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

**NOV 24 2015**

**In re:**

**BOARD OF PROFESSIONAL CONDUCT**

**Complaint against**

**Gregory Lawrence Peck, Esq.  
3426 Indian Creek Road  
Oxford, Ohio 45056**

**No. \_\_\_\_\_**

**Attorney Registration No. (0040211)**

**COMPLAINT AND CERTIFICATE**

**Respondent,**

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

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

**FILED**

**Relator.**

**DEC 10 2015**

**BOARD OF PROFESSIONAL CONDUCT**

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

1. Respondent, Gregory Lawrence Peck, was admitted to the practice of law in the state of Ohio on November 7, 1988.
2. As an attorney, respondent is subject to the Ohio Rules of Professional Conduct and the Supreme Court Rules for the Government of the Bar of Ohio.
3. In June 2008, Ashley Needham, with the help of her grandfather, Charles Needham, engaged the services of We Sell Auto Sales to install an engine in her 1996 Dodge Intrepid. Upon retrieving the vehicle from the shop, Ashley Needham experienced significant problems with the engine's operation.

4. On January 21, 2009, Ashley Needham filed a complaint in the Middletown Municipal Court against We Sell Auto Sales, alleging breach of contract, negligence, fraud, and a violation of Ohio's Consumer Sales Practices Act. The complaint, however, did not name Charles Needham as an additional plaintiff.
5. On February 3, 2009, service of the complaint on We Sell Auto Sales was perfected by certified mail.
6. On March 2, 2009, respondent entered his appearance as counsel for We Sell Auto Sales.
7. Although an answer was due on March 3, 2009, respondent did not file the answer until March 12, 2009.
8. On April 1, 2009, respondent filed a motion to dismiss the complaint arguing that Ashley Needham did not have standing to pursue her claims on the grounds that she was not a party to the contract and that the contract was between Charles Needham and We Sell Auto Sales.
9. On April 8, 2009, an amended complaint was filed adding Charles Needham as an additional plaintiff, thereby rendering respondent's motion to dismiss moot.
10. The Needhams served the amended complaint on respondent by facsimile transmission on April 6, 2009.
11. Respondent never filed an answer to the amended complaint.
12. On September 4, 2009, the Needhams filed a second amended complaint naming "Donald Jones dba We Sell Auto Sales" as the proper party defendant.
13. Respondent was served with a copy of the second amended complaint by email on September 2, 2009. Additionally, on September 11, 2009, service of the second amended

complaint on defendant Donald Jones dba We Sell Auto Sales was perfected by certified mail.

14. Respondent never filed an answer to the second amended complaint.
15. On February 5, 2010, the Needhams filed a motion for default judgment.
16. On the same day, the Needhams served the motion for default judgment on respondent by first-class U.S. mail.
17. Respondent never filed a response to the Needhams' motion for default judgment, nor did he file a motion for leave to file an answer out of time under Civ.R. 6(B).
18. On February 8, 2010, the court sent notice to the parties by first-class U.S. mail setting a hearing date of March 5, 2010 for the motion for default judgment.
19. On March 5, 2010, a hearing before a magistrate was conducted on the Needhams' motion for default judgment. The Needhams and respondent appeared at this hearing.
20. On May 17, 2010, the magistrate issued a decision granting the motion.
21. On the same day, the trial court issued an entry affirming the magistrate's decision awarding default judgment to the Needhams.
22. Respondent did not appeal from the trial court's decision.
23. On June 11, 2010, the court issued a certificate of judgment.
24. On June 28, 2010, the certificate of judgment was returned.
25. On October 1, 2010, the Needhams filed a motion requesting a debtor examination of Donald Jones.
26. On December 7, 2010, the debtor examination was conducted. Respondent appeared at the debtor examination with Donald Jones.
27. On March 1, 2011, the Needhams filed two notices of garnishment against Donald Jones.

28. On March 25, 2011, respondent filed a motion for stay of proceedings to enforce judgment “until a hearing under Civ.R. 60(B) is heard by the court.”
29. On the same day, the court sent notice to the parties by first-class U.S. mail setting a hearing date of April 5, 2011 for the motion for a stay of proceedings.
30. On April 5, 2011, the court held a hearing on respondent’s motion for a stay of proceedings. Neither respondent nor Donald Jones appeared at the hearing. Counsel for the Needhams appeared at the hearing.
31. On April 18, 2011, the magistrate issued a decision denying respondent’s motion. As part of its decision, the magistrate determined that “as of the date of this hearing, no Rule 60(B) motion has been filed. Therefore, the motion for a stay is denied as there is no Motion for Relief from Judgment pending.”
32. On the same day, the court issued a notice to the parties of the magistrate’s decision.
33. Respondent never filed objections to the magistrate’s decision denying his motion.
34. On May 13, 2011, nearly one year (361 days) after the trial court issued its decision granting default judgment, respondent filed a motion for relief from judgment under Civ.R. 60(B).
35. On June 1, 2011, the court sent notice to the parties by first-class U.S. mail setting a hearing date of June 23, 2011 for the motion for relief from judgment.
36. On June 23, 2011, a hearing on the motion for relief from judgment was conducted before the magistrate. The Needhams and respondent appeared at the hearing.
37. On July 27, 2011, the magistrate issued a decision denying respondent’s motion finding that the requirements for relief from judgment had not been met.

