

FILED

OCT 05 2016

BOARD OF PROFESSIONAL CONDUCT

BEFORE THE BOARD OF PROFESSIONAL CONDUCT
OF
THE SUPREME COURT OF OHIO

In Re

Complaint Against

MICHAEL WILLIAM CALLAHAN
(0051964)
3401 Enterprise Parkway
Suite 340
Cleveland, Ohio 44122

Respondent,

v.

CLEVELAND METROPOLITAN
BAR ASSOCIATION
1375 E. Ninth Street, Floor 2
Cleveland, Ohio 44114,

Relator.

NO. 16 - 046

COMPLAINT
AND
CERTIFICATE

(Rule V of the Supreme Court rules for
the Government of the Bar of Ohio)

Relator Cleveland Metropolitan Bar Association, alleges that Respondent Michael W. Callahan, an Attorney at Law, duly admitted to the practice of law in the state of Ohio on May 20, 1991, is guilty of the following misconduct:

COUNT I

Background

1. Michael W. Callahan (“Respondent”), Attorney Registration Number 0051964, is subject to the Ohio Rules of Professional Conduct and the Ohio Rules for Government of the Bar.

Representation of Natasha Moore

2. Respondent was hired by Natasha Moore (“Moore”) and her daughter, LaShierry Thompson-Moore (“Thompson-Moore”) to represent them in personal injury matters after they sustained minor injuries in an automobile collision at a rest stop along the Ohio Turnpike in Sandusky County on August 11, 2012.

3. At the time of the collision, Thompson-Moore was a minor.

4. Respondent obtained a written contingent fee agreement from Moore individually and on behalf of her minor daughter.

5. Moore completed her treatment with the chiropractor in October 2012.

6. Between October 2012 and May 2014, there was minimal contact between Respondent and Moore though Respondent became aware Moore had completed her treatment.

7. Respondent sent a demand package to the insurance adjuster on May 8, 2014, 19 months after Moore completed her medical treatment and 3 months before the statute of limitations would run on August 11, 2014.

8. No offer of settlement was ever made by the insurance adjuster on Moore’s case prior to the expiration of the statute of limitations on Moore’s case.

9. A lawsuit was never filed on Moore’s behalf prior to the expiration of the statute of limitations. As a result, Moore’s claim is barred by law.

10. It was not until May 8, 2015, that Respondent realized the statute of limitations had expired on Moore's claim.

11. Respondent called Moore on May 8, 2015, reported his error and made an offer of settlement to Moore to pay her \$1,500.00 for her non-economic damages and to have her medical bills paid.

12. Respondent did not notify Moore in writing that she should consult with her own independent counsel before settling with Respondent.

13. Respondent's offer was accepted in writing by Moore.

14. Respondent submitted Moore's medical bills to her insurance carrier on August 10, 2015.

15. On October 28, 2015 the bills were rejected as being untimely submitted due to the expired statute of limitations on Moore's personal injury claim.

16. Despite knowing in October 2015 that Moore's bills were rejected, Respondent did not communicate that information to Moore nor did he pay the agreed settlement.

17. Respondent reported the error(s) to his professional liability insurance carrier and retained counsel is in the process of resolving that claim.

Representation of LaShierry Thompson-Moore

18. Thompson-Moore's claim was filed in the Sandusky County Court of Common Pleas one day before her 20th birthday when the statute of limitations on her claim would have expired. The filing was 2 years and 9 months after the date of the collision.

19. Respondent received notice of a pretrial scheduled for July 21, 2015, in Thompson-Moore's case but he did not attend the pretrial.

20. Respondent did not receive notice of any subsequent hearings so he did not participate.

21. Following Respondent's failure to participate in a telephone pre-trial on August 4, 2015, the judge ordered Respondent to appear on August 11, 2015 to explain his repeated absences.

22. On August 13, 2015, the judge ordered Respondent to withdraw from Thompson-Moore's case and facilitate the transfer of the case to new counsel.

