SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 07-285
District Docket Nos. XIV-2006-138E;
XIV-2006-139E; XIV-2006-141E;
XIV-2006-142E; XIV-2006-143E;
XIV-2006-144E; XIV-2006-145E;
XIV-2006-146E; and XIV-2006-429E

IN THE MATTER OF
EDMUND P. GLASNER
AN ATTORNEY AT LAW

CORRECTED
DECISION
Default [R. 1:20-4(f)]

Decided: April 16, 2008

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 one-year suspension for respondent's misconduct is appropriate discipline.

The nine-count complaint charged respondent with violating RPC 1.1(a) (gross neglect), 1.1(b) (pattern of neglect), RPC 1.3 (lack of diligence), RPC 1.4, presumably (b), (failure to communicate with client), RPC 1.16(a)(2) (failure to withdraw from the representation when the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client), RPC 1.16(d) (failure to protect a client's interests upon termination of the representation), RPC 8.4(c) (misrepresentation), RPC 8.4(d) (conduct prejudicial to the administration of justice), and 8.1(b) (failure to reply to reasonable requests for information from a disciplinary authority).[1]

Respondent was admitted to the New Jersey bar in 1985. At the relevant time, he maintained a law practice in Toms River, New Jersey.

Pursuant to R. 1:20-12, the Court ordered respondent transferred to disability inactive status, effective June 15, 2006. In re Glasner, 187 N.J. 70 (2006). Effective January 14, 2008, respondent was temporarily suspended from the practice of law for failure to comply with fee arbitration determinations in three separate matters. In re Glasner, 194 N.J. 160 (2007). The Court further ordered that, on respondent's satisfaction of all financial obligations, he be returned to disability inactive status.

[1] By letter dated June 4, 2007, the OAE amended the complaint to include this violation.

On October 19, 2007, the OAE informed Office of Board Counsel (OBC) that nothing in the record suggested that respondent is unable to assist in his own defense of the present allegations. Under R. 1:20-12(e), if an attorney is unable to defend against the charges because of mental or physical incapacity, the disciplinary proceeding will be deferred until the attorney is restored to active status. Otherwise, pursuant to R. 1:20-12(b), the disciplinary proceeding will not be held in abeyance.

A letter from OBC to the Court-appointed trustee of respondent's practice produced the following response:

> I have not spoken to Mr. Glasner directly for, at least, a year. Furthermore, I have always been mystified as to how an attorney of Mr. Glasner's apparent ability could have allowed the situation that I found to have developed. I do not believe that I am able to give any meaningful opinion as to Mr. Glasner's ability to participate on his own behalf.

Because there is nothing in the record indicating that respondent is so disabled that he cannot assist in his own defense in this matter, we determine to proceed with our review of the merits of this case.

Service of process was proper. On April 20, 2007, the OAE mailed a copy of the complaint by regular and certified mail to respondent's last known address, 22 Robbins Street, Toms River, New Jersey. The regular mail was returned indicating that the forwarding time had expired and showed a new address of P.O. Box

3017 Lakewood, New Jersey 08701. The certified mail receipt was returned indicating delivery on April 30, 2007. The signature of the recipient was "Greg Boyle."

On June 4, 2007, the OAE sent respondent a second letter to the Robbins Street address and the Lakewood 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 of the complaint would be deemed admitted, the record would be certified to us for the imposition of discipline, and the complaint would be deemed amended to include a violation of RPC 8.1(b). The certified and regular mail was returned, indicating that the forwarding time had expired. It again listed the Lakewood address, which is the address of the trustee appointed to oversee respondent's cases.

According to the certification of the record, on March 16, 2007, respondent purchased a house at 45 Lakeside Drive, Marlborough, Massachusetts. Therefore, on June 7, 2007, the OAE mailed copies of the complaint to that address, by regular and certified mail. The regular mail was not returned. The certified mail receipt indicates delivery on June 27, 2007, and contains the signature of "Ed Glasner."

On July 19, 2007, the OAE mailed a second letter to respondent, by certified and regular mail, again warning him that,

if he did not file an answer within five days, the matter would be certified to us for the imposition of discipline. The certification does not indicate whether the letters were returned.

