

Disbarment

Rangile Artice Santiago, P83098, Boynton Beach, Florida, by the Attorney Discipline Board, effective January 16, 2020.

In a reciprocal discipline proceeding under MCR 9.120(C), the grievance administrator filed a certified copy of a judgment of the Supreme Court of Florida, issued August 29, 2019, *In Re: the Petition for Disciplinary Revocation of Rangile Artice Santiago*, Case No. SC19-903, Florida Bar File No. 2019-50, 805 (15E) FDR.

An order regarding imposition of reciprocal discipline was served on the respondent on October 31, 2019. The 21-day period

referenced in MCR 9.120(C)(2)(b) expired without objection by either party and the respondent was deemed to be in default. Based on that default, the Attorney Discipline Board ordered that the respondent be disbarred from the practice of law in Michigan. Costs were assessed in the amount of \$1,500.

Disbarment and Restitution

Carolyn J. Jackson, P53018, Southfield, by the Attorney Discipline Board, Tri-County Hearing Panel #56, effective January 9, 2020.

Based on the respondent's default and the evidence presented at the hearing, the

hearing panel found that the respondent committed professional misconduct in her representation of five separate clients, as set forth in a six-count formal complaint. Specifically, the hearing panel found that the respondent misappropriated client funds for her own personal benefit; did not advise her clients or the court that she was disqualified from the practice of law due to the suspension of her license to practice law; either appeared in court, or filed documents with the court during her suspension; failed to return unearned fees to the clients; and failed to answer four requests for investigation.

The panel found that the respondent neglected a legal matter entrusted to her, in violation of MRPC 1.1(c); failed to act with reasonable diligence and promptness in representing her client, in violation of MRPC 1.3; failed to keep a client reasonably informed about the status of a matter, in violation of MRPC 1.4(a); failed to explain a matter to a client to the extent necessary to permit the client to make informed decisions regarding the representation, in violation of MRPC 1.4(b); failed to pay or deliver funds to which a client or third person was entitled to receive, in violation of MRPC 1.15(b)(3); failed to hold client funds and safeguard them in an IOLTA, in violation of MRPC 1.15(d); failed to withdraw from representation that would result in a violation of the Michigan Rules of Professional Conduct, in violation of MRPC 1.16(a); failed to refund an advance payment of fee which had not been earned, in violation of MRPC 1.16(d); failed to respond to a lawful demand for information from an admissions or disciplinary authority, in violation of MRPC 8.1(a)(2); failed to timely answer a request for investigation, in violation of MCR 9.104(7), MCR 9.113(A), and MCR 9.113(B)(2); failed to notify all active clients in writing of her suspension within seven days of the effective date, as required by MCR 9.119(A); failed to file a withdrawal and notice of disqualification from the practice of law in all tribunals in which a lawyer is representing a client in litigation, in violation of MCR 9.119(B); practiced law while suspended, in violation of MCR 9.119(E)(1); appeared as an attorney before a court, judge, justice, board, or commission while suspended, in violation of MCR 9.119(E)(3); and held herself out as an attorney while suspended, in

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DUTY TO REPORT AN ATTORNEY'S CRIMINAL CONVICTION

All Michigan attorneys are reminded of the reporting requirements of **MCR 9.120(A)** when a lawyer is convicted of a crime:

What to Report:

A lawyer's conviction of any crime, including misdemeanors. A conviction occurs upon the return of a verdict of guilty or upon the acceptance of a plea of guilty or no contest.

Who Must Report:

Notice must be given by all of the following:

1. The lawyer who was convicted;
2. The defense attorney who represented the lawyer; and
3. The prosecutor or other authority who prosecuted the lawyer.

When to Report:

Notice must be given by the lawyer, defense attorney, and prosecutor within **14 days** after the conviction.

