

NOTICE OF REPRIMAND WITH CONDITION

Case No. 98-81-GA

Robert L. Harley, Jr., P-31066, Grand Rapids, Michigan, by Attorney Discipline Board Kent County Hearing Panel #5.

- 1) Reprimand;
- 2) Effective January 20, 1999.

Respondent commenced a wrongful death litigation in the United States District Court for the Western District of Michigan, in which he identified his client as the personal representative of the decedent's estate. Pursuant to Michigan law, a wrongful death action may only be brought by a personal representative. The matter went to trial, and a jury verdict of no cause of action and a judgment for costs in the amount of \$3,901.07 were entered in the defendant's favor. The defendant later filed a motion questioning whether the plaintiff ever received letters of authority from a probate court appointing him as personal representative of the subject estate. A hearing was held pursuant to the defendant's motion. At that hearing, respondent informed the court that no petition for commencement of proceedings had ever been filed regarding the subject estate. As a result, the magistrate entered an order holding the plaintiff personally liable for the costs.

The parties stipulated that respondent failed to open a probate estate, resulting in his client becoming personally liable for the taxed costs of \$3,921.07 (which respondent himself later paid); and failed to inform his client that an order had entered holding him personally liable for the costs. The panel concluded that respondent's conduct violated MCR 9.104(1)-(4); and Michigan Rules of Professional Conduct 1.1(a); 1.2(a); 1.4(a) and (b); and 8.4(a) and (c).

The panel ordered that respondent be reprimanded and attend a State Bar of Michigan Law Office Management Seminar. Costs were assessed in the amount of \$319.15.