It is clear, however, that respondent was properly served with the complaint, as he signed the certified mail card on June 27, 2007.

As of the date of the certification of the record, July 30, 2007, respondent had not filed an answer to the complaint.

For ease of reference, our findings in each count immediately follow each recitation of facts.

Count One - The Lezark Matter
District Docket No. XIV-06-145E

In January 2004, Diane Lezark retained respondent to represent her in a consumer fraud matter against seven defendants. Lezark paid respondent an initial retainer of $2,500. On February 10, 2004, respondent filed a complaint on Lezark's behalf.

Thereafter, Lezark telephoned respondent regularly about the status of her case. Over a nine-month period, respondent told Lezark about several court dates, none of which existed.

On Sept 15, 2005, Lezark telephoned the Ocean County Superior Court and discovered that, on December 16, 2004, the court had dismissed her case against defendant Loretta Tymko for

failure to reply to discovery requests. Respondent did not inform Lezark about the dismissal or the discovery request and did not ask her to provide answers thereto.

On April 19, 2004, the court dismissed Lezark's case against two more defendants; on July 16, 2004, against another defendant; and, on August 5, 2004, against three additional defendants, and for failure to answer interrogatories. Again, respondent did not inform Lezark about the defendants' requests for discovery, nor did he request that she provide answers.

After Lezark learned that her case had been dismissed, she confronted respondent, who assured her that he would have the case reinstated. Afterwards, respondent provided Lezark with a false proof of mailing, indicating that, on October 25, 2005, he had mailed a notice of motion, cover letter, certification, order and proof of mailing to the court and to the defendants' counsel. Neither the court nor the attorneys received the "purported" motion.

Eventually, Lezark filed for fee arbitration, seeking the return of her $2,500 retainer and costs. Respondent failed to appear at the fee arbitration hearing. The fee committee awarded Lezark the return of her entire retainer and costs. Respondent, however, failed to pay the award.

The complaint charged respondent with violating RPC 1.1(a), RPC 1.3, RPC 1.4, presumably (b), RPC 1.16(a)(2), RPC 1.16(d), RPC 8.4(c), and RPC 8.4(d).

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

Respondent failed to take any action on Lezark's behalf. After he filed the complaint, he allowed it to be dismissed and failed to have it reinstated, misconduct that constitutes gross neglect and lack of diligence. Respondent also failed to communicate with Lezark by failing to inform her of her case's dismissal. She learned of the dismissal when, after nine months of trying to obtain information from respondent, she called the court. Furthermore, respondent engaged in misrepresentations by periodically informing Lezark that he was awaiting a court date, when there were none scheduled, and by creating documents to make it appear as if he were attempting to have the matter reinstated. Finally, respondent failed to return Lezark's retainer, even after having been ordered to do so by the fee arbitration committee.

Altogether, respondent's conduct in the Lezark matter violated RPC 1.1(a), RPC 1.3, RPC 1.4(b), RPC 1.16(a)(2) and (d), and RPC 8.4(c) and (d).

Count Two - The Harris Matter
District Docket No. XIV-06-0146E

On April 15, 2004, David and Vivian Harris retained respondent to represent them in a consumer fraud case, for which they paid him a $2,000 retainer. On April 20, 2004, respondent filed a complaint in Middlesex County Superior Court.

Paragraphs 23 through 29 of the ethics complaint relate to a series of emails between Harris and respondent. The portions of the relevant exhibit (Exhibit 18) provide:

1) On October 27, 2004, in reply to Harris's email, respondent notified him that he intended to issue subpoenas to compel the attendance of various individuals to testify in Harris's behalf, and that he would meet with the Harrises prior to the beginning of trial. The email further stated that respondent did not generally require his clients' appearance on the first day of trial, because generally a trial did not begin on the day of the trial call.

2) On February 18, 2005, Harris sent an email to respondent, stating that he had not heard from him in a while and wanted information about the status of his case.

3) On May 10, 2005, Harris emailed respondent, informing him that he had not received the interrogatories that respondent was to have sent him the week before. Respondent had also mentioned to Harris that he had been working on "Jury Selection." Because Harris believed that his case had "stalled a bit," he wanted to review the status of the case with respondent "in person."

