

DISMISSAL

Case No. 04-48-GA

Russell L. Swarthout, P 21193, Detroit, Michigan, by the Attorney Discipline Board Tri-County Hearing Panel #12.

1. Dismissal
2. Effective December 29, 2005

The Grievance Administrator filed Formal Complaint 04-48-GA alleging that respondent committed misconduct in a medical malpractice matter by failing to obtain the client file from his clients' former attorney; failing to file a timely malpractice complaint, resulting in the action being dismissed due to the running of the statute of limitations; failing to file the required affidavit of merit forming another basis for the dismissal of the case; failing to timely file an affidavit of merit which did not meet the statutory elements required, forming another basis for dismissal of the case; failing to inform his clients of the dismissal of the circuit court case for being filed after the running of the statute of limitations; failing to obtain the consent of his clients for the appeal of the dismissal; failing to provide his clients with the status of the case; failing to refund any unused costs or unearned fees; and misappropriating \$21,600.00.

Respondent's conduct was alleged to have been in violation of MCR 9.104(A)(1)-(4); and Michigan Rules of Professional Conduct 1.1(a)-(c); 1.3; 1.4; 1.5(a); 1.15; 1.16(d); 3.2; and 8.4(a)-(c).

Two public hearings were held and the hearing panel, finding no misconduct, issued an order dismissing Formal Complaint 04-48-GA. No costs were assessed against respondent.