

RECEIVED

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

OCT 05 2015

BOARD OF PROFESSIONAL CONDUCT

In re:)
)
 COMPLAINT AGAINST)
)
 DENNIS A. DIMARTINO)
 Atty Reg. No. 0039270)
 839 Southwestern Run, Suite 1)
 Youngstown, Ohio 44514)
)
 Respondent)
)
 MAHONING COUNTY BAR)
 ASSOCIATION,)
 114 E. Front Street)
 Suite 100)
 Youngstown, Ohio 44503)
)
 Relator)

CASE NO. 15 - 060

COMPLAINT FILED

NOV 09 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 cause of action against
Respondent, Dennis Armand DiMartino:

I. Parties

1. Relator is a local bar association which maintains a certified grievance
committee pursuant to Gov. Bar R. V, Section 3.

2. Respondent is an attorney-at-law and is licensed to practice law in the State
of Ohio.

3. Respondent's bar registration status with the Supreme Court of Ohio is
"Active" and his bar registration number is 0039270.

4. Respondent's last known address is 839 Southwestern Run, Suite 1, Youngstown, Ohio 44514.

5. At all times relevant to the Complaint, Respondent was a sole practitioner whose office was located in the City of Youngstown, Mahoning County, Ohio.

II. The George Michael Joseph Matter

6. George Michael Joseph contacted Respondent on or about June 1, 2014, with regard to legal representation in his effort to secure personal property (allegedly worth in excess of \$200,000.00) that he allegedly owned and which he believed was being wrongfully withheld by his ex-girlfriend, Kristen Peterson, at her residence.

7. At that time, George Michael Joseph had just ended a personal relationship with Kristin Peterson.

8. On or about June 1, 2014, Joseph hired Respondent to represent him in this matter and to secure possession of the above property by instituting legal proceedings against Kristin Peterson.

9. For purposes of retaining Respondent to represent him in these proceedings, Joseph secured a loan from his new girlfriend, Cynthia Bella, in the amount of seventeen hundred dollars (\$1,700.00) by way of a check (Exhibit 1) in the amount of seventeen hundred dollars (\$1,700.00). Joseph paid Respondent this seventeen hundred dollars (\$1,700.00) plus an additional one hundred dollars (\$100.00) of Joseph's money and hired Respondent to represent him in these matters.

10. Respondent promised that he was going to file the necessary court pleadings the next day.

11. Approximately one week later, Joseph contacted Respondent and received no answer.

12. Subsequently, Joseph left messages asking Respondent to call him back. Respondent never returned his phone calls.

13. Over the course of the next few months, Joseph visited Respondent's office on numerous occasions and was told that Respondent was not in his office.

14. After more than 20 phone calls, on or about November 1, 2014, Joseph left a message for Respondent to please refund his money so that he could hire another attorney.

15. Joseph could not afford to hire another attorney without a refund.

16. Again, Joseph did not receive a return phone call from Respondent.

17. At the time of entering the attorney-client relationship, Joseph provided Respondent with paperwork including demand letters for his property, proof of ownership, titles, and registration materials for all of the vehicles, including the motorcycles.

18. There was no fee agreement and no fee agreement was reduced to writing.

19. No legal proceedings were ever instituted by Respondent on behalf of Joseph.

20. Respondent performed no legal services on behalf of Joseph.

21. On or about November 18, 2014, Joseph filed a complaint against Respondent with Relator, Mahoning County Bar Association.

22. The Mahoning County Bar Association assigned an investigator to Joseph's complaint.

23. Multiple requests were made to Respondent for a response to Joseph's complaint. No response was provided by Respondent.

24. As a result, Relator's investigator again requested a response on March 5, 2015, and April 16, 2015.

25. On June 4, 2015, Relator's investigator finally received a response from Respondent. The response was a letter dated June 4, 2015. (Exhibit 2).

26. Respondent acknowledged that he was retained to perform the legal services described above.

27. Respondent acknowledged his failure to provide the requested services.

28. Respondent offered to reimburse the monies to Joseph.

29. On the date the investigator was scheduled to submit his report to Relator's Certified Grievance Committee, Respondent left a check in the amount of seventeen hundred dollars (\$1,700.00) drawn on his IOLTA account at Relator's office. The check was made payable to "Michael George" and indicated that it was a refund of the retainer plus the filing fee. (Exhibit 3).

30. Relator's investigator then spoke with Respondent and asked for the additional one hundred dollars (\$100.00) which was deposited with Respondent. Relator's investigator also requested Respondent's IOLTA records with regard to this transaction.

31. On or about June 24, 2015, Respondent delivered to Relator's investigator's office eighteen hundred dollars (\$1,800.00) in cash.