4) On September 1, 2005, Harris mentioned that his wife had tried to reach respondent "repeatedly" about the status of their case, and that, although respondent had stated that he would send documents to them, none had been received. Harris, therefore, requested an "update" on the status of his case. Harris also referred to their meeting in June 2005, during which respondent had explained his "personal situation,"[2] and had informed Harris that he had requested an extension from the court because of his situation, that he was "re-engaging" himself in their case, and that there was a July, presumably 2005, timeframe for a court appearance. The Harrises, however, continued to experience difficulties reaching respondent for status updates.

5) On November 17, 2005, Harris complained that respondent had given him "faulty" information. Harris requested that future

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[2] Exhibit 20, the Harrises' February 24, 2006 to respondent, states that respondent had informed them that his wife had cancer and that he had had a heart attack.

information about the case be in writing. He added that the courts had no correspondence or documentation from respondent, and asked that respondent document the actions he had taken on their behalf.

6) On January 10, 2006, Harris inquired why respondent was not replying to any of his emails or telephone calls.

On April 26, 2005, the court dismissed Harris's case, with prejudice, for failure to provide discovery. Respondent failed to notify Harris of the dismissal. By letter dated February 24, 2006, the Harrises discharged respondent, requested the return of their retainer ($2,000) and file, complained that respondent would not reply to their requests for information, and accused him of lying about the status of their case and about respondent's and his wife's medical condition to cover up the dismissal of the case.

Harris retained another attorney, who vacated the dismissal and settled the case for $9,000. However, that attorney's fee was $10,000. Respondent did not return the Harrises' retainer.

This count charged violations of RPC 1.1(a), RPC 1.3, RPC 1.4, presumably (b), RPC 1.16(a), RPC 1.16(d), RPC 8.4(c) and RPC 8.4(d). We find that respondent violated all of these RPCs.

The complaint and documents provide clear and convincing evidence that respondent accepted a retainer and, after filing the complaint, took no further action in the matter, permitted it

to be dismissed with prejudice, and failed to have it reinstated. Respondent also failed to comply with his clients' requests for information about their case, failed to notify them of the dismissal, and made misrepresentations about engaging in discovery and about the status of their case. Moreover, respondent did not return the Harrises' retainer.

Count Three - The Giordano Matter
District Docket No. XIV-06-0144E

On May 30, 2001, Paul Giordano retained respondent to represent him in a consumer fraud action, for which he paid an initial retainer of $2,500.

Respondent informed Giordano that his case would be resolved in less than one year. Over the next five years, respondent represented to Giordano that his case was still pending.

When Giordano telephoned respondent's office in December 2005, someone at that number notified him that respondent was no longer practicing law.

The Division of Consumer Affairs (DCA) had only the initial claim form presumably filed by respondent and a DCA letter to respondent, requesting that he provide additional information. Because respondent failed to comply with the request, the DCA closed Giordano's file.

Giordano filed for fee arbitration to recover his retainer and the $600 he paid to hire an expert witness. Following a November 2, 2006 fee arbitration hearing, the fee committee found no evidence that respondent had performed any legal services on Giordano's behalf. The committee awarded Giordano a full refund of his fee, but not the amounts paid directly to the expert. Respondent failed to pay the fee award.

The complaint charged respondent with violating RPC 1.1(a), RPC 1.3, RPC 1.4, presumably (b), RPC 1.16(a)(2), RPC 1.16(d), RPC 8.4(c) and RPC 8.4(d). We find that respondent violated all the charged RPCs.

Respondent's inaction establishes that he lacked diligence and engaged in gross neglect over the five-year period that he was purportedly working on Giordano's case. Also, respondent misrepresented to Giordano that his case was still pending, failed to notify Giordano that he was no longer practicing law, and failed to return the unearned retainer.

Count Four - The Zuba Matters
District Docket No. XIV-06-0141E & 0142E

On May 16, 2002, Alan Zuba retained respondent to represent him in a consumer fraud matter, for which he paid a $2,000 retainer. The case involved Cape Island Marine Center's (Cape Island) winterization of Alan's boat.

