

STATE OF MAINE

SUPREME JUDICIAL COURT
Docket No. Bar-10-13

BOARD OF OVERSEERS
OF THE BAR

v.

AMENDED DECISION AND ORDER

ANDREW J. DOUKAS

This matter came before the Court pursuant to M. Bar R. 7.2(b)(1) upon the filing of an Information by the Board of Overseers of the Bar. Bar Counsel J. Scott Davis, Esq. represented the Board and Andrew J. Doukas, Esq. represented himself at the November 16, 2010, hearing.

The Court heard testimony from Steven D. Silin, Esq., William J. Sengel, Andrew J. Doukas, Esq., and Lee Anne Graybeal, Esq. regarding Bar Counsel's claim of bar violations. The Court also received exhibits from Bar Counsel. After hearing the testimony and reviewing the exhibits the Court finds the following facts:

1. Andrew J. Doukas is a practicing Maine attorney who has been a member of the Maine bar for twenty-six years. He primarily practices in the domestic relations area but also handles probate, guardianship, and the occasional tort file.

2. William J. Sengel hired Andrew J. Doukas to represent him in a personal injury claim as a result of a car accident on January 21, 1999. Mr. Sengel

contacted several attorneys who did not take his case and ultimately ended up with Mr. Doukas representing him. Mr. Doukas had represented Mr. Sengel in an earlier divorce matter and Mr. Sengel was very pleased with that representation. Mr. Sengel retained Mr. Doukas and signed a contingent fee agreement with him on June 1, 2000.

3. From June 1, 2000, through the expiration of a statute of limitations on June 21, 2005, Mr. Doukas did very little work on this file. He obtained limited medical records, no wage records, and very few other documents pertaining to Mr. Sengel's injury. Mr. Sengel called Mr. Doukas on many occasions asking about the status of his file and explaining he was in severe financial distress. Mr. Doukas found this file complex as he had trouble obtaining medical records and had concerns about a prior injury suffered by Mr. Sengel. In addition, Mr. Doukas was concerned because Mr. Sengel had filed a chapter 13 bankruptcy during the relevant time period. Mr. Doukas decided the file had very little value after the liability insurance carrier rebuffed him.

4. Mr. Doukas did very little work regarding the items he found complex and although he responded to Mr. Sengel's inquiries he continued to do very little work on the file. Mr. Doukas did not obtain medical payments for Mr. Sengel, which were available under Mr. Sengel's personal insurance even though Mr. Doukas was receiving "dunning" notices. This lack of attention resulted in the

statute of limitations expiring without the claim being resolved. During his period of representation in this matter, Mr. Doukas did not properly put this file together in that he poorly documented the file. When he was rebuffed by the insurance liability carrier and asked for more information he decided not to provide it or was unable to figure how to obtain relevant information.

5. Mr. Doukas's work on this file was grossly negligent and falls below the standard for a personal injury lawyer handling this type of matter. Mr. Doukas reluctantly accepted this matter as he thought he was doing Mr. Sengel a favor when he should have declined representation or referred this matter to another attorney. After the statute of limitations expired Mr. Sengel called for an update and Mr. Doukas explained to him that the statute had expired.

6. After the statute of limitations expired and Mr. Sengel complained to Mr. Doukas about this event and his grave financial difficulty as a result of the accident, Mr. Doukas and Mr. Sengel entered into a settlement agreement whereby Mr. Doukas "loaned" Mr. Sengel \$5000 for use on an interest-free basis and forgave payment for other legal matters. Mr. Doukas prepared a release and note without advising Mr. Sengel to obtain a review of this settlement by independent counsel.

7. After borrowing the \$5000 from Mr. Doukas, Mr. Sengel obtained subsequent representation from Lee Anne Graybeal, Esq. of Kennebunk, Maine.

Ms. Graybeal contacted Mr. Doukas regarding this matter and obtaining additional funds for Mr. Sengel as a result of Mr. Doukas's missing the statute of limitations. Mr. Doukas requested a personal meeting with Mr. Sengel and Ms. Graybeal to resolve this matter and explain his position regarding an additional settlement.

8. Mr. Sengel ultimately obtained representation from Steven D. Silin, Esq. of Lewiston, Maine who filed this grievance against Mr. Doukas with the Board of Overseers of the Bar and also filed a malpractice action against Mr. Doukas.

The Court finds that missing a statute of limitations does not necessarily violate a bar rule. However, here Mr. Doukas violated Bar Rule 3.6 because of the gross negligence involved in his handling of this matter. He also violated 3.4(f)(B) because he did not inform Mr. Sengel in writing that he should obtain an opinion of other counsel before he entered into the settlement agreement and loan with Mr. Doukas.

Mr. Doukas recognized early on in the grievance procedure that he had made some serious mistakes regarding the handling of Mr. Sengel's matter. He was very frank with the Court indicating that he realized he did not handle the file appropriately and that he was at fault in missing the statute of limitations. He also was sincere in his concern as a result of his missing the statute of limitations. However, Mr. Doukas did not recognize throughout the hearing with this Court the

level of his serious miscalculation of the file by not recognizing that Mr. Sengel had a much more serious claim than he would acknowledge. Mr. Doukas took a very casual approach to this file and to the manner in which he settled the matter with his client. This Court is very concerned about Mr. Doukas's capability to handle tort claims. The Court notes that the Board of Overseers of the Bar has never disciplined Mr. Doukas. The Court further notes that the bar rules Mr. Doukas violated are a prior version of the existing bar rules but were in effect at the appropriate times.

As a result of these bar violations, the Court makes the following order:

1. Mr. Doukas shall be suspended from the practice of law for thirty (30) days.
2. The suspension referenced above shall be suspended as long as Mr. Doukas takes the following action:
 - a. Mr. Doukas shall obtain continuing legal education credits in the tort and litigation area in the amount of six hours before April 30, 2011. Bar Counsel shall approve these credits in advance.
 - b. Mr. Doukas shall employ qualified co-counsel on any tort matter he handles.
 - c. Mr. Doukas shall confer with William Nugent of the Maine Assistance Program regarding the organization of his practice.