32. Relator's investigator dispersed the eighteen hundred dollars (\$1,800.00) to Joseph the next day and secured a signed receipt for the same. (Exhibit 4).

33. Respondent never provided his IOLTA records with regard to the transaction.

34. Respondent never explained how, on one occasion, he could draw a check on his IOLTA account for seventeen hundred dollars (\$1,700.00) representing the monies received from Joseph (which was never cashed) and, subsequently, provide eighteen hundred dollars (\$1,800.00) in cash.

35. Respondent has failed to provide any records to demonstrate that the original eighteen hundred dollars (\$1,800.00) was deposited in the IOLTA account and/or the source of the eighteen hundred dollars (\$1,800.00) cash which was ultimately paid to Joseph.

36. The IOLTA account records of Respondent for July, 2014, do not reflect an eighteen hundred dollar (\$1,800.00) deposit on behalf of Joseph.

III. Prior Disciplinary History

37. Respondent was suspended from the practice of law for six (6) months, with the suspension stayed on the condition that no disciplinary complaints against Respondent were certified to the Board by a probable cause panel during this time, for violating DR 1-102(A)(6) by failing to: (1) timely respond to his client's inquiries, (2) provide his client with a settlement statement, and (3) promptly forward his client's portion of the settlement proceeds. See *Mahoning County Bar Association v. DiMartino* 71 Ohio St.3d 95 (Ohio 1994), 1994-Ohio-281.

38. Respondent was suspended from the practice of law in Ohio for one (1) year, with the suspension stayed, on the conditions that Respondent commit no further conduct and that he serve a one-year probation pursuant to Gov.Bar R. V(9) for violating DR 6-101(A)(3), prohibiting the neglect of an entrusted legal matter, and DR7-

101(A)(2) prohibiting a lawyer from intentionally failing to carry out a contract of professional employment. See *Mahoning County Bar Association v. DiMartino*, 114 Ohio St.3d 174, 2007-Ohio-3605.

39. Respondent was suspended for six (6) months for violating Prof.Cond.R. 8.4(c), engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation with the additional penalty of lifting the stay and reinstating the one year suspension from practicing law imposed in *Mahoning County Bar Association v. DiMartino*, 114 Ohio St.3d 174, 2007-Ohio-3605. See *Mahoning County Bar Association v. DiMartino*, 124 Ohio St.3d 360, 2010-Ohio-247.

40. Respondent currently is before the Ohio Supreme Court upon the Findings of Fact Conclusions Law, and Recommendation of the Board of Professional Conduct of the Supreme Court of Ohio (Case No. 2014-080), in Ohio Supreme Court Case No. 2014-2250. In this matter, the Board of Professional Conduct has reported to the Ohio Supreme Court that Respondent has violated the following rules of the Code of Professional Conduct: 1.3 [diligence]; 1.4(a)(1) [failing to promptly inform the client of any decision or circumstance with respect to which the client's informed consent is required]; 1.4(a)(3) [failing to keep the client reasonably informed about the status of the matters]; 1.4(a)(4) [failing to comply as soon as practical with reasonable requests for information from the client]; 1.5(b) [the nature and scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client, preferably in writing, within a reasonable time after commencing the representation]; 8.4(c) [conduct involving dishonesty, fraud, deceit, or misrepresentation]; 1.15(a) [a lawyer shall hold property of client's or third persons that

is in a lawyer's possession in connection with the representation separate from the lawyer's own property]; Gov. Bar R. V, Section 4(G) [failure to cooperate]; 1.5(c) [not providing a written contingent fee agreement and/or closing statement (R.C. 4705.15(B)(C))]. In this matter, the Board of Professional Conduct recommended an indefinite suspension from the practice of law, restitution in the amount of forty-six hundred dollars (\$4,600.00) to two of Respondent's former clients, the payment of costs, and reinstatement conditioned upon a mental health evaluation and a plan of treatment as well as appropriate CLE courses in law office management, specifically in the area of IOLTA accounts. See Mahoning County Bar Association v. DiMartino, Ohio Supreme Court Case Number 2014-2250.

IV. Disciplinary Violations

41. Respondent's conduct described above constitutes of a violation of the following Rules of Professional Conduct:

- a. Rule 1.3 – a lawyer shall act with reasonable diligence and promptness in representing a client;
- b. Rule 1.4(a)(2) – failing to reasonably consult with a client about the means by which the client's objectives are to be accomplished;
- c. Rule 1.4(a)(3) – failing to keep the client reasonably informed about the status of the matter;
- d. Rule 1.4(a)(4) – failing to comply as soon as practical with reasonable requests for information from the client;
- e. Rule 1.5(b) – the nature and scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall

be communicated to the client, preferably in writing, within a reasonable time after commencing the representation;

f. Rule 1.15(a) – a lawyer shall hold property of clients or third persons that is in a lawyers possession in connection with the representation separate from the lawyers own property; and

g. Gov. Bar R. Section V (G) – the duty to cooperate.