Where to Report:

Written notice of a lawyer's conviction must be given to:

Grievance Administrator
Attorney Grievance Commission
Buhl Building, Ste. 1700
535 Griswold, Detroit, MI 48226
 and

Attorney Discipline Board
211 W. Fort Street, Ste. 1410
Detroit, MI 48226

violation of MCR 9.119(E)(4). The respondent was also found to have violated MCR 9.104(1)–(3), and (9) and MRPC 8.4(b).

The panel ordered that the respondent be disbarred from the practice of law in Michigan and that she be required to pay res-

titution in the total amount of \$17,650. Costs were assessed in the amount of \$2,443.23.

Disbarment (By Consent)

Gary T. McEntee, P54988, Okemos, by the Attorney Discipline Board, Ingham

County Hearing Panel #4, effective January 3, 2020.¹

The respondent and the grievance administrator filed a Stipulation for Consent Order of Disbarment, in accordance with MCR 9.115(F)(5), which was approved by

UPL Corner

Perilous Property Lines: The Unauthorized Practice of Law in Real Estate

By the Unauthorized Practice of Law Committee
David Brake, Chair, Real Property Subcommittee

Improperly drafted deeds can cause a multitude of problems, from minor inconveniences to major title issues. Drafting problems may prevent a deed from being recordable with the register of deeds. At worst, defective deeds may cause title issues that can only be resolved through costly litigation to quiet title.

These problems often arise when nonlawyers draft their own real estate documents as a do-it-yourself project. However, the problems are likely to be even worse when a nonlawyer prepares deeds for others.¹ Examples of these issues can be found in the injunctive orders obtained by the State Bar of Michigan through unauthorized practice of law (UPL) litigation. In one matter, a nonlawyer drafted a deed transferring property from a husband to his ex-wife several years after a divorce was finalized. The deed did not address the potential property interest of the man's new wife, thus creating a cloud on the title which was discovered when the ex-wife attempted to sell the property. In another matter, a couple hired a nonlawyer to assist them in various real estate matters. Unfortunately, the couple lost their home and other properties due in part to the nonlawyer's drafting errors.

Although real estate documents often appear to be simple, attorneys know that subtle differences often have important consequences. For example, there are substantial differences between a deed titled to "joint tenants" as opposed to "joint tenants with rights of survivorship." Even experienced real property lawyers can be challenged in drafting deeds that properly reflect their clients' wishes. An untrained scrivener's faulty assumptions can have enormous repercussions.

Compounding the issue, problems with improperly drafted deeds typically do not arise until many years after the documents were

prepared and executed. Errors often come to light during conveyance transactions and create a cloud on the title. When these title problems arise, it is not uncommon to find that a defective document was prepared by a nonlawyer—a "helpful" friend who used a form available on the internet or a person falsely claiming professional expertise in real property transactions. It is the latter scenario—when a nonlawyer takes advantage of another—that forms the bulk of the unauthorized practice of law complaints received by the State Bar regarding real property transactions.

The harm caused by defective deeds drafted by nonlawyers can be substantial. Nonlawyers who choose to prepare their own documents are responsible for the problems they create for themselves. But when a nonlawyer drafts a deed for someone else, the parties are often left without adequate remedy for the damage caused. The victim of the drafter's ignorance can be left with the time and expense of clearing the title and may have only the expensive option of pursuing recompense from the wrongdoer, who may or may not be collectible.

If a lawyer encounters a situation where nonstandardized deeds or other nonstandardized real estate documents were prepared by an unauthorized nonlawyer for others, the matter should be reported to the State Bar Unauthorized Practice of Law Committee for investigation.²

ENDNOTES

1. Under *Dressel v Ameribank*, 468 Mich 557, 569; 664 NW2d 151 (2003), nonlawyers may fill out standard forms when legal discretion is not required. This holding permits title company personnel or other real estate professionals, such as brokers, as part of a real estate transaction to prepare deeds as authorized by parties to the transaction.
2. MCL 600.916 and *Unauthorized Practice of Law*, SBM <<https://www.michbar.org/professional/upl>> (accessed January 10, 2020).

