

NOTICE OF REPRIMAND AND RESTITUTION  
(By Consent)

Case No. 99-016-GA

Keith T. Murphy, P-29864, Clarkston, Michigan, by Attorney Discipline Board Tri-County Hearing Panel #58.

- 1) Reprimand;
- 2) Effective June 23, 1999.

In September 1996, respondent filed a complaint on the plaintiff's behalf in a contract matter in Oakland County Circuit Court. The Summons and Complaint was issued on September 10, 1996, and was valid until December 10, 1996. Respondent obtained an order for substitute service on December 26, 1996. Defendant was served on January 8, 1997. No extension of the summons was ever requested or granted. Respondent pled no contest to allegations that: Despite being advised by the defendant's attorney on January 15, 1997, that service was ineffective due to the expiration of the Summons, respondent obtained a default judgment against the defendant on April 16, 1997, in the amount of \$26,355.15; he failed to notify the defendant or the defendant's attorney of the entry of the default judgment or to provide either with a copy of the document; and, he thereafter executed against the defendant's property on May 9, 1997, based on the improperly obtained default judgment.

On May 29, 1997, opposing counsel filed a Petition for Ex-Parte Restraining Order and Order to Show Cause Why Judgment Should Not Be Vacated wherein opposing counsel requested attorney fees as compensation for his time and effort to bring the matter before the court. Respondent pled no contest to allegations that: On July 8, 1997, at a hearing on the Order to Show Cause, respondent agreed to vacate the default judgment and the execution against property. He also agreed to pay opposing counsel \$1,000 in costs, but requested that the order state that no costs were awarded as he was concerned that his client would discover that he had permitted the summons to expire prior to serving the defendant; he failed to keep his promise to pay costs of \$1,000; and, he fraudulently induced opposing counsel to agree to stipulate to the order vacating the default and execution, and forgo his argument before the court for attorney fees.

Respondent pled no contest to charges that his conduct violated MCR 9.104(1)-(4); and Michigan Rules of Professional Conduct 3.3(a)(1), (2) and (4); 3.4(b) and (c); 4.1; and 8.4(a)-(c).

The parties stipulated that respondent be reprimanded and

make restitution to the complainant in the amount of \$1,000.  
Costs were assessed in the amount of \$185.35.