23. Instead of filing a motion to withdraw, on August 25, 2015, Respondent filed a 41(A) voluntary dismissal.

24. The Court struck the voluntary dismissal from the record and a contempt hearing was scheduled for October 1, 2015, for Respondent to show cause why he should not be held in contempt for failing to withdraw.

25. Respondent filed a motion to withdraw from Thompson-Moore's case on September 17, 2015.

26. Respondent's motion to withdraw was granted on October 1, 2015, and the contempt charge was dismissed.

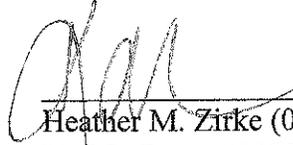
Respondent Violated the Rules of Professional Conduct

27. Respondent's conduct as described above amounts to violations of the following provisions of the Rules of Professional Conduct:

- a. Prof. Cond. R. 1.3 – failing to act with reasonable diligence;
- b. Prof. Cond. R. 1.4(a)(3) – failing to keep the client *reasonably* informed about the status of the matter; and
- c. Prof. Cond. R. 1.8(h)(2) – settling a potential malpractice claim with a client without notifying the client *in writing* that the client should seek independent counsel.

WHEREFORE, Relator respectfully requests that Respondent be appropriately disciplined for his misconduct.

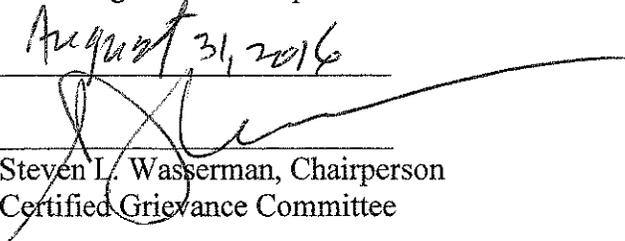
Respectfully submitted,



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CERTIFICATE

The undersigned, **STEVEN L. WASSERMAN, CHAIRPERSON**, of the **CLEVELAND METROPOLITAN BAR ASSOCIATION'S CERTIFIED GRIEVANCE COMMITTEE**, hereby certifies that **HEATHER M. ZIRKE** and **KARI L. BURNS** are duly authorized to represent Relator in the premises and have accepted the responsibility of prosecuting the complaint to its conclusion. After investigation, Relator believes reasonable cause exists to warrant a hearing on such complaint.

Dated: August 31, 2016


Steven L. Wasserman, Chairperson
Certified Grievance Committee

Rule V of the Supreme Court Rules for the Government of the Bar of Ohio, Section (10)

(E)(1) Content of the Complaint. A complaint filed with the Board shall be filed in the name of either disciplinary counsel or the bar association that sponsors the certified grievance committee, as relator. The complaint shall include all of the following:

- (a) Allegations of specific misconduct including citations to the rules allegedly violated by the respondent, provided that neither the panel nor the Board shall be limited to the citation to the disciplinary rule in finding violations based on all the evidence if the respondent has fair notice of the charged misconduct;
- (b) If applicable, an allegation of the nature and amount of restitution that may be owed by the respondent or a statement that the relator cannot make a good faith allegation without engaging in further discovery;
- (c) A list of any discipline or suspensions previously imposed against the respondent and the nature of the prior discipline or suspension;
- (d) The respondent's attorney registration number and his or her last known address;
- (e) The signatures of one or more attorneys admitted to the practice of law in Ohio, who shall be counsel for the relator and, where applicable, by bar counsel;
- (f) A written certification, signed by disciplinary counsel or the president or chair of the certified grievance committee, that the counsel are authorized to represent the relator in the action and have accepted the responsibility of prosecuting the complaint to conclusion. The certification shall constitute the authorization of the counsel to represent the relator in the action as fully and completely as if designated and appointed by order of the Supreme Court with all the privileges and immunities of an officer of the Supreme Court.

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**WAIVER OF PROBABLE
CAUSE DETERMINATION**

I, MICHAEL WILLIAM CALLAHAN, hereby waive the Gov. Bar R. V(11)(B)
probable cause determination of Relator's Complaint by a panel of the Board of
Professional Conduct of the Supreme Court of Ohio.



MICHAEL WILLIAM CALLAHAN

9-26-16
DATE