WHEREFORE, Relator respectfully requests that Respondent be appropriately disciplined for his misconduct.

MAHONING COUNTY BAR ASSOCIATION

By: 

RONALD E. SLIPSKI (0014404)

Bar Counsel

Green Haines Sgambati Co., L.P.A.

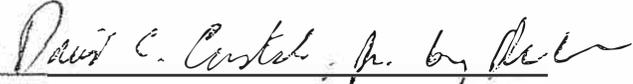
100 Federal Plaza East, Suite 800

Youngstown, Ohio 44503

Telephone (330) 743-5101

Facsimile (330) 743-3451

rslipski@green-haines.com

By: 

DAVID C. COMSTOCK, JR. (0040145)

Bar Counsel

100 Federal Plaza East, Suite 926

Youngstown, Ohio 44503

Telephone (330) 746-5643

Facsimile (330) 746-4925

dcj@csandw.com

George M Joseph
330-360-1400



First National Bank

50-1509/433 4748

Cynthia Bella
5812 Applegate Dr.
Boardman, OH 44512

Date July 10, 2014

Pay to the Order of G. Michael Joseph \$ 1700.00

One thousand seven hundred and 00/100 Dollars

FIRST NATIONAL BANK OF PENNSYLVANIA
YOUNGSTOWN, OH 44502

Member FDIC

Name Cynthia Bella

⑆043318092⑆ 094⑆ 105996⑆ 4748

DDA Debits - 07/10/2014 - \$1,700.00 - 62703000391 - 94105996 - 4748

⑆04391 FNB PA ⑆043318092⑆ 07/10/2014

BOARDMAN
27030792 07/10/14
Cashed Check
Acct #94105996

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

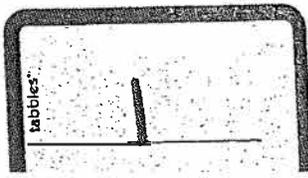
ENDORSE HERE
G. Michael Joseph
7/14/2014
AT&T RMO192SS

⑆04391 FNB PA ⑆043318092⑆ 07/10/2014

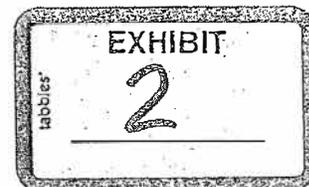
DDA Debits - 07/10/2014 - \$1,700.00 - 62703000391 - 94105996 - 4748

1st Day I meet with AIT was July 10, 2014 NOT JUNE

\$1700 + 100 that I had = \$1800



DENNIS A. DiMARTINO
TRIAL ATTORNEY



June 4, 2015
Via Hand Delivery

Atty. John P. Laczko
Mahoning County Bar Assn.
19 E. Front Street
Youngstown, OH 44503

RE: Grievance of Michael George

Dear Atty. Laczko:

I apologize for the great delay in responding to this Grievance. I have been suffering from and struggling with a crippling, paralyzing state of depression for the past several years. As you know, I had a Grievance certified to the Supreme Court. Since that has been happening, I find myself overwhelmed by the workload of cases and completely paralyzed with fear. Although I am treating with a psychologist, I am still trying to break down the avoidance phenomenon that has caused many problems in my practice. Again, I apologize.

Given the discloses of the preceding paragraph, I request that this response not be released to Mr. George or the Grievance Committee unless absolutely necessary.

Mike George was referred to me by a lawyer from Cleveland who got my name from another colleague. His situation was essentially that his estranged girlfriend had forced him out of his own house and would not let him get access to his vehicles, businesses, inventory, and property. To make a bad matter worse, the home and many of the vehicles were put into her name, not Mike's. He went to two other lawyers before he came to see me, both of which were stymied by his ex-girlfriend's stubborn refusal to negotiate. I told him that the best course would simply be to file suit, try to get a TPO to prevent her from selling his inventory, etc.

I quoted a small retainer and filing fee, which he paid in cash. I then began preparing the Complaint, Motion for TPO, and Combined Interrogatories and Request for Production of Documents. Each time I started working on them, however, I would invariably get called away by another case, another Court, or another client. Try as I might, I could never get enough time together to finish off the initial documents to at least start the case. Then the depression would set in and push me even further back.

It was a bad situation and I should have simply admitted that I couldn't do the case and just refund his retainer. I guess I couldn't stomach having to admit that I failed and so I kept pushing this case further and further back. I truly regret not having handled this better.

