

STATEWIDE GRIEVANCE COMMITTEE

Mark H. Teague  
Complainant

:

vs.

:

Grievance Complaint #08-0093

Joseph Dimyan  
Respondent

:

DECISION

Pursuant to Practice Book §2-35, the undersigned, duly-appointed reviewing committee of the Statewide Grievance Committee, conducted a hearing at the Superior Court, 1061 Main Street, Bridgeport, Connecticut on June 4, 2008. The hearing addressed the record of the complaint filed on January 29, 2008, and the probable cause determination filed by the Danbury Judicial District Grievance Panel on March 18, 2008, finding that there existed probable cause that the Respondent violated Rules 1.3, 1.4(a), 1.4(b) and 8.4(3) of the Rules of Professional Conduct and Practice Book §2-32(a)(1).

Notice of the hearing was mailed to the Complainant, to the Respondent and to the Office of the Chief Disciplinary Counsel on April 28, 2008. Pursuant to Practice Book §2-35(d), Chief Disciplinary Counsel Mark A. Dubois pursued the matter before this reviewing committee. The Complainant appeared at the hearing and testified. The Respondent appeared and testified. No exhibits were received into evidence at the hearing.

Reviewing committee member Attorney Thomas Maxwell, Jr. recused himself from the hearing. Both Disciplinary Counsel and the Respondent waived the participation of Attorney Maxwell in this matter. Accordingly, this matter was heard and decided by the undersigned.

This reviewing committee makes the following findings of fact by clear and convincing evidence:

On March 8, 1998, the Complainant retained the Respondent to represent him in connection with an eye injury he sustained on July 5, 1996. The Respondent brought a Workers' Compensation Claim on behalf of the Complainant. The claim was dismissed on January 31, 2005 pursuant to Connecticut General Statute §31-294c because written notice of claim for compensation had not been given within one year of the accident and the Complainant did not prove that his situation fell within a statutory exception. The Respondent filed a late petition for review, a late Extension of Time to file a Motion to Correct, and a late appellant's brief. The Complainant's petition for review was dismissed for failure to prosecute with due diligence under Practice Book §85-1. The Compensation Review Board noted that even if they had considered the merits of the Complainant's appeal, they would have affirmed the trial commissioner's decision. The Respondent kept

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the Complainant informed of the status of his case. The Respondent did not file an answer to this grievance complaint.

This reviewing committee finds the following violations of the Rules of Professional Conduct and the Practice Book by clear and convincing evidence:

We conclude by clear and convincing evidence that the Respondent violated Rule 1.3 of the Rules of Professional Conduct and Practice Book §2-32(a)(1). The Respondent failed to represent the Complainant with reasonable diligence in his workers' compensation claim failing by failing to file a timely petition for review, failing to file a timely Extension of Time to file a Motion to Correct, and failing to timely file the Appellant's brief in violation of Rule 1.3 of the Rules of Professional Conduct. The Respondent's failure to file an answer to this grievance complaint constitutes a violation of Practice Book §2-32(a)(1).

We cannot, however, conclude by clear and convincing evidence that the Respondent violated Rules 1.4(a) or (b) of the Rules of Professional Conduct because we cannot conclude that he failed to keep the Complainant reasonably informed of the status of his case. Neither can we find clear and convincing evidence that the Respondent engaged in conduct involving fraud, dishonesty, deceit or misrepresentation in violation of Rule 8.4(3) of the Rules of Professional Conduct.

Accordingly, we reprimand the Respondent for violating Rule 1.3 of the Rules of Professional Conduct and Practice Book §2-32(a)(1).

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Attorney Salvatore DePiano

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Mr. William Carroll