

NOTICE OF SUSPENSION AND RESTITUTION

Case Nos. 92-28-GA; 92-52-FA

Philip L. Dulmage, P-13009, Flint, Michigan, by the Attorney Discipline Board reducing Genesee County Hearing Panel #3's Order of Suspension for forty-five (45) days.

- 1) Suspension - thirty (30) days;
- 2) Effective December 22, 1995.

Respondent failed to timely answer the Formal Complaint. His default was entered, and the panel determined that the default established the allegations of the complaint. The panel denied respondent's motion to set aside the default. Respondent failed to appear at the second discipline hearing. The panel ordered that respondent be suspended from the practice of law for forty-five days and make restitution to one complainant in the amount of \$340.

Respondent filed a petition for review. Following review proceedings, the Attorney Discipline Board entered an Order of Remand directing the panel to file a supplemental report containing specific conclusions regarding the charges of misconduct and conduct another hearing on discipline. Following remand proceedings, the panel dismissed several charges as not rising to the level of professional misconduct warranting discipline or not being factually established in the complaint. The remaining charges deemed to be factually established and rising to the level of professional misconduct warranting discipline are as follows:

Respondent was retained to bring suit against his client's employer for employment discrimination. The panel found that respondent failed to timely file a motion to compel answers to interrogatories; failed to timely file a final witness list; and failed to comply with a court order commanding him to comply with the defendant's discovery demand forthwith. Respondent was retained to bring suit against another client's employer for wrongful discharge. The panel found that respondent failed to advise his client of all settlement offers made by the defendant; and failed and/or refused to release the client's file although ordered to do so by the court. Respondent's conduct was found to be in violation of MCR 9.104(1)-(4); Canons 1, 6 and 7 of the then-applicable Code of Professional Responsibility, DR 1-102(A)(1),(5)and(6); DR 6-101(A)(3); and DR 7-101(A)(1)-(3); and Michigan Rules of Professional Conduct 1.4 and 8.4(a)and(c).

Following the further hearing on discipline, the panel filed a supplemental report recommending that respondent be suspended for thirty days. Following its consideration of the supplemental report and the objections filed by the respondent and one

complainant, the Board ordered that respondent be suspended from the practice of law for thirty days and make restitution to that complainant in the amount of \$340. Costs were assessed in the amount of \$1,262.41.

Respondent filed a delayed application for leave to appeal, which was denied by the Michigan Supreme Court on November 29, 1995. On December 7, 1995, the Board entered an Order Modifying Effective Date, Nunc Pro Tunc. The suspension is deemed to be effective December 22, 1995.