 31, 2015, Craven emailed respondent, seeking additional information. Respondent failed to respond.
66. On September 9, 2015, Craven again emailed respondent.
67. On September 10, 2015, respondent finally responded to Craven. Respondent asked if Craven still wanted her to continue representing her. Additionally, respondent stated that she would send Craven a letter and that they could discuss the appeal. The appeal had to be filed by 5 p.m. the next day, September 11, 2015.
68. On September 11, 2015, respondent provided Craven with a letter demanding \$1,200 to file the appeal. Additionally, respondent finally informed Craven that she no longer had malpractice insurance; however, respondent falsely stated that her insurance had lapsed because respondent was no longer a part of the bar association's referral program. Because Craven lived in Georgia, she could not pay the fee in time to file the appeal. The appeal was never filed.

69. On September 18, 2015, Craven emailed respondent and asked that she return all of Craven's documents and a \$120 money order Craven had provided in April 2015 to cover the cost of amending the complaint, which respondent had never done. Respondent failed to return both Craven's documents and her \$120.
70. Respondent failed to deposit the \$120 into her IOLTA (see Count Three), and she misappropriated those funds.
71. Respondent's conduct, as alleged in Count Two, violates the following Rules of Professional Conduct: Prof. Cond. Rule 1.1 [a lawyer shall provide competent representation to a client]; Prof. Cond. Rule 1.3 [a lawyer shall act with *reasonable* diligence and promptness in representing a client]; Prof. Cond. Rule 1.4(a)(1) [a lawyer shall keep the client reasonably informed about the status of the matter]; Prof. Cond. Rule 1.4(a)(4) [a lawyer shall comply as soon as practicable with *reasonable* requests for information from the client]; Prof. Cond. Rule 1.4(c) [a lawyer shall inform a client if the lawyer does not maintain professional liability insurance]; Prof. Cond. Rule 1.15(a) [a lawyer shall hold property of clients or third persons in connection with a representation separate from the lawyer's own funds in a separate interest-bearing account]; Prof. Cond. Rule 1.16(d) [a lawyer shall promptly deliver to the client all papers and property to which the client is entitled]; Prof. Cond. Rule 8.4(c) [engage in conduct involving dishonesty, fraud, deceit, or misrepresentation]; and 8.4(d) [engage in conduct that is prejudicial to the administration of justice].

COUNT THREE

72. Until February 2015, respondent maintained an IOLTA at Huntington Bank, Account No. XXXXXXXX0123.

73. On December 11, 2014, respondent overdrew her IOLTA by \$115.42. On December 15, 2014, respondent restored the account to a \$0 balance.
74. On December 22, 2014, respondent overdrew her IOLTA by \$4.56. Respondent failed to restore her account to a positive balance. As a result, she continued to incur overdraft fees through January 2015.
75. As a result of respondent's overdrafts and her failure to restore her account to a positive balance, Huntington Bank closed her IOLTA in February 2015.
76. On January 29, 2015, relator sent a Letter of Inquiry to respondent. Her response was required to be postmarked no later than February 12, 2015.
77. On February 12, 2015, respondent called relator to request an extension. The next day, respondent submitted her written request for an extension, which was granted.
78. When no response was received, relator called respondent on February 24, 2015 and left her a message asking her respond no later than March 12, 2015.
79. Respondent failed to respond by March 12, 2015.
80. On March 24, 2015, relator sent respondent a letter advising her that it had not received a response. Relator asked that she call immediately and advised her that if she failed to respond, relator would likely depose her.
81. Respondent failed to respond.
82. On April 21, 2015, relator personally served respondent with a subpoena requiring her to appear and be deposed at the Akron Bar Association on June 18, 2015.
83. On June 18, 2015, respondent failed to appear for her deposition.
84. On October 19, 2015, relator attempted to personally serve respondent with a Letter of Inquiry, seeking her response to the allegations alleged in Count Two. The Letter of

Inquiry was delivered to respondent's personal residence. Her response was required to be postmarked no later than November 2, 2015. Respondent failed to respond the Letter of Inquiry.

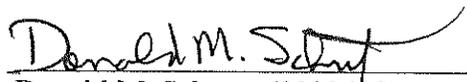
85. Respondent's conduct, as alleged in Count Three, violates Prof. Cond. Rule 8.1(b) [In connection with a disciplinary matter, a lawyer shall knowingly fail to respond to a demand for information from a disciplinary authority]; and Gov. Bar Rule V(9)(G) [No attorney shall neglect or refuse to assist or testify in an investigation or hearing].

CONCLUSION

Wherefore, pursuant to Gov. Bar R. V, the Code of Professional Responsibility 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 of the Government of the Bar of Ohio.



Scott J. Drexel (0091467)
Disciplinary Counsel

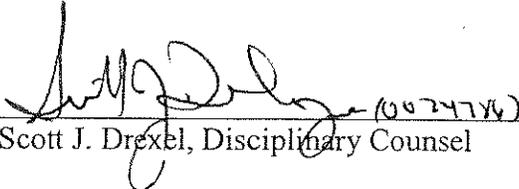


Donald M. Scheetz (0082422)
Assistant Disciplinary Counsel
250 Civic Center Drive, Suite 325
Columbus, Ohio 43215-7411
614.461.0256
614.461.7205 – fax
Donald.Scheetz@sc.ohio.gov

CERTIFICATE

The undersigned, Scott J. Drexel, Disciplinary Counsel, of the Office of Disciplinary Counsel of the Supreme Court of Ohio hereby certifies that Donald M. Scheetz is duly authorized to represent relator in the premises and has 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: April 25, 2016



Scott J. Drexel, Disciplinary Counsel