

SUPREME COURT OF INDIANA

In the Matter of James R. Wiesneth, Jr.

961 N.E.2d 993 (Ind. 2011) · No. 84S00-1104-DI-231 · Decided December 9, 2011

SUMMARY

The Indiana Supreme Court approved a conditional agreement imposing a public reprimand on attorney James R. Wiesneth for neglecting a mortgage foreclosure matter, failing to communicate with the client, and failing to refund an unearned fee and return the case file. The Court assessed proceeding costs against Wiesneth, while Justices Dickson and Rucker considered the discipline insufficient.

CASE DETAILS

COURT	Supreme Court of Indiana
WRITING FOR THE COURT	Dickson, J.; Rucker, J.
JURISDICTION	Indiana
DECIDED	December 9, 2011
DOCKET	84S00-1104-DI-231
DISPOSITION	approved
PROCEDURAL POSTURE	The Indiana Supreme Court reviewed and approved a conditional agreement for discipline submitted by the Indiana Supreme Court Disciplinary Commission and Respondent.
PRECEDENTIAL VALUE	Published Indiana Supreme Court disciplinary order

TOPICS

[foreclosure](#) [mortgages](#) [attorney fees](#) [civil procedure](#)

PRACTICE AREAS

[legal ethics](#) [attorney discipline](#) [mortgage foreclosure](#)

QUESTIONS PRESENTED

- Whether the stipulated facts established violations of Indiana Professional Conduct Rules 1.3, 1.4(a)(3) and (4), and 1.16(d).
- Whether a public reprimand was the appropriate discipline for the admitted misconduct.

3. Whether the costs of the disciplinary proceeding should be assessed against Respondent.

HOLDINGS

1. The court approved the parties' agreement that Wiesneth violated Indiana Professional Conduct Rules 1.3, 1.4(a)(3) and (4), and 1.16(d) by neglecting the representation, failing to keep the client informed and respond to requests, failing to refund an unearned fee, and failing to return entitled case-file materials.
2. A public reprimand was approved and imposed as the appropriate discipline for Wiesneth's admitted misconduct.
3. The costs of the disciplinary proceeding were assessed against Wiesneth.

KEY QUOTATIONS

“The Court, having considered the submissions of the parties, now approves the agreed discipline and imposes a public reprimand for Respondent's misconduct.” (961 N.E.2d at 993)

FACTUAL BACKGROUND

In 2009, Wiesneth was retained by a mortgage holder for a flat fee to represent it in a mortgage foreclosure dispute. He failed to obtain service, neglected the matter, failed to respond to client communications, did not refund the unearned portion of the fee after termination, and failed to provide complete case-file materials to replacement counsel. After the Commission filed its verified complaint, he refunded \$900 to the client and accepted responsibility for his conduct.

PROCEDURAL HISTORY

The Disciplinary Commission and Wiesneth submitted a stipulated statement of circumstances and conditional agreement for discipline under Indiana Admission and Discipline Rule 23(11). The court approved the agreement, imposed a public reprimand, assessed proceeding costs against Wiesneth, and discharged the hearing officer.

DISPOSITION

approved