

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

**FILED**

NOV 15 2012

**DISCIPLINARY BOARD**

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

MICHAEL J. DAVIS,  
Lawyer (Bar No. 25846).

Proceeding No. *12# 00065*

STIPULATION TO REPRIMAND

Under Rule 9.1 of the Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to Reprimand is entered into by the Washington State Bar Association (Association), through disciplinary counsel Randy Beitel, and Respondent lawyer Michael J. Davis, pro se.

Respondent understands that he is entitled under the ELC to a hearing, to present exhibits and witnesses on his behalf, and to have a hearing officer determine the facts, misconduct and sanction in this case. Respondent further understands that he is entitled under the ELC to appeal the outcome of a hearing to the Disciplinary Board, and, in certain cases, the Supreme Court. Respondent further understands that a hearing and appeal could result in an outcome more favorable or less favorable to him. Respondent chooses to resolve this proceeding now by entering into the following stipulation to facts, misconduct and sanction to avoid the risk, time, expense, and publicity attendant to further proceedings.

1 **I. ADMISSION TO PRACTICE**

2 1. Respondent was admitted to practice law in the State of Washington on June 11,  
3 1996.

4 **II. STIPULATED FACTS**

5 2. In February 2010, Respondent agreed to undertake the representation of Terry C.  
6 Blinde in bringing a claim against her former employer. At that time, Respondent told Ms.  
7 Blinde it would cost about \$300 for him to draft the complaint to be filed against her former  
8 employer.

9 3. Ms. Blinde paid Respondent the requested \$300, and Respondent drafted a Com-  
10 plaint, but did not send a copy of the draft to Ms. Blinde for review, did not finalize the com-  
11 plaint, and did not file the complaint.

12 4. Mr. Davis was called out of town on a number of occasions over the next several  
13 months due to the illness of a family member. Ms. Blinde called to inquire about her matter, but  
14 did not receive any response from Mr. Davis regarding the status of her matter, nor was she ad-  
15 vised that Mr. Davis had been called away and was not available to pursue the matter for her.

16 5. Despite several follow-up inquiries by Ms. Blinde, Respondent never advised her of  
17 the status of her matter or provided her with a copy of the draft complaint he had prepared.

18 6. In November 2010, Ms. Blinde filed a grievance against Respondent and requested  
19 the return of \$300 fee she had paid.

20 7. Since that time, Ms. Blinde has lost interest in pursuing the complaint against her  
21 former employer.

22 8. In May 2012, Respondent refunded the \$300 in fees that Ms. Blinde had paid.  
23  
24



1 rious or potentially serious injury to a client.

2 4.42 Suspension is generally appropriate when:

3 (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client, or

4 (b) a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.

5 4.43 Reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client.

6 4.44 Admonition is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes little or no actual or potential injury to a client.

7 15. Respondent's failure to complete Mr. Blinde's matter, failure to respond to her in-  
8 quires regarding the status of her matter, and failure to advise her of his unavailability to com-  
9 plete her matter was negligent conduct.

10 16. Ms. Blinde was injured by not knowing the status of her matter and not knowing that  
11 Respondent was not available to complete the matter. As such, Ms. Blinde was deprived of the  
12 information necessary to consider whether to retain other counsel to pursue the matter in a time-  
13 ly fashion.

14 17. The presumptive sanction is reprimand.

15 18. The following aggravating factors apply under ABA Standards Section 9.22:

16 (a) Prior disciplinary offenses (see above);

17 (i) Substantial experience in the practice of law (admitted 1996).

18 19. The following mitigating factors apply under ABA Standards Section 9.32:

19 (b) absence of a dishonest or selfish motive;

20 (c) personal problems (Respondent was called out of town during the period of  
21 misconduct by the serious illness of a family member).

22 20. It is an additional mitigating factor that Respondent has agreed to resolve this matter  
23 at an early stage of the proceedings.



1 27. This Stipulation is not binding upon the Association or the respondent as a statement  
2 of all existing facts relating to the professional conduct of the respondent lawyer, and any addi-  
3 tional existing facts may be proven in any subsequent disciplinary proceedings.

4 28. This Stipulation results from the consideration of various factors by both parties, in-  
5 cluding the benefits to both by promptly resolving this matter without the time and expense of  
6 hearings, Disciplinary Board appeals, and Supreme Court appeals or petitions for review. As  
7 such, approval of this Stipulation will not constitute precedent in determining the appropriate  
8 sanction to be imposed in other cases; but, if approved, this Stipulation will be admissible in  
9 subsequent proceedings against Respondent to the same extent as any other approved Stipula-  
10 tion.

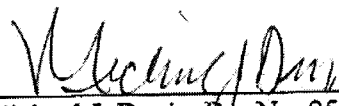
11 29. Under Disciplinary Board policy, in addition to the Stipulation, the Disciplinary  
12 Board shall have available to it for consideration all documents that the parties agree to submit  
13 to the Disciplinary Board, and all public documents. Under ELC 3.1(b), all documents that  
14 form the record before the Board for its review become public information on approval of the  
15 Stipulation by the Board, unless disclosure is restricted by order or rule of law.

16 30. If this Stipulation is approved by the Disciplinary Board, it will be followed by the  
17 disciplinary action agreed to in this Stipulation. All notices required in the Rules for Enforce-  
18 ment of Lawyer Conduct will be made.


19 31. If this Stipulation is not approved by the Disciplinary Board, this Stipulation will  
20 have no force or effect, and neither it nor the fact of its execution will be admissible as evidence  
21 in the pending disciplinary proceeding, in any subsequent disciplinary proceeding, or in any civ-  
22 il or criminal action.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

WHEREFORE the undersigned being fully advised, adopt and agree to the facts and terms of this Stipulation to Discipline as set forth above.

  
\_\_\_\_\_  
Michael J. Davis, Bar No. 25846  
Respondent

Dated: 8/26/2012

  
\_\_\_\_\_  
Randy Bemel, Bar No. 7177  
Senior Disciplinary Counsel

Dated: 8/28/2012