Phone 330.726.7777
FAX 330.726.7779
Dennis.DiMartino@gmail.com
829 Southwestern Bldg

I do have the retainer to return to Mr. George, but I am unsure whether he wants in cash or by check. I can do so either way as soon as I am instructed.

I offer this Response as evidence of the great psychological stress that the combination of my depression and the fear/embarrassment/humiliation of the disciplinary action that I have been under. I am sorry that my delays have no doubt caused frustration and problems for Mr. George. I am ready, willing, and able to answer any other questions or produce my file on this case if you find it necessary. Thank you for your cooperation and patience.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Atty. Dennis A. DiMartino".

Atty. Dennis A. DiMartino

DAD/

DENNIS A. DIMARTINO
TRIAL ATTORNEY

Here is the IOCTA check...

I'll drop off the \$100 in cash
at your office this morning... just
didn't want to leave cash in an
envelope downtown

DENNIS DIMARTINO LPA INC IOLTA 07-91 6004 MARKET ST PH. 330-758-7313 BOARDMAN, OH 44512-2918		.1130 60-1809/433 BRANCH 2707
DATE <u>June 17 2015</u>		
PAY TO THE ORDER OF <u>Michael George</u>	\$ <u>1,700</u> ⁰⁰ / ₁₀₀	
<u>One Thousand Seven Hundred</u>		DOLLARS
FOR <u>Retainer of retainer plus filing fee</u>		
First National Bank		
<u>Dennis A. DiMartino</u>		
⑈001130⑈ ⑆043318092⑆ 14002681009⑈		

Phone 330.726.7777
FAX 330.726.7779
Dennis.DiMartino@gmail.com
839 Southwestern Run
Younastown, OH 44514-4688



RECEIPT

I, George M. Joseph, received this 25 day of JUNE, 2015, from Attorney John P. Laczko, the attorney handling a grievance filed by me with the Mahoning County Bar Association, the sum of One Thousand Eight Hundred Dollars, (\$1,800.00), as payment in full on behalf of Atty. Dennis DiMartino . The amount of One Thousand Eight Hundred Dollars represents repayment of the attorney and filing fee given to Atty. DiMartino for filing of a civil complaint in Trumbull County, Ohio, on or about July 10, 2014.

Witness:

Emelya Lopez

George M Joseph
GEORGE M. JOSEPH

Shana M. Kanski



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

In re:)	
)	
COMPLAINT AGAINST)	CASE NO.
)	
DENNIS DIMARTINO)	
)	
Respondent,)	AFFIDAVIT OF
)	RONALD E. SLIPSKI
)	
MAHONING COUNTY BAR)	
ASSOCIATION)	(Rule V, Section 4 of the
)	Supreme Court Rules for the
Relator)	Government of the Bar of Ohio)
)	

Ronald E. Slipski, being first duly sworn, deposes and says:

1. I am an attorney licensed to practice law in the State of Ohio. My business address is 100 Federal Plaza East, Suite 800, Youngstown, Ohio, 44503.
2. I and David Comstock, Jr. have been certified to act as Bar Counsel in the above matter.
3. Respondent, Dennis DiMartino, was provided with a copy of the grievance form filed by George Michael Joseph with Relator. Respondent has communicated with Relator's investigator and submitted a response dated June 4, 2015.
4. On or about September 1, 2015, a "Notice of Intent to File" letter was mailed to Respondent, Dennis DiMartino.
5. Respondent, Dennis DiMartino, has not responded to the "Notice of Intent to File" letter.
6. Dennis DiMartino, at minimum, has received notice and has had an opportunity to respond to the allegations prior to this filing.

Further Affiant Sayeth Naught.



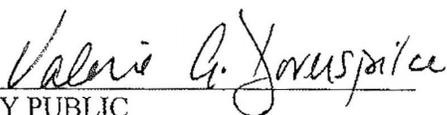
RONALD E. SLIPSKI

County of Mahoning)
)ss
State of Ohio)

Sworn to, and subscribed before me, a Notary Public, this 2 day of October, 2015.



VALERIE A. DOVERSPIKE
Notary Public - State of Ohio
My Commission Expires
September 3, 2018



NOTARY PUBLIC

CERTIFIED GRIEVANCE COMMITTEE
MAHONING COUNTY BAR ASSOCIATION
114 EAST FRONT STREET
YOUNGSTOWN, OHIO 44503
(330) 746-2933

GRIEVANCE INFORMATION QUESTIONNAIRE

The Certified Grievance Committee of the Mahoning County Bar Association is a group of lawyers and non-lawyers who are authorized by the Ohio Supreme Court to investigate and review complaints about the ethical conduct of lawyers and judges practicing and/or serving in Mahoning County Ohio.

