

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 07-185  
District Docket Nos. XIV-06-343E  
and XIV-06-346E

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IN THE MATTER OF :  
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ARNOLD M. ABRAMOWITZ :   
:   
AN ATTORNEY AT LAW :   
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Decision  
Default [R. 1:20-4(f)]

Decided: December 17, 2007

To the Honorable Chief Justice and Associate Justices of  
the Supreme Court of New Jersey.

This matter came before us on a certification of default  
filed by the Office of Attorney Ethics (OAE), following  
respondent's failure to file an answer to the formal ethics  
complaint. R. 1:20-4(f). We determine that a reprimand is  
appropriate discipline for respondent's misconduct.

The three-count complaint charged respondent with violating  
RPC 1.3 (lack of diligence), and RPC 1.4(b) (failure to keep a

client reasonably informed about the status of the matter or to promptly comply with reasonable requests for information) and RPC 8.1(b) (failure to cooperate with disciplinary authorities).

On November 5, 2007, respondent filed a motion to vacate the default. In his certification in support of the motion, he claimed that he failed to file an answer because of his "intense generalized anxiety." He asserted that, whenever he tried to reply to the ethics "complaints," he would "suffer from intense anxiety and palpitations, shortness of breath, emotional pain and depression that bordered on physical pain." According to respondent, when he tried to focus on the complaints, he would "magnify the allegations beyond all reasonable proportion and could not even sit and read the paperwork sent" by the DEC.

Respondent added that he was undergoing tremendous stress in other aspects of his life: his wife underwent a bilateral mastectomy, ultimately requiring three surgeries, and became infected with a MRSA staff infection. He, in turn, had to maintain an optimistic outlook for his wife and children.

Respondent added that his brother, the managing partner in the law firm, had retired in February 2006, requiring him to assume management responsibilities. Respondent had become overwhelmed with managing the firm and maintaining his files. He subsequently hired two attorneys to take over his brother's

cases. According to respondent, over time, the management of the office has become more routine.

Respondent claimed that he has been "in contact" with a psychiatrist and psychologist to help him work through his anxiety and depression. Respondent, however, did not provide the names of these individuals, the dates of his "contacts" or any reports or prognosis from them.

In addition to the foregoing, respondent provided a defense to the allegations of the complaint.

To succeed on a motion to vacate, a respondent must present an explanation for failing to file a timely answer to the complaint and must also set forth a meritorious defense to the ethics charges. Respondent failed to document his claim of anxiety and depression. We note that respondent raised a similar defense in the disciplinary matter that led to his 1996 admonition. There, he alleged personal problems as well.

Although we are sympathetic to respondent's problems and recognize that the pressures stemming from the retirement of his firm's managing partner and from his wife's illness must have had a great impact on his life, we find that these problems do not serve to relieve him of his duty to cooperate with ethics authorities. We, therefore, denied respondent's motion and determined to proceed with our review of this matter as a default.

Respondent was admitted to the New Jersey bar in 1976. He maintains a law office in Irvington, New Jersey.

Respondent's ethics history consists of three admonitions. In 1995, he was admonished for lack of diligence in pursuing his indigent client's appeal from a criminal conviction. Although the client had filed a notice of appeal pro se, respondent failed to pursue the matter resulting in its dismissal for lack of prosecution. We considered that the client did not suffer irreparable harm because the court reinstated his appeal. In the Matter of Arnold M. Abramowitz, DRB 95-399 (November 28, 1995).

The following year, respondent received a second admonition for failure to keep a personal injury client informed about the status of his case and failure to comply with the client's numerous requests for information about the case. We considered that the client was not harmed and that respondent was beset by personal problems at the time of his ethics infractions. In the Matter of Arnold M. Abramowitz, DRB 95-480 (April 3, 1996).

In 1997, respondent was admonished for a third time, for failing to comply with the district ethics committee's requests for information about a grievance filed against him. We found no clear and convincing evidence of the remaining charges against him. In the Matter of Arnold M. Abramowitz, DRB 97-150 (July 25, 1997).

Service of process was proper. On April 23, 2007, the OAE mailed copies of the complaint to respondent's last known office address listed in the New Jersey Lawyers Diary and Manual, 1064 Clinton Avenue, Irvington, New Jersey 07111. The certified mail receipt, which was signed by "VS Finchrey," indicated delivery on April 27, 2007. The regular mail was not returned.