On November 24, 2003, Alan's wife, Lori Zuba, retained respondent for a Lemon Law claim. She paid him a $300 retainer to file a "last chance repair letter" and $1,000 to proceed before the Office of Administrative Law (OAL).

On May 20, 2002, respondent wrote to Cape Island demanding a $13,134.99 settlement (treble the total of Alan's costs) plus attorney's fees of $2,500, totaling $15,634.99. Respondent did not obtain a settlement for Alan. Also, respondent told the Zubas that he had filed a complaint in Burlington County Superior Court, which was not true. In response to the Zubas' requests for information about the status of the boat matter, respondent informed them of several trial dates. However, because respondent had never filed the complaint, those representations were false.

On January 5, 2006, after three and one-half years, Alan discharged respondent and retained a new attorney, who filed a complaint on his behalf. By that time, Cape Marina was bankrupt. In addition, the boat had depreciated in value and could no longer be used.

As to Lori's Lemon Law case, on November 23, 2003, respondent wrote a "last chance repair letter" to GMC Customer Assistance Center. Because the matter was not resolved, on April 27, 2005, respondent filed a Lemon Law dispute resolution

application with the DCA. On May 4, 2005, the DCA wrote to Lori, requesting additional information. Notwithstanding that the letter was sent to Lori, the ethics complaint states that respondent did not submit the additional information. It is, therefore, presumed that Lori turned over the letter to respondent.

By letter dated July 26, 2005, the DCA notified Lori that her file had been open for over one month and that no additional information had been sent. The DCA stated that it was critical for Lori to communicate with the Lemon Law Unit about the status of her file and that, if it did not hear from her by August 9, 2005, it would assume that she had resolved her problem, at which point it would close the case.

According to the ethics complaint, when the Zubas telephoned the DCA, an unidentified individual informed them that respondent had never returned the DCA's telephone calls, a claim that respondent denied.

On September 21, 2005, the DCA notified respondent that Zuba and another client had called to inquire about the status of their cases and that the DCA had notified them that, because of the attorney/client privilege, all communications had to be through respondent's office. When the Zubas called respondent

about the status of this case, respondent falsely informed them about "numerous court dates," all of which had been "postponed."

After the Zubas discharged respondent, they retained a new attorney. Although a settlement appeared likely, the van had depreciated significantly during the time that respondent was in charge of the case.

In both matters, respondent failed to refund the Zubas' retainers.

The complaint charged respondent with violating RPC 1.1(a), RPC 1.3, RPC 1.4, presumably (b), RPC 1.16(a)(2), RPC 1.16(d), and RPC 8.4(c).

After respondent agreed to represent the Zubas, he did very little in each of their cases. As a result, the Zubas discharged respondent from both matters and retained new attorneys. Respondent's inaction caused the Zubas financial harm. In Alan's matter, Cape Island became bankrupt and he could no longer use his boat. In Lori's matter, her van depreciated significantly during the course of respondent's representation. In addition respondent misrepresented the status of the cases to the Zubas, claiming that he was awaiting court dates, and failed to refund the unearned retainers.

We find that respondent's conduct in this matter violated all charged RPCs, with the exception of RPC 1.4(b). The

complaint does not contain sufficient facts to establish that respondent failed to communicate with his clients.

Count Five - The Caporellie Matter
District Docket No. XIV-06-0143E

Daniel Caporellie, T/A Mr. Fence, Inc., was embroiled in divorce litigation when he was sued (around July 31, 2004) for violating the consumer fraud laws. On September 17, 2004, Caporellies' divorce lawyer filed an answer and counterclaim in the consumer fraud case, but referred him to respondent to handle the case. Caporellie retained respondent on February 1, 2005, and paid him an initial $3,000 retainer.

Before respondent was retained, on January 26, 2005, the court had granted plaintiffs Joseph and Andrea Arico's motion to suppress Caporellie's answer and dismiss his counterclaim for failure to answer interrogatories. On February 24, 2005 (three weeks after respondent was retained), the court granted the plaintiffs' motion for summary judgment against Caporellie, awarded the plaintiffs $11,514 plus attorneys fees and costs, and dismissed Caporellie's counterclaim, with prejudice.