The Certified Grievance Committee reviews complaints ONLY to determine if a lawyer or judge has engaged in ETHICAL MISCONDUCT. Whether or not a lawyer or judge has engaged in ethical misconduct is governed by the Code of Professional Responsibility or the Code of Judicial Conduct and the interpretations of these Codes by the Board of Commissioners on Grievance and Discipline and the Ohio Supreme Court.

The Certified Grievance Committee does NOT appeal court orders, review the legal opinions of lawyers or judges, pursue claims for money damages against lawyers, judges or other individuals, or resolve fee disputes (fee disputes are handled by the Mahoning County Bar Association's "Inquiry Committee").

This questionnaire is designed to give the Certified Grievance Committee enough information about your grievance to determine if it is a matter that the Committee can properly handle. This information will be given to the members of the Committee and the attorney or judge involved in your complaint, but otherwise is kept strictly confidential. Grievances which the Committee can handle are often, but not always, in

one or more of the following categories:

1. Neglect of a legal matter entrusted to a lawyer by a client;
2. Representing a client under circumstances which involve a conflict of interest;
3. Mishandling, commingling, or failing to account for monies of a client entrusted to an attorney;
4. Conduct involving dishonesty or fraud; and
5. Improper advertising or client solicitation practices.

REC'D - MCEA
NOV 25 2014

There are other complaints which can involve the Committee; the above list is provided by way of example only. If you believe that you have a grievance against an attorney or judge practicing or serving in Mahoning County, Ohio, please fill out this questionnaire and return it to: Mahoning County Bar Association, 114 East Front Street, Youngstown, Ohio 44503.

Please note that you have the option of filing your complaint with The Office of Disciplinary Counsel, Bicentennial Plaza One, 250 Civic Center Dr., Suite 325, Columbus, Ohio 43215-5454.

Please print or type the following form as legibly as possible in ink, as multiple copies are made. Thank you.

1. BACKGROUND

Your full name George Michael Joseph

Your mailing address 104 1/2 Mackey St

HUBBARD, Ohio 44425

Your daytime telephone number 330-360-1400

Name of attorney or judge about whom you are filing a grievance _____

Poland, Ohio DENNIS DeMARTINO

2. AGENCY GRIEVANCES

Have you filed this complaint with any other agency or bar association?

Yes ___ No X

If yes, the name of that agency: _____

Date your complaint was filed: _____

Result of complaint: _____

Please attach a copy of the complaint you have filed with any other agency other than the Mahoning County Bar Association Certified Grievance Committee.

3. PENDING LITIGATION

Have you brought civil or criminal Court action against this attorney or judge?

Yes ___ No X

If yes, name of that Court: _____ County: _____

Case No. _____

Result of Court action: _____

Please attach a copy of the complaint.

4. ATTORNEY FEES

What fees have you paid the attorney: \$ 1800

What fees are still claimed by the attorney: NONE HE DID NOTHING

Did you sign a written fee agreement/contract: Yes ___ No X If yes, attach a copy.

Has the attorney sued you in a Court of Law for collection of fees: Yes ___ No X

5. CURRENT GRIEVANCE

Was the attorney hired by you? Yes No

If not, name of person hiring attorney: _____

Date attorney was hired or agreed to represent you: _____

Has the attorney withdrawn from the case: Yes No Explain: _____

Have you dismissed or fired the attorney from your case: Yes No Explain: _____

What help or action are you seeking from this Certified Grievance Committee?

RETURN OF RETAINER AND FEES PAID TO HIM

Please indicate what type of legal matter the attorney was handling:

- | | |
|--|--|
| <input checked="" type="checkbox"/> domestic relations | <input type="checkbox"/> workers' compensation |
| <input type="checkbox"/> criminal | <input type="checkbox"/> probate |
| <input type="checkbox"/> bankruptcy | <input type="checkbox"/> will |
| <input type="checkbox"/> trusts | <input type="checkbox"/> social security |
| <input type="checkbox"/> business matters | <input type="checkbox"/> real estate |
| <input type="checkbox"/> juvenile | <input type="checkbox"/> employment law |
| <input type="checkbox"/> unlawful discharge | <input type="checkbox"/> unemployment compensation |
| <input type="checkbox"/> discrimination/civil rights | <input type="checkbox"/> consumer law |
| <input type="checkbox"/> malpractice | <input type="checkbox"/> elder law |
| <input type="checkbox"/> accident, personal injury | <input type="checkbox"/> corporate law |
| <input type="checkbox"/> other* | |

*If other, please explain: _____

Does this complaint involve a case that is still pending before a Court? Yes ___ No X

Please describe how the Attorney or Judge was guilty of ethical misconduct, giving all pertinent dates: _____

