

**PUBLIC MATTER**

**FILED**

1 STATE BAR OF CALIFORNIA  
OFFICE OF THE CHIEF TRIAL COUNSEL  
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DEPUTY CHIEF TRIAL COUNSEL  
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JUL 12 2011  
STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

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STATE BAR COURT  
HEARING DEPARTMENT - LOS ANGELES

12 In the Matter of: ) Case Nos. 10-O-10519; 11-O-10316  
13 DAVID ALLAN DEMANSKI, )  
No. 177979, ) NOTICE OF DISCIPLINARY CHARGES  
14 )  
15 A Member of the State Bar )

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**NOTICE - FAILURE TO RESPOND!**

**IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE  
WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT  
THE STATE BAR COURT TRIAL:**

- (1) YOUR DEFAULT WILL BE ENTERED;**
- (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU  
WILL NOT BE PERMITTED TO PRACTICE LAW;**
- (3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN  
THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION  
AND THE DEFAULT IS SET ASIDE, AND;**
- (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.  
SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE  
OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN  
ORDER RECOMMENDING YOUR DISBARMENT WITHOUT  
FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,  
RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.**

26 The State Bar of California alleges:

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1 reiterating that she did not want to settle for \$10,001. Stevens instructed Respondent to take the  
2 case to trial.

3 8. On or about March 29, 2010, in disregard of Stevens's rejection of State Farm's  
4 settlement offer, Respondent endorsed and signed Stevens's signature on the back of the \$10,001  
5 check and deposited the check from State Farm into his client trust account ("CTA") held at  
6 Wells Fargo Bank, Account No. xxxxx4384<sup>1</sup>, bringing the balance of Respondent's CTA to  
7 \$10,003.59.

8 9. On or about March 29, 2010, Respondent filed a request for dismissal with prejudice  
9 in the Stevens matter. Respondent did not inform Stevens that he had filed for dismissal of the  
10 Stevens matter.

11 10. Subsequent to March 29, 2010, the court dismissed the Stevens matter.

12 11. By failing to take the case to trial as instructed by his client and filing for dismissal of  
13 the Stevens matter, Respondent intentionally, recklessly, or repeatedly failed to perform legal  
14 services with competence.

15 COUNT TWO

16 Case No. 10-O-10519  
17 Business and Professions Code, section 6068(m)  
[Failure to Inform Client of Significant Development]

18 12. Respondent wilfully violated Business and Professions Code, section 6068(m), by  
19 failing to keep a client reasonably informed of significant developments in a matter in which  
20 Respondent had agreed to provide legal services, as follows:

21 13. The allegations of Count One are incorporated by reference.

22 14. By not informing his client that: (i) he sent a release of claims to State Farm on her  
23 behalf, in disregard of her rejection of State Farm's offer; (ii) he filed a request for dismissal with  
24 prejudice on her behalf; and (iv) the Stevens matter was dismissed, Respondent failed to keep a  
25 client reasonably informed of significant developments in a matter in which Respondent had  
26 agreed to provide legal services.

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28 <sup>1</sup> The account number is partially redacted to protect the account.

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COUNT THREE

Case No. 10-O-10519  
Rules of Professional Conduct, rule 4-100(A)  
[Failure to Maintain Client Funds in Trust Account]

15. Respondent wilfully violated Rules of Professional Conduct, rule 4-100(A), by failing to maintain the balance of funds received for the benefit of a client and deposited in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import, as follows:

16. The allegations of Count One are incorporated by reference.

17. On or about April 12, 2010, even though Respondent did not disburse any funds from his CTA to Stevens or any lienholder on behalf of Stevens, the balance in Respondent's CTA fell to \$3.59. Respondent did not maintain funds belonging to Stevens in his CTA.

18. By not maintaining funds belonging to Stevens in his CTA, Respondent failed to maintain the balance of funds received for the benefit of a client and deposited in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import.

COUNT FOUR

Case No. 10-O-10519  
Business and Professions Code, section 6106  
[Moral Turpitude - Misappropriation]

19. Respondent wilfully violated Business and Professions Code, section 6106, by committing an act involving moral turpitude, dishonesty or corruption, as follows:

20. The allegations of Counts One and Three are incorporated by reference.

21. Respondent intentionally or with gross negligence misappropriated funds received on behalf of Stevens.

22. By misappropriating funds received on behalf of a client, Respondent committed an act involving moral turpitude, dishonesty or corruption.

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1           39. Between in or about April and December 2008, Wawanesa made several calls to  
2 Respondent's office, requesting a return call regarding the Liebshers' claims. Respondent did  
3 not return their calls.

4           40. On or about November 3, 2008, and January 22, 2009, Rhoads mailed letters to  
5 Respondent, expressing the urgency of obtaining copies of itemized medical billings, patient  
6 authorization forms, medical reports, and the Liebshers' recorded interviews regarding injury  
7 and treatment. Respondent received Rhoads's letters and did not respond on behalf of the  
8 Liebshers.