On March 2, 2005, respondent moved to vacate the January 26, 2005 order suppressing Caporellie's answer and dismissing his counterclaim. Paragraph 5 of respondent's certification in support of the motion referred to his earlier motion to vacate

the February 24, 2005 order granting summary judgment. The certification requested that both motions be heard together.

On March 9 and March 14, 2005, the plaintiffs' attorney, Michael Simon, requested that respondent mail and fax him a copy of respondent's February 24, 2005 motion to vacate the court's order for summary judgment.

By letter dated March 23, 2005, Simon notified the court that, despite his numerous telephone calls to respondent, he had never received a copy of the motion to vacate the summary judgment order. Simon was not sure that it had even been filed but, nevertheless, requested an opportunity to oppose it.

The court never received respondent's motion to vacate the summary judgment order. On April 22, 2005, the court denied respondent's motion to vacate the January 26, 2005 order.

By letter dated May 3, 2005 to Caporellie, Simon notified him about the judgment. He added that full payment was expected within two weeks and that the plaintiffs would "aggressively seek collection" of the judgment.

According to the complaint, Caporellie "immediately" contacted respondent, who instructed him to fax the letter to him. Respondent assured Caporellie that he would "take care of it." Afterwards, despite Caporellie's repeated efforts to contact respondent and assurances from respondent's secretaries

that they had given respondent his messages, Caporellie was never able to speak to respondent again.

On August 18, 2005, the court issued an order of execution against Caporellie's bank account for $13,010.01, three times the amount of his original contract with the plaintiffs.

In September 2005, Caporellie filed for fee arbitration. At respondent's request, the hearing was rescheduled twice. In January 2006, after respondent sent Caporellie a full refund, the fee arbitration committee canceled the hearing.

The complaint charged respondent with violating RPC 1.1(a), RPC 1.3, RPC 1.4, presumably (b), RPC 1.16(a)(2), and RPC 8.4(c).

The allegations establish that respondent never filed a motion to vacate the summary judgment order, even though he asserted as much in his certification in support of his motion to vacate the order suppressing Caporellie's answer and counterclaim. He also failed to reply to Caporellie's repeated telephone calls.

Count Six - The Klauditz Matter
District Docket No. XIV-06-0139E

On July 12, 2004, Brenda Klauditz retained respondent to represent her in a consumer fraud matter against Joseph Janas and other unknown defendants, for which she paid an initial retainer of $2,000.

On July 14, 2004, respondent filed a complaint in Superior Court, Ocean County. On August 24, 2004, the defendant filed an answer and counterclaim. Both parties propounded interrogatories on each other.

On December 2, 2004, the defendant's counsel inquired whether Klauditz would provide answers to interrogatories, which were long overdue.

According to Klauditz, after respondent filed her complaint and served interrogatories on the defendant, she had difficulty reaching respondent. On the rare occasions when she spoke to him, he assured her that her matter was proceeding properly. Eventually, however, respondent refused to return her telephone calls. On June 8, 2005, Klauditz wrote to respondent, complaining about his failure to make himself available to her.

Based on Klauditz' failure to answer interrogatories, on June 22, 2005, the defendant moved to dismiss her complaint. On July 22, 2005, the court granted the motion.

On August 3, 2005, Klauditz wrote to the court to request a postponement of her August 8, 2005 arbitration hearing. She stated that she had dismissed respondent and was searching for new counsel. She sent a copy of the request to the defendant, who wrote to respondent in an attempt to get him to answer the interrogatories and to move to reinstate the complaint.

On her own, Klauditz learned that her case had been dismissed for lack of prosecution, that the defendant had filed a counterclaim against her and that he had propounded interrogatories. On August 23, 2005, Klauditz wrote to respondent, expressing her dissatisfaction with his conduct and requesting that he return her retainer, which he failed to do.

The complaint charged respondent with violating RPC 1.1(a), RPC 1.3, RPC 1.4, presumably (b), RPC 1.16(a)(2), and RPC 8.4(c). We conclude that all of these RPCs have been violated.

