

Disciplinary Quarterly Report

Reporting Period: April 1, 2007 to June 30, 2007

Report Submitted by the Disciplinary Counsel

Final Decisions

Aaron D. Dinwiddie, Las Cruces (Disciplinary No. 09-2006-513): NM Supreme Court ordered an indefinite suspension for a minimum of three years for failing to provide competent representation to clients, failing to promptly and diligently act on client cases, and failing to cooperate in the investigation conducted by the office of disciplinary counsel; conditions for applying for reinstatement include: (a) making restitution; (b) taking and passing the Multistate Professional Responsibility Examination; (c) submitting to a psychological examination by a qualified expert; and (d) paying the costs associated with discipline.

Charges Filed

Charges were filed against an attorney for allegations of failing to surrender documents to which the client was entitled at the termination of representation and failing to cooperate in the investigation conducted by the office of disciplinary counsel.

Charges were filed against an attorney for allegations of failing to competently represent a client and failing to act with reasonable diligence and promptness in representing a client.

Charges were filed against an attorney for allegations of failing to cooperate in the investigations conducted by the office of disciplinary counsel.

Charges were filed against an attorney for allegations of failing to cooperate in the investigations conducted by the office of disciplinary counsel.

Charges were filed against an attorney for allegations of committing criminal acts that reflect adversely on his/her honesty, trustworthiness, or fitness as a lawyer in other respects.

Petitions for Reinstatement Filed: 1

Gregory Gaban (Disciplinary No. 07-2007-525): Petition filed on June 28, 2007; N.M. Supreme Court remanded to Disciplinary Board for further action on June 28, 2007.

Formal Reprimands: 0

Informal Admonitions: 4

Attorneys were admonished for the following conduct:

- (1) failing to serve complaints on multiple defendants within a reasonable amount of time as a "strategy" to preserve settlement negotiations with said defendants; delay led to a summary judgment in favor of one defendant;
- (2) notarizing a document outside the presence of the principal who was the attorney's client;
- (3) backdating a document and certain checks to protect the interests of a client; and
- (4) failing to timely file a Rule 1-089.1 affidavit with the first paper filed in a civil case in state court; having a paralegal sign deposition notices for eight witnesses (in violation of Rule 1-011, NMRA 2007); and failing to ensure that the attorney's

Complaints Received

Allegations	No. of Complaints
Trust Account Violations	15
Conflict of Interest	3
Neglect and/or Incompetence	66
Misrepresentation or Fraud	13
Relationship with Client or Court	14
Fees	8
Improper Communications	4
Criminal Activity	1
Personal Behavior	4
Other	20
Total number of complaints received	148

biographical profile on the firm's web-page, letterhead, and business cards complied with Rule 16-705(B) of the Rules of Professional Conduct.

Letters of Caution: 10

Attorneys were cautioned for the following conduct:

- (1) failing to voluntarily withdraw from representation where a potential conflict of interest would likely lead to an order of withdrawal, and in fact, led to an order of withdrawal;
- (2) making changes to orders drafted and submitted for approval by opposing counsel, and failing to ensure that opposing counsel approved said changes prior to filing the edited orders with the court;
- (3) making an assertion in a motion that overstepped the bounds of appropriate advocacy;
- (4) advising clients that retainers are non-refundable and possibly engaging in excessive billing;
- (5) failing to conduct and respond to discovery and to make required pretrial filings where attorney had genuine concerns about a client's honesty and integrity; proper course of action under the circumstances would have been to withdraw from representation;
- (6) failing to keep a client reasonably informed about the status of a legal matter;
- (7) failing to make timely restitution to a former client as part of the disciplinary process;
- (8) neglecting client cases due to personal issues and not enlisting the assistance of other attorneys to protect client interests;
- (9) engaging in conduct which may implicate Rule 16-804 of the Rules of Professional Conduct; and
- (10) referring to the specifics of a case in a public forum in a manner which may violate Rule 16-404 of the Rules of Professional Conduct.