On May 21, 2007, the OAE sent a second letter to the same address, by regular and certified mail. The letter informed respondent that, if he did not file an answer to the complaint within five days, the allegations would be deemed admitted, the matter would be certified to us for the imposition of discipline, and the complaint would be amended to include a willful violation of RPC 8.1(b) (failure to comply with a lawful request for information from a disciplinary authority). The certified mail receipt was returned indicating delivery on May 25, 2007, bearing an illegible signature. The regular mail was not returned.

As of the date of the certification of the record, respondent had not filed an answer to the complaint.

**THE JEAN-LOUIS MATTER – DISTRICT DOCKET NO. XIV-06-0343E**

On January 19, 1997, Chrismene Jean-Louis was injured in a motor vehicle accident, for which she retained respondent. State Farm Insurance Company (State Farm) insured the defendant. By letter dated November 6, 1998, respondent forwarded information to State Farm, prior to a November 20, 1998 arbitration. Thereafter, on an unknown date, respondent informed Jean-Louis of State Farm's \$29,000 settlement offer, which, according to the complaint, respondent rejected.

On December 14, 1998, respondent filed a complaint on Jean-Louis' behalf in Essex County Superior Court, Law Division. On July 13, 1999, the court initiated a motion to dismiss the complaint, presumably for lack of prosecution.

On July 28, 1999, respondent filed a motion for an order permitting substituted service for the defendant, by serving State Farm. On September 10, 1999, the court entered an order allowing respondent to serve State Farm, as well as the defendant, at his last known address.

On February 23, 2000, the court initiated a motion to dismiss for lack of prosecution. By letter dated March 16, 2000, respondent's office filed a certification in opposition to the court's motion. According to the certification, on or about September 22, 1999, respondent's office filed the summons and

complaint on State Farm. Immediately thereafter, State Farm's adjuster contacted respondent's office to request an extension of time to file an answer. Settlement discussions then began and continued to the date of the certification, March 16, 2000. Respondent requested that the matter remain on the active trial calendar for an additional three months and not be dismissed for lack of prosecution. The court, however, dismissed the case on March 24, 2000.

On July 3, 2003, respondent's office filed a motion to restore Jean-Louis' complaint. On August 8, 2003, the court denied the motion. The court order stated, "Denied as there is no explanation as to why movant has waited more than 3 years to file this motion."

In September 2003, respondent filed a second motion to restore Jean Louis' complaint. On October 10, 2003, the court denied the motion on the basis that the motion should have been served on State Farm, on whom substituted service had been authorized four years earlier, and that the moving papers demonstrated no excusable neglect "justifying some 4 years to elapse since the substitute service was authorized and State Farm presumably served."

On January 12, 2004, respondent's office filed another motion to restore the complaint and certified that the case had

not received an arbitration date or a trial date. The court again denied the motion, citing dissatisfaction with the "movant's explanation of why nearly 3 years have elapsed since last doing anything with the case."

In February 2004, respondent informed Jean-Louis that her case had been dismissed, gave her a copy of the file, and informed her that she might have a legal malpractice claim against him.

Throughout the representation, respondent did not adequately keep Jean-Louis apprised of the status of her case, did not make himself "adequately" available by telephone or in person, and did not provide her with any written documentation about her matter, until she received a copy of her file. As of January 2007, Jean-Louis had not pursued either a malpractice action against respondent or her underlying negligence claim.

**THE CAMPBELL MATTER – DISTRICT DOCKET NO. XIV-06-0346E**

In November 2003, Corey Campbell retained respondent to represent him in an expungement matter, for which he paid respondent a flat fee of \$1,000. During the following eight-month period, Campbell was unsuccessful in his efforts to contact respondent about the status of the case and did not receive any correspondence or other communication from respondent.



In July 2004, Campbell filed an ethics grievance against respondent. In November 2005, respondent refunded Campbell's retainer. He had not performed any services on Campbell's behalf. Campbell later retained another attorney to pursue the expungement.