Respondent's failure to take any action in Klauditz' matter, after filing the complaint and propounding interrogatories, amounted to gross neglect and lack of diligence. Also, he failed to properly communicate with her by not returning her telephone calls and not keeping her apprised of the status of her matter. On the rare instances when he did speak with her, he misled her that the case was progressing. He also failed to return the retainer, a factor that aggravates respondent's conduct.

Count Seven - The Lucas Matter
District Docket No. XIV-06-0138E

On February 24, 2004, Raymond Lucas paid respondent an initial $300 retainer to prepare a "last chance letter" in his consumer fraud case. Under their fee agreement, Lucas elected to pay respondent a flat fee, rather than an hourly rate. He

understood that he was to pay respondent $700 at the beginning of his Lemon Law suit.

On February 24, 2004, respondent sent a "last chance letter" to GMC Customer Assistance Center, which letter did not resolve the problem. Thus, on April 13, 2004, Lucas paid respondent $700 to initiate the lawsuit.

In early May 2004, Lucas asked respondent for a status report. During their conversation, respondent stated that he had been negotiating with General Motors, that they had reached a monetary settlement, and that General Motors' attorneys were awaiting approval from Detroit.

A May 4, 2004 letter from the customer assistance center manager, however, indicated that her attempts to contact respondent about Lucas's matter on April 12, April 16, April 19, April 23, and April 28, 2004 had been unsuccessful, and that she would close Lucas's file, pending contact from respondent.

On June 7, 2004, Lucas again contacted respondent for a status report on his case. He was surprised by respondent's question about whether he wanted to go ahead with a Lemon Law suit. Afterwards, respondent repeatedly provided Lucas with dates for a hearing, which never took place.

When Lucas telephoned the OAL on November 8, 2004, he discovered that no hearing date had been scheduled and that

there was nothing in the OAL system relating to his claim. Later, Lucas telephoned respondent's office to obtain a copy of the Lemon Law dispute resolution application. A secretary informed him that his file could not be located. Lucas gave respondent an hour to locate his file. Upon Lucas's arrival at respondent's office, respondent handed him what purported to be his entire file. However, it did not contain a copy of the application that he had requested. Respondent explained that the document must have been misplaced and that he would send him a copy, once he located it.

In the file, Lucas found a copy of respondent's letter to the DCA Lemon Law Unit, dated May 20, 2004, a June 20, 2004 cover letter to the DCA, and a check stub showing payment to the DCA.

Thereafter, Lucas contacted a DCA investigator, who informed him that the DCA data bank did not contain his application for dispute resolution. On November 9, 2004, Lucas faxed to the investigator copies of the letters he had found in his file.

By letter dated November 10, 2004, Lucas discharged respondent. He also demanded, and received, all monies ($1,000) he had paid respondent.

On November 18, 2004, the DCA investigator contacted Lucas to notify him that respondent had just submitted to the DCA the same

documents that Lucas had previously faxed to the investigator on November 9, 2004, together with the filing fee for a Lemon Law dispute resolution application.

Lucas then retained new counsel, who resolved his matter within two weeks. According to Lucas, respondent's failure to perform the services for which he had been retained caused his car to depreciate by $6,000.

The complaint charged violations of RPC 1.1(a), RPC 1.3, RPC 1.4, presumably (b), RPC 1.16(a)(2), and RPC 8.4(c). We find that all charged RPCs have been violated.

Respondent did not file any forms with the DCA until after Lucas demanded his file. Once Lucas discovered that respondent had done nothing on his behalf, he discharged him. Respondent's failure to act timely caused Lucas's vehicle to depreciate.

Although the record does not establish whether respondent created the May 20 and June 20, 2004 letters to the DCA simply to mislead Lucas that he had already filed the forms, or if he had prepared the letters in due course, but never mailed them, the fact remains that he did not mail the letters until after his discharge. By doing so, he tried to create the illusion that he had acted promptly. Respondent also misrepresented to Lucas that he had been negotiating with General Motors and had reached a

settlement, and repeatedly provided Lucas with false hearing dates, when he had not even filed papers with the DCA.