9           41. On or about February 17, 2009, Respondent called Wawanesa advising that he had  
10 moved his office and set an appointment for the statements of his clients on March 5, 2009. On  
11 or about March 4, 2009, Respondent called Wawanesa to reset the appointment. On or about  
12 March 10, 2009, Respondent called Wawanesa advising that his clients were out of town for  
13 several weeks.

14           42. On or about August 12, 2009, Rhoads mailed a letter to Respondent, again requesting  
15 copies of itemized medical billings, patient authorization forms, medical reports, and the  
16 Liebshers' recorded interviews regarding injury and treatment. Respondent received Rhoads's  
17 letter and did not respond on behalf of the Liebshers.

18           43. On or about September 22, 2009, Wawanesa made a final attempt to call Respondent  
19 to determine if he had protected the statute of limitations for the Liebshers' uninsured motorist  
20 claim by filing a lawsuit against the tortfeasor. Wawanesa was not able to leave a message for  
21 Respondent at that time.

22           44. On or about September 24, 2009, Rhoads mailed a letter to Respondent, advising him  
23 that the statute of limitations for the Liebshers' uninsured motorist claim expired on August 23,  
24 2009, and requesting a copy of the lawsuit if the Liebshers intended to present claims under their  
25 policy. Respondent received Rhoads's letter and did not respond on behalf of the Liebshers.

26           45. Subsequent to September 24, 2009, Wawanesa checked the Civil Index and  
27 determined that Respondent did not file a lawsuit on behalf of the Liebshers to protect the Statute  
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1 of Limitations. Wawanesa also determined that Respondent never demanded arbitration from  
2 Wawanesa as an alternative to protect the Statute.

3 46. In or about August 2010, Liebsher, unable to contact Respondent, called Wawanesa,  
4 inquiring about the status of his case. Wawanesa explained that the insurance company was  
5 barred from contact with the Liebshers after receiving the letters of representation from  
6 Respondent, and that the Liebshers' demand package could not be presented after the two-year  
7 Statute of Limitations because Respondent had failed to protect the Statute.

8 47. By failing to: (i) obtain patient authorization forms, medical reports, and set his  
9 clients' recorded interviews regarding injury and treatment; (ii) respond to Wawanesa's letters;  
10 and (iii) demand arbitration or file a lawsuit on behalf of his clients to protect the Statute of  
11 Limitations, Respondent intentionally, recklessly, or repeatedly failed to perform legal services  
12 with competence.

13 COUNT EIGHT

14 Case No. 11-O-10316  
15 Business and Professions Code, section 6106  
[Moral Turpitude - Misrepresentation]

16 48. Respondent wilfully violated Business and Professions Code, section 6106, by  
17 committing an act involving moral turpitude, dishonesty or corruption, as follows:

18 49. The allegations of Count Seven are incorporated by reference.

19 50. Subsequent to September 24, 2009, Respondent sent four emails to Liebsher. An  
20 email sent on or about October 13, 2009, stated that "[the clients'] claims are going forward  
21 nicely." An email sent on or about November 9, 2009, stated that the insurance company would  
22 use as arbitrator an individual whom Respondent had purportedly known for many years. A  
23 third email sent on or about April 23, 2010, stated that the Liebshers' claims would be resolved  
24 by May 28, 2010, "the day the arbitrator said he would submit his final award ruling." A fourth  
25 email sent on or about May 31, 2010, stated that the arbitrator had made his decision and  
26 Respondent would forward his ruling to Liebsher. At the time Respondent sent those emails to  
27 Liebsher, Respondent knew that he did not timely request arbitration on behalf of his clients and  
28 that they already lost their cause of action.



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**NOTICE - COST ASSESSMENT!**

**IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6086.10.**

Respectfully submitted,

THE STATE BAR OF CALIFORNIA  
OFFICE OF THE CHIEF TRIAL COUNSEL

DATED: July 12, 2011

By: *Monique T. Miller*  
MONIQUE T. MILLER  
Deputy Trial Counsel

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**DECLARATION OF SERVICE BY CERTIFIED MAIL**

**CASE NUMBER: 10-O-10519; 11-O-10316**

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 1149 South Hill Street, Los Angeles, California 90015, declare that I am not a party to the within action; that I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service; that in the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day; that I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit; and that in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles, on the date shown below, a true copy of the within

**NOTICE OF DISCIPLINARY CHARGES**

in a sealed envelope placed for collection and mailing as certified mail, return receipt requested, Article No.: 71969008911104442125, at Los Angeles, on the date shown below, addressed to:

**David A. Demanski  
1265 Avocado Blvd. #104 PMB421  
El Cajon, CA 92020**

in an inter-office mail facility regularly maintained by the State Bar of California addressed to:

**STATE BAR COURT – HEARING DEPARTMENT – LOS ANGELES**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Los Angeles, California, on the date shown below.

DATED: July 12, 2011

Signed:   
Juli Jenewein  
Declarant