

**OFFICE OF DISCIPLINARY COUNSEL v. FISH.**

**[Cite as *Disciplinary Counsel v. Fish*, 1999-Ohio-456.]**

*Attorneys at law—Misconduct—Public reprimand—Charging a clearly excessive fee.*

(No. 98-1758—Submitted December 16, 1998—Decided March 24, 1999.)

ON CERTIFIED REPORT by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 97-58.

---

{¶ 1} In October 1991, Jeanne Marie Gieski retained respondent, Baruch David Fish of Cincinnati, Ohio, Attorney Registration No. 0001218, to defend her interests in a partition action arising out of a family dispute. At their first meeting, respondent and Gieski entered into a written fee agreement that provided that respondent was to be paid \$150 an hour, which was a reasonable rate in the Cincinnati area for an attorney of respondent's experience. Throughout the two years that he worked for Gieski, respondent maintained time records and sent monthly statements to her. The time sheets reflect that respondent worked 211 hours for Gieski for a total of \$31,650 in fees that Gieski paid.

{¶ 2} In November 1993, Gieski complained to respondent that she thought his fees were too high. After Gieski received \$14,434.34 in March 1994 as a result of the lawsuit, she filed an action against respondent in common pleas court, asserting that the fees he had charged her were excessive. Gieski obtained a judgment against respondent for \$10,978.43, which respondent paid.

{¶ 3} On June 16, 1997, relator, Office of Disciplinary Counsel, filed a complaint charging that respondent's conduct violated DR 2-106(A) (an attorney shall not charge a clearly excessive fee). Respondent answered and a panel of the Board of Commissioners on Grievances and Discipline of the Supreme Court

SUPREME COURT OF OHIO

(“board”) received stipulations, testimony from expert witnesses, and other evidence presented by the parties.

{¶ 4} The panel found that Gieski obtained a judgment against respondent for negligently charging excessive fees and breaching his contract with her. It cited specific occasions on which respondent billed time that appeared to be in excess of that needed to perform the itemized tasks. The panel concluded that respondent’s conduct violated the Disciplinary Rule as charged. However, it found in mitigation that Gieski was a “difficult client” who wanted respondent to “fight, fight, fight” in a bitter family feud. It recommended that respondent receive a public reprimand. The board adopted the findings, conclusion, and recommendation of the panel.

---

*Jonathan E. Coughlan*, Disciplinary Counsel, for relator.

*Edward G. Marks*, for respondent.

---

***Per Curiam.***

{¶ 5} We adopt the findings, conclusion, and recommendation of the board. Respondent is hereby publicly reprimanded. Costs are taxed to respondent.

*Judgment accordingly.*

MOYER, C.J., DOUGLAS, RESNICK, F.E. SWEENEY, PFEIFER, COOK and  
LUNDBERG STRATTON, JJ., concur.