ON OR ABOUT JUNE 1, 2014 I CALLED ATTORNEY DENNIS
DI MARTINO AND ARRANGED A APPOINTMENT AT HIS BOARDMAN
OFFICE FOR THE NEXT DAY. HE EXPLAINED TO ME WHAT ACTIONS THAT
HE WOULD TAKE, IN MY CASE AND I PAID HIM \$1800.00. HE SAID
THAT HE WAS GOING TO FILE COURT PAPERS THE NEXT DAY.
I CALLED HIM A WEEK LATER WITH NO ANSWER. I LEFT MESSAGES
EVERY TIME TO CALL ME BACK AND I NEVER HEARD FROM HIM. I
WENT TO HIS OFFICE MANY TIMES AND WAS TOLD THAT HE WASN'T
IN. HE TOOK THE MONEY AND NEVER EVEN CALLED ME AFTER
THAT. I MADE AT LEAST 20 CALLS WITH MESSAGES WITH NO CALL BACKS
OR RESPONSE. ON OR ABOUT NOV 1, 2014 I LEFT MANY MESSAGES
TO JUST REFUND MY MONEY AND I WOULD GET ANOTHER ATTORNEY
AND STILL NO CONTACT OR RETURNED CALLS. *M. J. [Signature]* 11-18-2014

(attach additional pages if more space is needed)

name, addresses, and phone numbers of any witnesses to the foregoing conduct:

A. CINDY BELL 1236612 Auler Ave N Youngstown Oh

B. _____

C. _____

How have you or the person who hired the attorney been injured or damaged by the alleged unethical misconduct of the attorney?

UNSURE I DONT KNOW IF THE DEFENDANT SOLD MY

PROPERTY DUE TO NO RESTRAINING ORDER

Any additional information of which you would like the Certified Grievance Committee to be aware:

I CAN GET PHONE RECORDS AND CANCELLED CHECKS FROM

BANK. WANTED TO GET THIS IN ASAP.

ATTACH COPIES OF ALL DOCUMENTS, LETTERS, ETC., WHICH YOU FEEL SUPPORT YOUR COMPLAINT

Please sign and date this form below, and return it to the Certified Grievance Committee, name and address noted on page one of this form. Also, please sign and return the attached STATEMENT OF COMPLAINT along with this form.

11-8-2014
Date

George M Joseph
Your Signature

You will be contacted by the Chairman of the Committee or another member of the Committee if further information is needed. You will be advised in writing of the disposition of your complaint. It may take as long as 8 weeks or more to process your complaint.

A pending grievance is considered confidential. The Committee requests your cooperation in keeping the matter confidential while it is being investigated and reviewed.

DENNIS A. DiMARTINO

TRIAL ATTORNEY

June 4, 2015

Via Hand Delivery

REC'D - MCBA
JUN 05 2015

Atty. John P. Laczko
Mahoning County Bar Assn.
19 E. Front Street
Youngstown, OH 44503

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Phone 330.726.7777
FAX 330.726.7779
Dennis.DiMartino@gmail.com
839 Southwestern Run
Youngstown, OH 44514-4688

SERVING NORTHEAST OHIO FOR OVER 24 YEARS...

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Very truly yours,

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Atty. Dennis A. DiMartino

DAD/

JOHN P. LACZKO LLC

Attorney at Law

3685 Stutz Dr. Suite 100
Canfield, Ohio 44406
Phone (330) 702-0200
Fax (330) 702-0204

August 11, 2015

Mahoning County Bar Association
114 East Front St.
Youngstown, Ohio 44503

Re: Complaint of George Joseph v.
Attorney Dennis DiMartino

On November 25, 2014, George Joseph alleged in a complaint filed with the Mahoning County Bar Association that he met on or about July 1, 2014 with Attorney DiMartino to retain him to file court papers in the Trumbull County Courts to recoup personal property that he owned from an ex-girlfriend named, Kristen Peterson. Mr. Joseph alleged that he had just ended a personal relationship with Ms. Peterson and that his personal property in the form of automobiles, boats, motorcycles, campers, photographs, and other personal property totaling an estimated value of approximately \$200,000.00, that he left at her residence on 3209 Durst-Clogg Rd. in Warren, Ohio; which she refused to return.

Mr. Joseph indicated he borrowed \$1,800.00 from his new girlfriend, Cindy Bella in the form of a check made out to him for \$1,700.00, which he cashed and another \$100.00 in cash representing his retainer for the lawsuit and filing fee (copy attached as Exhibit "A"). Mr. Joseph also indicated he provided Attorney DiMartino with requested paperwork which included demand letters for his property sent to Ms. Peterson, proof of ownership, titles and registrations for all the vehicles, motorcycles, etc. Mr. Joseph acknowledged that he did not sign any representation agreement with Attorney DiMartino, nor did he get any receipt for his retainer except the aforementioned check.