UPL Corner is a publication of the SBM Standing Committee on the Unauthorized Practice of Law and should not be construed as legal advice.

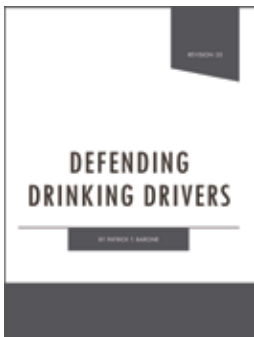
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AUTHOR: PATRICK T. BARONE

Patrick T. Barone has an "AV" (highest) rating from *Martindale-Hubbell*, and since 2009 has been included in the highly selective *U.S. News & World Report's America's Best Lawyers*, while the Barone Defense Firm appears in their companion *America's Best Law Firms*. He has been rated "Seriously Outstanding" by *Super Lawyers*, rated "Outstanding/10.0" by *AVVO*, and has recently been rated as among the top 5% of Michigan's lawyers by *Leading Lawyers* magazine. Mr. Barone is the principal and founding member of The Barone Defense Firm, whose criminal practice focuses on intoxicated driving cases including those involving injury or death.

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the Attorney Grievance Commission and accepted by the hearing panel. The stipulation contained the respondent's admission that he was convicted by a no contest plea, of criminal sexual conduct—2nd degree (person under 13), a felony, in violation of MCL 750.520C(2)(b), in *People of the State of Michigan v Gary Thomas McEntee*, Clinton County Circuit Court, Case No. 2018-10201-FH. Based on the respondent's conviction and his admission in the stipulation, the hearing panel found that the respondent engaged in conduct that violated a criminal law of a state or of the United States, an ordinance, or tribal law pursuant to MCR 2.615, contrary to MCR 9.104(5).

In accordance with the stipulation of the parties, the hearing panel ordered that the respondent be disbarred from the practice of law in Michigan. Costs were assessed in the amount of \$774.60.

1. The respondent has been continuously suspended from the practice of law in Michigan since July 17, 2019. Please see Notice of Automatic Interim Suspension issued September 24, 2019.

Orders of Reinstatement

On June 12, 2019, the hearing panel issued an Order of Suspension and Restitution With Condition (By Consent), suspending the respondent from the practice of law in Michigan for 179 days, effective July 5, 2019. On January 2, 2020, the respondent, **Gary E. Apps**, submitted an affidavit pursuant to MCR 9.123(A), showing that he has fully complied with all requirements of the Order of Suspension and Restitution With Condition (By Consent). On January 2, 2020, the Board was advised that the grievance administrator has no objection to the affidavit; and the Board being otherwise advised;

NOW THEREFORE,

IT IS ORDERED that the respondent, Gary E. Apps, is **REINSTATED** to the practice of law in Michigan effective January 7, 2020.

On November 14, 2019, the hearing panel issued an Order of Suspension With Conditions (By Consent), suspending the respondent from the practice of law for 30 days, effective December 1, 2019. On January 2, 2020, the respondent, **Jeffrey J. Fleury**, submitted an affidavit of compliance pursuant

to MCR 9.123(A), showing that he has fully complied with all requirements of the order of suspension. On January 2, 2020, the Board was advised that the grievance administrator has no objection to the affidavit; and the Board being otherwise advised;

NOW THEREFORE,

IT IS ORDERED that the respondent, Jeffrey J. Fleury, is **REINSTATED** to the practice of law in Michigan effective January 3, 2020.

On December 18, 2019, the hearing panel issued an Order of Suspension With Conditions (By Consent), suspending the respondent from the practice of law in Michigan for 90 days, effective October 4, 2019. On December 26, 2019, the respondent, **Phillip B. Maxwell**, submitted an affidavit pursuant to MCR 9.123(A), showing that he has fully complied with all requirements of the Order of Suspension With Conditions (By Consent). The Board was advised that the grievance administrator has no objection to the affidavit; and the Board being otherwise advised;

NOW THEREFORE,

IT IS ORDERED that the respondent, Phillip B. Maxwell, is **REINSTATED** to the practice of law in Michigan effective January 7, 2020.