Count Eight - The Cimmino Matter
District Docket No. XIV-06-0429E

Gail Cimmino filed a pro se application with the DCA in connection with a consumer fraud matter. The DCA advised her to retain counsel. Another law firm (with whom respondent apparently had a prior affiliation) referred her to respondent. On November 13, 2003, Cimmino retained respondent and paid him $1,000.

On June 15, 2004, respondent filed Cimmino's statement of facts with the DCA's Alternate Dispute Resolution Unit. Thereafter, on August 5, 2004, respondent presented the defendant with a settlement demand. Defendant's counsel verbally rejected the offer and did not make a counteroffer.

Prior to a scheduled "meeting" before the DCA (which had already been postponed twice), respondent advised Cimmino that it would be more profitable to file a lawsuit in Superior Court. On December 15, 2004, based on respondent's advice, Cimmino withdrew the DCA complaint. No arbitration hearing was ever held.

Although respondent informed Cimmino that he had filed a complaint in the Ocean County Superior Court, the court had no

record of it. Respondent also told Cimmino about tentative court dates and of a settlement offer, all of which were false.

Thereafter, Cimmino retained new counsel. On June 19, 2006, Cimmino's new attorney filed a complaint on her behalf. As of the date of the formal ethics complaint, the case was pending in the Ocean County Superior Court.

The complaint charged respondent with violating RPC 1.1(a), RPC 1.3, RPC 1.4, presumably (b), RPC 1.16(a)(2), and RPC 8.4(c).

The allegations in this count establish that, after Cimmino retained respondent, on November 13, 2003, he took limited action on her behalf: he filed a statement of facts on June 15, 2004, made a settlement demand on the defendant, and convinced Cimmino to withdraw her DCA complaint and file a complaint in Superior Court. Thereafter, respondent failed to take further action.

Respondent also misrepresented to Cimino that he had filed a complaint in Superior Court, that there were tentative court dates set, and that the defendant had made a settlement offer. The allegations, however, do not establish that respondent failed to communicate with Cimmino, but only that his communications were false.

Count Nine

This count alleged that respondent's gross neglect either impaired or compromised his clients' legal rights, causing them financial losses. The complaint charged that respondent's conduct in the above matters constituted an abandonment of his clients and a pattern of neglect. We agree that he exhibited a pattern of neglect and that, although he did not close his office or make himself entirely unavailable to his clients, in many instances he took a retainer and did nothing substantial to protect their claims. In our view, such conduct rose to the level of abandonment of the clients' interests.

There is some indication in the record that respondent's wife's cancer and his heart attack impaired his ability to properly attend to his clients' legal problems. If that was the case, then respondent should have withdrawn from the representation, as required by RPC 1.16(a)(2). Indeed, by placing respondent on disability inactive status and appointing a trustee to oversee his practice, the Court acknowledged that he was incapable of performing the day-to-day functions of his law practice.

We find that respondent's most serious infraction was the abandonment of his clients. Such conduct almost invariably results in a suspension, the duration of which depends on the circumstances of the abandonment, the presence of other

misconduct, or the attorney's disciplinary history. See, e.g., In re Nwaka, 178 N.J. 483 (2004) (three-month suspension, on a motion for reciprocal discipline, for attorney who was disbarred in New York for abandoning one client and failing to cooperate with New York ethics authorities by not filing an answer to the complaint and not complying with their requests for information about the disciplinary matter; prior three-month suspension); In re Hoffman, 163 N.J. 4 (2000) (three-month suspension, in a default matter, for attorney who closed his office without notifying four clients; the attorney was also guilty of gross neglect, lack of diligence, failure to communicate with clients, failure to protect clients' interests upon termination of representation, and failure to cooperate with disciplinary authorities; the attorney had a prior reprimand and a three-month suspension); In re Jennings, 147 N.J. 276 (1997) (three-month suspension for abandonment of one client and failure to cooperate with ethics authorities; no disciplinary history); In re Bowman, 175 N.J. 108 (2003) (six-month suspension for abandonment of two clients, misrepresentations to disciplinary authorities, pattern of neglect, and misconduct in three client matters, including gross neglect, lack of diligence, failure to communicate with clients, failure to explain a matter to the extent reasonably necessary to permit the client to make an informed decision about