Over the course of the next couple of months, Mr. Joseph estimated that he made repeated telephone calls to Attorney DiMartino's office, which he stated totaled more than twenty (20) and that he personally stopped at Attorney DiMartino's office on one occasion, but Mr. Joseph indicated that he never had any contact with Attorney DiMartino, except a telephone conversation that the paper work was being prepared. On November 1, 2014, Mr. Joseph contends he left a final message on Attorney DiMartino's

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August 11, 2015

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office answering machine for him to simply return to him his retainer and filing fee and he would find another attorney to file his lawsuit. When he received no response from Attorney DiMartino, Mr. Joseph indicated he contacted the Mahoning County Bar Association to file the instant complaint. Upon inquiry, Mr. Joseph stated he did not hire other counsel because he could not afford to pay another counsel without being refunded his money.

An initial review of all court dockets in Trumbull County indicated that Attorney DiMartino did not file any documents or lawsuit on behalf of Mr. Joseph, which Mr. Joseph also acknowledged. Further, inquiries for a response to Mr. Joseph's complaint were made repeatedly to Attorney DiMartino with no initial response necessitating two (2) demand letters for a response on March 5, 2015 and April 16, 2015. Finally, on June 4, 2015, the undersigned investigator received a response letter from Attorney DiMartino admitting his failure to act or file any documents on behalf of Mr. Joseph. (copy attached as Exhibit "B"). The letter acknowledged Attorney DiMartino's failure to provide the requested services, despite accepting Mr. Joseph's retainer and filing fee and claims as mitigation a severe, debilitating state of depression and an offer to reimburse Mr. Joseph's monies to him. Further, on the day Attorney DiMartino's grievance report was to be presented to the Committee for discussion and vote, Attorney DiMartino left an IOLTA check from his office account at the Bar Association office in the amount of \$1,700.00, payable to "Michael George" as a refund of Mr. Joseph's retainer and filing fee. (attached as Exhibit "C").

It was discussed at the initial committee grievance discussion to contact Attorney DiMartino to get the remaining balance³ of \$100.00 and to review his IOLTA account for the deposit of Mr. Joseph's original retainer. This investigator spoke with Attorney DiMartino requesting the additional monies and the IOLTA records. On June 24, 2015, Attorney DiMartino delivered \$1,800.00 cash to my office, which money was held and disbursed to Mr. Joseph the next day, a signed receipt for which is attached as Exhibit "D". The IOLTA records were never provided by Attorney DiMartino, but were received and reviewed from another exhibit on another grievance against Attorney DiMartino from the Grievance Committee, attached as Exhibit "E". Those records do not show any deposit of \$1,800.00 into the IOLTA account of Attorney DiMartino in July of 2014

Upon return of his \$1,800.00 retainer, Mr. Joseph was ecstatic and completely satisfied and requested that his grievance against Attorney DiMartino be dismissed.

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However, it is evident Attorney DiMartino violated multiple Rules of Professional Conduct including:

Rule 1.3 Competence
Rule 3.4 Communication

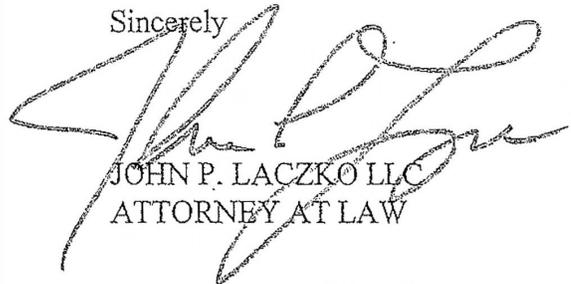
Also, violation of the Code of Professional Responsibility including-

Canon 1 Maintaining the integrity and compliance of the
legal profession;
Canon 6 A lawyer should represent a client competently;
Canon 7 A lawyer should zealously represent a client;
Canon 9 A lawyer should avoid the appearance of impropriety
and preserve identity of funds of a client

It was respectively recommended by this Mahoning County Grievance Committee that the within complaint be certified to the Disciplinary Counsel of the Supreme Court of Ohio.

Thank you.