Reinstatement (With Conditions)

Doris Marie Culver Day, F/K/A Doris Marie Day-Winters, P56828, Muskegon, by the Attorney Discipline Board, effective January 17, 2020.

The petitioner was suspended from the practice of law in Michigan for 180 days, effective November 15, 2017. Her petition for reinstatement, filed pursuant to MCR 9.123(B) and MCR 9.124, was granted by Muskegon County Hearing Panel #2. The panel concluded that the petitioner satisfactorily established her eligibility for reinstatement in accordance with those court rules. On January 8, 2020, the panel issued its Order of Eligibility for Reinstatement With Conditions. On January 14, 2020, the Board received confirmation that the petitioner paid her bar dues in accordance with Rules 2 and 3 of the Supreme Court Rules concerning the State Bar of Michigan.

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The Board issued an order reinstating the petitioner to the practice of law in Michigan, with conditions, effective January 17, 2020.

Reprimand and Restitution With Condition (By Consent)

Matthew Abel, P38876, Detroit, by the Attorney Discipline Board, Tri-County Hearing Panel #11, effective January 9, 2020.

The respondent and the grievance administrator filed a stipulation for consent order of discipline, in accordance with MCR 9.115(F)(5), which was approved by the Attorney Grievance Commission and accepted by the hearing panel. The stipulation contained the respondent's admissions to the factual statements and allegations of professional misconduct contained in the formal complaint. Specifically, that the respondent committed professional misconduct when he agreed, at the request of a longtime former

client, to act as an escrow agent for a Bitcoin and cash transaction between a buyer and a seller who owed the respondent's former client money. The respondent negligently relied on information from his former client that the seller had transferred the Bitcoins to the buyer when he had not actually done so and, based on that reliance, the respondent released the escrow funds from his IOLTA account.

Based on the respondent's admissions and the stipulation of the parties, the panel found that the respondent failed to hold client funds in connection with a representation in an IOLTA or non-IOLTA trust account, and failed to appropriately safeguard such funds, in violation of MRPC 1.15(d). The respondent was also found to have violated MCR 9.104(2) and (4).

In accordance with the stipulation of the parties, the hearing panel ordered that the respondent be reprimanded with a condition

relevant to the established misconduct and that he pay restitution totaling \$94,050. Costs were assessed in the amount of \$773.25.

Reprimand (By Consent)

Daniel I. Weberman, P41644, West Bloomfield, by the Attorney Discipline Board, Tri-County Hearing Panel #103, effective December 31, 2019.

The respondent and the grievance administrator filed a Stipulation for Consent Order of Discipline, in accordance with MCR 9.115(F)(5), which was approved by the Attorney Grievance Commission and accepted by the hearing panel. The stipulation contained the respondent's admissions to the factual statements contained in the formal complaint that in his representation of a client in a medical malpractice matter, the respondent failed to file a notice of intent before filing a malpractice complaint or include an affidavit of merit with the complaint. The respondent pled no contest to the allegations that he committed acts of professional misconduct.

Based on the respondent's admissions, plea of no contest, and the stipulation of the parties, the panel found that the respondent handled a legal matter without preparation adequate in the circumstances, in violation of MRPC 1.1(b); failed to seek the lawful objective of a client through reasonably available means, in violation of MRPC 1.2; failed to act with reasonable diligence and promptness when representing a client, in violation of MRPC 1.3; failed to keep a client reasonably informed regarding the status of a matter, in violation of MRPC 1.4(a); and failed to explain a matter to a client to the extent reasonably necessary for a client to make informed decisions regarding the representation, in violation of MRPC 1.4(b). The respondent was also found to have violated MCR 9.104(2) and (3).

