

STATE OF CONNECTICUT



Daniel B. Horwitch
Statewide Bar Counsel
(203) 568-5157

STATEWIDE GRIEVANCE COMMITTEE

Second Floor - Suite Two
287 Main Street, East Hartford, Connecticut 06118-1885

10/20/95

QUEEN N LEWIS
22 CLINTON AVENUE #6A
STAMFORD CT 06901

DAVID M WALLMAN
750 SUMMER STREET
STAMFORD CT 06901

RE: GRIEVANCE COMPLAINT #94-0756
LEWIS vs. WALLMAN

Dear Complainant & Respondent:

The Statewide Grievance Committee has carefully studied the record of the above-referenced grievance complaint, including the proposed decision of the reviewing committee, which conducted a hearing in this matter on August 03, 1995. Based upon its review of the record, the Statewide Grievance Committee, at a meeting held on October 19, 1995, has decided to adopt the proposed decision of the reviewing committee. Accordingly, the Respondent, David M. Wallman, is hereby REPRIMANDED by the Statewide Grievance Committee.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel B. Horwitch", with a long horizontal flourish extending to the right.

Daniel B. Horwitch

cc: Attorney Patrick L. Carroll III
BENTLEY MOSHER BABSON & LAMBER
Attorney Amy J. Greenberg

STATEWIDE GRIEVANCE COMMITTEE

Queen N. Lewis
Complainant

:

vs.

: Grievance Complaint #94-0756

David M. Wallman
Respondent

:

PROPOSED DECISION

Pursuant to Practice Book §27J, the undersigned, duly-appointed reviewing committee of the Statewide Grievance Committee conducted a hearing at the Superior Court, 300 Grand Street, Waterbury, Connecticut, on August 3, 1995. The hearing addressed the record of the complaint filed on March 3, 1995 and the probable cause determination rendered by the Stamford/Norwalk Judicial District Grievance Panel on June 6, 1995, finding that there existed probable cause that the Respondent violated Rules 1.3, 1.4, and 8.4 of the Rules of Professional Conduct.

Notice of the hearing was mailed to the Complainant and to the Respondent on June 21, 1995. The Complainant, represented by counsel, appeared and gave testimony. The Respondent, represented by counsel, appeared and gave testimony. This reviewing committee also heard the testimony of the Respondent's witness, Attorney Karen Williams.

This reviewing committee finds the following facts by clear and convincing evidence:

On or about February 10, 1989, the Complainant retained the Respondent to represent her in connection with injuries she received in a slip and fall accident on January 27, 1989. After commencing an investigation of the Complainant's cause of action and communicating with her regarding her claim, the Respondent became increasingly difficult for the Complainant to contact. When the Complainant became frustrated at the Respondent's failure to return numerous telephone calls, she went to his office without an appointment and was able to see him. The Respondent told her that he was working on her case and that he would communicate with her further regarding his progress. The Complainant enlisted the service of her son who lived in Texas. In response to communication from the Complainant's son to the Respondent, the Respondent sent the Complainant's son a letter dated January 29, 1993, stating, among other things, that he had not filed suit on the Complainant's behalf. The Respondent did not inform the Complainant's son in his letter, nor did he advise the Complainant at any time, that the statute of limitations had expired. The Complainant retained new counsel and a malpractice claim against

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Proposed Decision

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the Respondent was discussed with the Respondent. A settlement was negotiated in which the Respondent agreed to pay the Complainant \$100,000.00 by March 12, 1994 and an additional \$75,000.00 within sixty days of the \$25,000.00 payment. In spite of the agreement, as of the date of our hearing, the Respondent had paid to the Complainant only \$60,000.00 plus \$9,000.00 in late fees for a total of \$69,000.00. Additionally, one check provided to the Complainant's attorney was deposited and returned due to insufficient funds. A second check provided to the Complainant's counsel was not deposited when the Complainant learned that there were insufficient funds to honor the check.

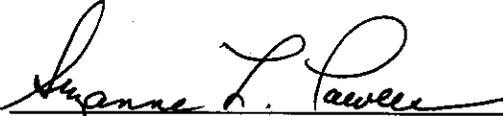
This reviewing committee also considered the following testimony:

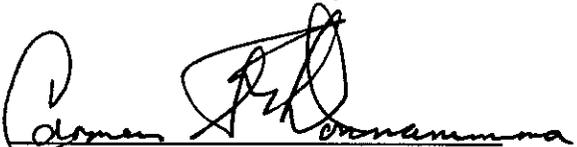
In 1990, the Respondent's marriage with his wife began to dissolve and divorce proceedings were initiated. Additionally, in 1990, the Respondent became involved in a very large civil case involving multiple plaintiffs and defendants which consumed a large portion of his time. The Respondent also testified that he intended to satisfy the settlement agreement, but at the time he entered the agreement he was unrealistic about his ability to make payments in accordance with the terms of the agreement.

It is the opinion of this reviewing committee that there exists clear and convincing evidence that the Respondent violated Rules 1.3, 1.4, and the misrepresentation provision of Rule 8.4(c) of the Rules of Professional Conduct. The Respondent undertook to represent the Complainant in a personal injury claim and thereafter failed to properly pursue the matter with reasonable diligence. The Respondent further failed to respond to the Complainant's reasonable requests for information regarding the matter and ultimately misrepresented to the Complainant that she had a viable cause of action when the statute of limitations had already expired. The Respondent does not have a history of having previously been disciplined by the court or the Statewide Grievance Committee and has entered into an agreement to make the Complainant whole. In view of the totality of the circumstances, it is the recommendation of this reviewing committee that the Respondent be reprimanded by the Statewide Grievance Committee.

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Attorney Margaret P. Mason


Attorney Suzanne Powers


Mr. Carmen Donnarumma

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