Sincerely



JOHN P. LACZKO LLC
ATTORNEY AT LAW

JPL/el
Enc. 5

George M Joseph
330-360-1400



First National Bank

60-1809433 4748
 Cynthia Bella
 6612 Appleidge Dr.
 Boardman, OH 44512
 Date July 10, 2014
 Pay to the Order of G. Michael Joseph \$ 1700.00
One thousand seven hundred and 00/100 Dollars
 FIRST NATIONAL BANK OF PENNSYLVANIA
 YOUNGSTOWN, OH 44503
 Memo _____ Cynthia Bella
 ⑆043318092⑆ 094⑆ 105996⑆ 4748

DDA Debits - 07/10/2014 - \$1,700.00 - 62703000391 - 94105996 - 4748

6270391 FNB PA >043318092< 07/10/2014
 BOARDMAN
 27030792 07/10/14
 Cashed Check
 Acct # 94105996
 ENDORSE HERE
G. Michael Joseph
731438875
0710 R4019255
 DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
 RESERVED FOR FINANCIAL INSTITUTION USE *

DDA Debits - 07/10/2014 - \$1,700.00 - 62703000391 - 94105996 - 4748

BJ - 1ST Day I meet with AIT WAS JULY 10, 2014 NOT JUNE
 BJ - \$1700 + 100 THAT I HAD = \$1800

EXHIBIT "A"

DENNIS A. DiMARTINO

TRIAL ATTORNEY

June 4, 2015

Via Hand Delivery

Atty. John P. Laczko
Mahoning County Bar Assn.
19 E. Front Street
Youngstown, OH 44503

RE: Grievance of Michael George

Dear Atty. Laczko:

I apologize for the great delay in responding to this Grievance. I have been suffering from and struggling with a crippling, paralyzing state of depression for the past several years. As you know, I had a Grievance certified to the Supreme Court. Since that has been happening, I find myself overwhelmed by the workload of cases and completely paralyzed with fear. Although I am treating with a psychologist, I am still trying to break down the avoidance phenomenon that has caused many problems in my practice. Again, I apologize.

Given the discloses of the preceding paragraph, I request that this response not be released to Mr. George or the Grievance Committee unless absolutely necessary.

Mike George was referred to me by a lawyer from Cleveland who got my name from another colleague. His situation was essentially that his estranged girlfriend had forced him out of his own house and would not let him get access to his vehicles, businesses, inventory, and property. To make a bad matter worse, the home and many of the vehicles were put into her name, not Mike's. He went to two other lawyers before he came to see me, both of which were stymied by his ex-girlfriend's stubborn refusal to negotiate. I told him that the best course would simply be to file suit, try to get a TPO to prevent her from selling his inventory, etc.

I quoted a small retainer and filing fee, which he paid in cash. I then began preparing the Complaint, Motion for TPO, and Combined Interrogatories and Request for Production of Documents. Each time I started working on them, however, I would invariably get called away by another case, another Court, or another client. Try as I might, I could never get enough time together to finish off the initial documents to at least start the case. Then the depression would set in and push me even further back.

It was a bad situation and I should have simply admitted that I couldn't do the case and just refund his retainer. I guess I couldn't stomach having to admit that I failed and so I kept pushing this case further and further back. I truly regret not having handled this better.

Phone 330.726.7777

FAX 330.726.7779

Dennis.DiMartino@gmail.com

839 Southwestern Run

Youngstown, OH 44514-4688

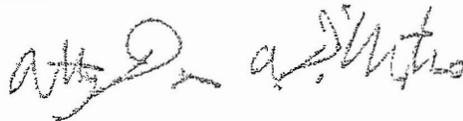
EXHIBIT "B"

SERVING NORTHEAST OHIO FOR OVER 24 YEARS

I do have the retainer to return to Mr. George, but I am unsure whether he wants in cash or by check. I can do so either way as soon as I am instructed.

I offer this Response as evidence of the great psychological stress that the combination of my depression and the fear/embarrassment/humiliation of the disciplinary action that I have been under. I am sorry that my delays have no doubt caused frustration and problems for Mr. George. I am ready, willing, and able to answer any other questions or produce my file on this case if you find it necessary. Thank you for your cooperation and patience.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Atty. Dennis A. DiMartino".

Atty. Dennis A. DiMartino

DAD/

Atty. Dennis DiMartino
839 Southwestern Run
Youngstown, OH 44514-4688

Atty. John P. Laczko
c/o Mahoning County Bar Assn.
19 E. Front Street
Youngstown, OH 44503

*Rec'd
6-18-15*

RECEIPT

I, George M. Joseph, received this 25 day of JUNE, 2015, from Attorney John P. Laczko, the attorney handling a grievance filed by me with the Mahoning County Bar Association, the sum of One Thousand Eight Hundred Dollars, (\$1,800.00), as payment in full on behalf of Atty. Dennis DiMartino . The amount of One Thousand Eight Hundred Dollars represents repayment of the attorney and filing fee given to Atty. DiMartino for filing of a civil complaint in Trumbull County, Ohio, on or about July 10, 2014.

Witness:

Emily Lopez

George M Joseph
GEORGE M. JOSEPH

Shana M. Kanda

EXHIBIT D¹⁶

