

NOTICE OF REPRIMAND WITH CONDITIONS

Case Nos. 97-181-GA; 97-201-FA

C. Barry Wetherington, P-26516, Bloomfield Hills, Michigan,
by Attorney Discipline Board Tri-County Hearing Panel #66.

- 1) Reprimand;
- 2) Effective November 8, 1997.

Respondent filed two civil actions in Genesee County Circuit Court, both of which were removed to the U.S. District Court, Eastern District, Southern Division, Flint. The panel found, by default, that respondent filed frivolous and vexatious pleadings, specifically the complaints in the above-referenced matters, despite the fact that there was no factual or legal basis for bringing the claims and no reasonable grounds for a belief that the filing of the claims were a good faith attempt to alter, change or modify the law as it exists.

Respondent was retained to represent the complainant in a claim against his former employer. Respondent included the complainant as a plaintiff in one of the above-referenced matters. The panel found that respondent neglected the matter as follows: He failed to respond to the complainant's repeated requests to be advised of the status of the matter; failed to timely advise the complainant of the dismissal of the matter and the imposition of sanctions by the federal court; and failed to appear for the hearing on Defendant's Motion for Summary Judgment and Rule 11 Sanctions held before the federal court, and failed to advise both the complainant and the court of his decision not to attend. Respondent admitted that he failed to timely answer the Formal Complaint.

Respondent's conduct was found to be in violation of MCR 9.104(1)-(4)and(7); and Michigan Rules of Professional Conduct 1.1(c); 1.3; 1.4(a); 3.1; 3.2; 3.4(c); 3.5(c); 8.1(b); and 8.4(a)-(c).

The panel, by majority, concluded that respondent should be reprimanded, with conditions including taking an ethics course and demonstrating a thorough understanding of the Michigan Rules of Professional Conduct and Chapter 9 of the Michigan Court Rules: Professional Disciplinary Proceedings. The dissenting panelist would have imposed a thirty-day suspension. Costs were assessed in the amount of \$433.14.