In accordance with the stipulation of the parties, the hearing panel ordered that the respondent be reprimanded. Costs were assessed in the amount of \$800.

Amended Suspension

Richard James Indermuehle, P78458, Sewickley, Pennsylvania, by the Attorney Discipline Board, Kent County Hearing Panel #3, for 365 days, effective April 15, 2019.

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The respondent was convicted, by a plea of nolo contendere, to attempted use of a computer to commit a crime, in violation of MCL 752.7973C(A), in a matter titled *People of the State of Michigan v Richard James Indermuehle*, 17th Circuit Court, Case No. 19-00529-FH.

Based on the respondent's conviction, the panel found that he engaged in conduct that violated a criminal law of a state or of the United States, contrary to MCR 9.104(5). An issue was raised as to whether the respondent pled no contest to a felony or a misdemeanor, and the panel was unable to reach a conclusion as to this issue because of the sparse and conflicting evidence.

The panel ordered that the respondent's license to practice law in Michigan be suspended for 365 days, retroactive to the date of his interim suspension. Costs were assessed in the amount of \$2,009.70.

Automatic Interim Suspension

Mark Lin Bessner, P69765, Grosse Pointe Farms, effective April 17, 2019.

On April 17, 2019, the respondent was found guilty of involuntary manslaughter, in violation of MCL 750.321(C), a felony, in the matter titled *People of the State of Michigan v Mark Lin Bessner*, Wayne County Circuit Court, Case No. 18-000923-01-FC. In accordance with MCR 9.120(B)(1), the respondent's license to practice law in Michigan was automatically suspended on the date of his felony conviction.

Upon the filing of a certified judgment of conviction, this matter will be assigned to a hearing panel for further proceedings. The interim suspension will remain in effect until the effective date of an order filed by a hearing panel.

Suspension (By Consent)

William L. Johnson, P15552, Southfield, by the Attorney Discipline Board, Tri-County Hearing Panel #107, for 30 days, effective December 31, 2019.

The respondent and the grievance administrator filed a Stipulation for Consent Order of a Thirty-Day Suspension, in accordance with MCR 9.115(F)(5), which was approved by the Attorney Grievance Com-

mission and accepted by the hearing panel. The stipulation contained the respondent's admissions to the allegations that he committed acts of professional misconduct in his representation of a client in a Chapter 7 bankruptcy matter.

Based on the respondent's admissions and the stipulation of the parties, the panel found that the respondent neglected a client matter, in violation of MRPC 1.1(c); failed to act with reasonable diligence and promptness in representing a client, in violation of MRPC 1.3; failed to explain a matter to a client to the extent reasonably necessary to permit the client to make informed decisions regarding the representation, in violation of MRPC 1.4(b); failed to promptly pay funds, to which the client was entitled to receive, in violation of MRPC 1.15(b)(3); failed to hold his client's property separate from the lawyer's own property, in violation of MRPC 1.15(d); and failed to surrender paper or property or to refund the advance payment of a fee that had not been earned upon termination of the representation, in violation of MRPC 1.16(d). The respondent was also found to have violated MRPC 8.4(c) and MCR 9.104(1)-(3).

In accordance with the stipulation of the parties, the hearing panel ordered that the respondent's license to practice law in Michigan be suspended for 30 days. Costs were assessed in the amount of \$766.10.

Transfer to Inactive Status Pursuant to MCR 9.121(B) (By Consent)

Norman Hyman, P15319, Bloomfield Hills, by the Attorney Discipline Board, effective December 19, 2019.

Pursuant to a request and stipulation to transfer the respondent to inactive status under MCR 9.121(B) and to vacate an Order of Suspension (With Conditions) under MCR 9.118(D), filed by the parties on November 27, 2019, the Attorney Discipline Board entered an order that vacated Tri-County Hearing Panel #72's Order of Suspension (With Conditions) and immediately transferred the respondent to inactive status.

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