38. On August 10, 2011, respondent filed objections to the magistrate's decision denying his motion for relief from judgment.
39. On December 8, 2011, following a hearing on his objections, the trial court issued an entry affirming and adopting the magistrate's decision denying respondent's motion for relief from judgment.
40. On June 8, 2012, the court filed an amended order and judgment entry to amend the award of damages.
41. On the same day, the clerk of the Middletown Municipal Court notified the parties that a final appealable order had been journalized.
42. On July 18, 2012, respondent filed a notice of appeal with the 12<sup>th</sup> District Court of Appeals.
43. In respondent's two assignments of error, respondent made no reference to the trial court's decision overruling his objections to the magistrate's decision denying his Civ.R. 60(B) motion for relief from judgment. Instead, respondent argued that the trial court erred in its decision granting the Needhams' motion for default judgment issued on May 17, 2010.
44. Pursuant to App.R. 4(A), a notice of appeal must be filed within 30 days of the entry of the judgment or order sought to be appealed.
45. Respondent's notice of appeal was filed 793 days after the trial court issued its decision granting the Needhams' motion for default judgment.
46. The 12<sup>th</sup> District Court of Appeals found respondent's appeal to be untimely.

47. The 12<sup>th</sup> District Court of Appeals also found that respondent had waived his ability to raise the error on appeal because he had never filed objections to the magistrate's decision granting the Needhams' motion for default.
48. Ultimately, the 12<sup>th</sup> District Court of Appeals found that even if respondent had timely filed the appeal and had preserved the issue, the trial court properly awarded a default judgment to the Needhams.
49. Respondent's conduct as set forth above violates the Rules of Professional Conduct, specifically Prof. Cond. R. 1.1 (requiring a lawyer to provide competent representation to a client) and Prof. Cond. R. 1.3 (requiring a lawyer to act with reasonable diligence and promptness in representing a client).

### CONCLUSION

Wherefore, pursuant to Gov. Bar R. V and the Ohio 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.



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Scott J. Drexel (0091467)  
Disciplinary Counsel



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**Gov. Bar R. V (4)(I) Requirements for Filing a Complaint.**

(1) Definition. "Complaint" means a formal written allegation of misconduct or mental illness of a person designated as the respondent.

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(7) Complaint Filed by Certified Grievance Committee. Six copies of all complaints shall be filed with the Secretary of the Board. Complaints filed by a Certified Grievance Committee shall be filed in the name of the committee as relator. The complaint shall not be accepted for filing unless signed by one or more attorneys admitted to the practice of law in Ohio, who shall be counsel for the relator. The complaint shall be accompanied by a written certification, signed by the president, secretary, or chair of the Certified Grievance Committee, that the counsel are authorized to represent the relator in the action and have accepted the responsibility of prosecuting the complaint to conclusion. The certification shall constitute the authorization of the counsel to represent the relator in the action as fully and completely as if designated and appointed by order of the Supreme Court with all the privileges and immunities of an officer of the Supreme Court. The complaint also may be signed by the grievant.

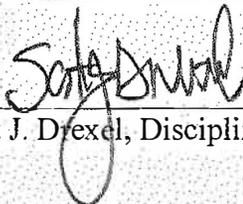
(8) Complaint Filed by Disciplinary Counsel. Six copies of all complaints shall be filed with the Secretary of the Board. Complaints filed by the Disciplinary Counsel shall be filed in the name of the Disciplinary Counsel as relator.

(9) Service. Upon the filing of a complaint with the Secretary of the Board, the relator shall forward a copy of the complaint to the Disciplinary Counsel, the Certified Grievance Committee of the Ohio State Bar Association, the local bar association, and any Certified Grievance Committee serving the county or counties in which the respondent resides and maintains an office and for the county from which the complaint arose.

**CERTIFICATE**

The undersigned, Scott J. Drexel, Disciplinary Counsel, of the Office of Disciplinary Counsel of the Supreme Court of Ohio hereby certifies that Dionne C. DeNunzio 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: November 24, 2015

  
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Scott J. Drexel, Disciplinary Counsel