

SUPREME COURT OF OHIO

Mahoning County Bar Association v. DiMartino

2016-Ohio-536 (Ohio 2016) · No. 2014-2250 · Decided February 17, 2016

SUMMARY

The Supreme Court of Ohio indefinitely suspended Dennis Armand DiMartino from practicing law for misconduct in two client matters. The court found violations involving client neglect, inadequate communication, trust-account and settlement-fund handling, dishonesty, and failure to cooperate with disciplinary investigations, and ordered restitution and conditions for any future reinstatement.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; O'Connor, C.J.; Pfeifer, J.; O'Donnell, J.; Lanzinger, J.; Kennedy, J.; French, J.; O'Neill, J.
JURISDICTION	Ohio
DECIDED	February 17, 2016
DOCKET	2014-2250
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding on a certified report from the Board of Professional Conduct of the Supreme Court of Ohio.
STANDARD OF REVIEW	Independent review of the record and the Board of Professional Conduct's findings and recommended sanction.
PRECEDENTIAL VALUE	Published Ohio Supreme Court opinion; precedential
PARTIES	Mahoning County Bar Association v. Dennis Armand DiMartino

TOPICS

agency adjudication administrative law judicial review of agency action

PRACTICE AREAS

legal ethics attorney discipline professional responsibility

QUESTIONS PRESENTED

1. Whether DiMartino violated the Rules of Professional Conduct and former Gov.Bar R. V(4)(G) through neglect, inadequate client communication, failure to document a contingent-fee arrangement and settlement, mishandling client funds, dishonesty, and failure to cooperate with the disciplinary investigation.
2. What sanction is appropriate given DiMartino's misconduct, prior discipline, aggravating factors, and absence of mitigating factors.

HOLDINGS

1. DiMartino violated Prof.Cond.R. 1.3, 1.4(a)(1), (3), and (4), 1.5(b), 1.5(c), 1.15(a), 8.4(c), and former Gov.Bar R. V(4)(G), and the court accepted the Board's findings of misconduct.
2. An indefinite suspension was warranted, together with restitution of \$4,600 and conditions on any future reinstatement.

KEY QUOTATIONS

“An indefinite suspension here is consistent with our “rule that an attorney’s neglect of legal matters and failure to cooperate in the ensuing disciplinary investigation warrant an indefinite suspension.”” (¶ 14)

“Dennis Armand DiMartino is hereby indefinitely suspended from the practice of law in Ohio, and he is ordered to make restitution in the amount of \$4,600 to Ember Herrington and Rita Chegar within 60 days of this court’s order.” (¶ 15)

FACTUAL BACKGROUND

In one client matter, DiMartino settled an underinsured-motorist claim for \$15,000, paid himself \$5,000 and the client \$5,400, but could not account for the remaining \$4,600 or produce a signed settlement statement; a health insurer's subrogation claim was also left unpaid. In a second matter, he neglected a medical-malpractice case by failing to appear at hearings, oppose summary judgment, communicate with the clients, or inform them that the case had been dismissed. He also failed to respond to repeated disciplinary-investigation inquiries and had overdrawn his client trust account.

PROCEDURAL HISTORY

The Mahoning County Bar Association charged DiMartino with professional misconduct arising from two client matters. After a three-member panel hearing, the Board of Professional Conduct found violations of multiple Rules of Professional Conduct and a rule governing the bar and recommended an indefinite suspension, restitution, and reinstatement conditions. Neither party objected, and the Supreme Court of Ohio independently reviewed the record, accepted the findings and recommendation, dismissed withdrawn charges, and entered judgment.

DISPOSITION

other

CASES CITED

- Mahoning Cty. Bar Assn. v. DiMartino, 71 Ohio St.3d 95, 642 N.E.2d 342 (1994)
- Mahoning Cty. Bar Assn. v. DiMartino, 114 Ohio St.3d 174, 2007-Ohio-3605, 870 N.E.2d 1166
- Mahoning Cty. Bar Assn. v. DiMartino, 124 Ohio St.3d 360, 2010-Ohio-247, 922 N.E.2d 220
- Trumbull Cty. Bar Assn. v. Braun, 133 Ohio St.3d 541, 2012-Ohio-5136, 979 N.E.2d 326
- Disciplinary Counsel v. Scacchetti, 131 Ohio St.3d 165, 2012-Ohio-223, 962 N.E.2d 786
- Disciplinary Counsel v. Mathewson, 113 Ohio St.3d 365, 2007-Ohio-2076, 865 N.E.2d 891

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