the representation, failure to provide a written fee agreement, failure to protect a client's interests upon termination of representation, and misrepresenting the status of a matter to a client; prior private reprimand); In re Bock, 128 N.J. 270 (1992) (six-month suspension for attorney, who, while serving as both a part-time municipal court judge and a lawyer, with approximately sixty to seventy pending cases, abandoned both positions by feigning his own death); In re Diamond, 185 N.J. 171 (2005) (one-year suspension for attorney who, in three matters involving two clients, abandoned the clients and engaged in gross neglect, pattern of neglect, lack of diligence, failure to communicate with clients, failure to promptly deliver funds to a client or third person, failure to withdraw from the representation when the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client, and failure to reply to requests for information from a disciplinary authority; the attorney failed to appear at the continuation of the DEC hearing; he suffered from alcohol and drug abuse and had a prior admonition and reprimand); In re Bowman 178 N.J. 25 (2003) (one-year suspension, in a default matter, for attorney who abandoned four clients; other violations included gross neglect, pattern of neglect, lack of diligence, failure to communicate with clients, failure to protect clients' interests on unilateral termination

of representations, communications about the subject of the representation with a person the lawyer knew or should have known to be represented by another lawyer in the matter, failure to adopt and maintain reasonable efforts to ensure that the conduct of non-lawyer employee is compatible with the professional obligations of the attorney, failure to properly supervise non-lawyer employee, failure to cooperate with disciplinary authorities, and misrepresentation of the status of a matter; the attorney's ethics history included a private reprimand, a temporary suspension, and two six-month suspensions); In re Greenawalt, 171 N.J. 472 (2002) (one-year suspension, in a default matter, for attorney who grossly neglected three matters, abandoned his law practice, failed to notify clients of a prior suspension, and failed to cooperate with disciplinary authorities; the attorney had been temporarily suspended for failure to cooperate with the ethics investigation); and In re Mintz, 126 N.J. 484 (1992) (two-year suspension for attorney who abandoned four clients and was found guilty of a pattern of neglect, failure to maintain a bona fide office, and failure to cooperate with ethics authorities). But see In re Hughes, 183 N.J. 473 (2005) (reprimand for attorney who abandoned one client by closing his practice without informing the client or advising her to seek other counsel; altogether, the attorney mishandled

three matters by exhibiting a lack of diligence, failure to communicate with clients, and failure to protect his clients' interests upon termination of the representation; strong mitigating factors considered) and In re Kantor, 180 N.J. 226 (2006) (when an attorney's abandonment is coupled with egregious disregard for disciplinary authorities, disbarment may result).

Although the above cases are not quite squarely on point, Diamond (one-year suspension) is instructive. Like this respondent, Diamond abandoned clients (but only three), engaged in gross neglect, pattern of neglect, lack of diligence, failure to communicate, failure to promptly deliver funds to a client or third person, and failure to withdraw from the representation where his physical or mental condition impaired his ability to represent his clients. Diamond also failed to reply to requests for information from a disciplinary authority. Even though Diamond's case was not before us as a default, he failed to appear at the continuation of the DEC hearing and did not appear before us. Although this respondent has no ethics history; and Diamond had a prior admonition and reprimand, this respondent abandoned eight clients. On balance, we determine that this respondent deserves similar discipline, a one-year suspension.

Notwithstanding that respondent is on disability inactive status, we determine that, prior to his reinstatement, he must

provide proof of fitness to practice by a health care professional approved by the OAE. We also determine that, if respondent returns to practice law in this state, he should practice, for two years, under the supervision of a proctor approved by the OAE.

Chair O'Shaughnessy and members Baugh, Lolla, and Neuwirth 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
Louis Pashman, Vice-Chair

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

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Edmund P. Glasner
Docket No. DRB 07-285

Decided: April 16, 2008

Disposition: One-year suspension

Members	One-year 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				
Total:	5				4

Julianne K. DeCore
Julianne K. DeCore
Chief Counsel