**FAILURE TO COOPERATE WITH DISCIPLINARY AUTHORITIES (RPC 8.1(b))**

On February 18, 2004, Jean-Louis and Ebel, presumably her husband, filed a grievance against respondent. On May 15, 2006, the DEC requested that respondent submit a written reply to the grievance within ten days. Respondent did not reply. Thereafter, by letter dated August 29, 2006, the OAE requested, within twenty days, a written reply to the grievances filed in Jean-Louis, Campbell and in a third matter. Respondent failed to reply to any of the grievances.

On October 19, 2006, the OAE sent respondent letters by regular and certified mail to his Irvington, New Jersey office address, requesting a reply to the grievances by November 1, 2006. On October 26, 2006, the certified mail receipt was returned, signed by an S. Pinckney. The regular mail was not returned. Respondent did not reply to the grievances.

In March 2007, the OAE dismissed the third grievance.

The complaint contains sufficient facts to support a finding of unethical conduct. Because respondent failed to timely answer the complaint. The allegations are deemed admitted. R. 1:20-4(f).

In the Jean-Louis matter, although respondent took some action on her behalf, he lacked diligence, a violation of RPC 1.3, by permitting the complaint to be dismissed for lack of prosecution and, thereafter, failing to take prompt steps to have it reinstated. The court denied respondent's three motions to reinstate the complaint, citing respondent's failure to justify the nearly three years that had elapsed without any action in the case.

Respondent also failed to adequately communicate with Jean-Louis throughout the representation, a violation of RPC 1.4(b).

In the Campbell matter, after respondent accepted a retainer, he did nothing for the next eight months to pursue Campbell's expungement and failed to communicate with Campbell during that time period. Here, too, respondent engaged in lack of diligence and failure to communicate with the client, violations of RPC 1.3 and RPC 1.4(b).

Finally, respondent's failure to provide replies to the grievances, first to the DEC and then to the OAE, violated RPC 8.1(b).

Lack of diligence and failure to communicate with the client generally result in an admonition. See, e.g., In the Matter of Jonathan Saint-Preux, DRB 04-174 (July 19, 2004) (admonition for attorney who, in two immigration matters, failed to appear at the hearings, thereby causing orders of deportation to be entered against the clients, and failed to apprise the clients of these developments; violations of RPC 1.3 and RPC 1.4(a) found); In the Matter of Susan R. Dargay, DRB 02-276 (October 25, 2002) (attorney admonished for failure to promptly submit to the court a final judgment of divorce in one matter and failure to reply to the client's letters and phone calls in another matter, violations of RPC 1.3 and RPC 1.4(a)); In the Matter of Mark W. Ford, DRB 02-280 (October 22, 2002) (admonition for violations of RPC 1.3 and RPC 1.4(a); the attorney failed to file a workers' compensation claim and to reasonably communicate with the client about the status of the case); and In the Matter of W. Randolph Kraft, DRB 01-051 (May 22, 2001) (admonition for attorney who failed to prosecute a case diligently and failed to communicate with the client; the lack of communication included the attorney's failure to notify the client that the complaint had been dismissed for lack of prosecution; the attorney violated RPC 1.3 and RPC 1.4(a)).

In aggravation, we have considered respondent's three admonitions and his failure to file an answer to the complaint. We, therefore, determine that respondent should be reprimanded.

Member Lolla did not participate.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs and actual expenses incurred in the prosecution of this matter, as provided in R. 1:20-17.

Disciplinary Review Board  
William J. O'Shaughnessy  
Chair

By: Julianne K. DeCore  
Julianne K. DeCore  
Chief Counsel

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**SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
VOTING RECORD**

In the Matter of Arnold M. Abramowitz  
Docket No. DRB 07-185

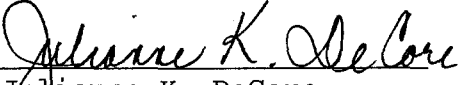
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Decided: December 17, 2007

Disposition: Reprimand

Members	Suspension	Reprimand	Admonition	Disqualified	Did not participate
O'Shaughnessy		X			
Pashman		X			
Baugh		X			
Boylan		X			
Frost		X			
Lolla					X
Neuwirth		X			
Stanton		X			
Wissinger		X			
<b>Total:</b>		8			1

  
Julianne K. DeCore  
Chief Counsel