

**BEFORE THE BOARD OF COMMISSIONERS  
ON  
GRIEVANCES AND DISCIPLINE  
OF  
THE SUPREME COURT OF OHIO**

**In re:** : **10-1894**

**Complaint against** : **Case No. 10-023**

**Robert N. Trainor** : **Findings of Fact**  
**Attorney Reg. No. 0012089** : **Conclusions of Law and**  
**Respondent** : **Recommendation of the**  
**Cincinnati Bar Association** : **Board of Commissioners on**  
: **Grievances and Discipline of**  
: **the Supreme Court of Ohio**

**Relator**  
**Cincinnati Bar Association**

**FILED:**  
**NOV 03 2010**  
**CLERK OF COURT**  
**SUPREME COURT OF OHIO**

**INTRODUCTION**

¶1. This matter was heard at the offices of the Cincinnati Bar Association on August 25, 2010, before a panel of the Board of Commissioners on Grievances and Discipline (Board) consisting of Judge Harvey J. Bressler, Alvin Bell, and Stephen C. Rodeheffer, Chair. None of the panel members resides in the appellate district from which the complaint originated, or served on the probable cause panel that certified this complaint.

¶2. Appearing on behalf of Relator, Cincinnati Bar Association, was Attorney Paul M. Laufman. Respondent appeared and was represented by Attorney Patrick C. Hickey. Mr. Hickey, a Kentucky attorney, is not licensed to practice law in the State of Ohio, but the Board permitted him to represent Respondent in these proceedings, *pro hac vice*.

¶3. The pleadings in this case consist of a complaint filed with the Board by the Cincinnati Bar Association on February 8, 2010, and an answer filed by Respondent on March 1,

2010. The complaint alleges that Respondent violated two of the Ohio Rules of Professional Conduct with both violations involving the same client:

- a. Prof. Cond. R. 1.4(c) [informing the client at the time of the client's engagement that the lawyer does not maintain professional liability insurance];
- b. Prof. Cond. R. 1.15(d) [failing to promptly notify and return funds to a client and render a full accounting].

### **Findgs of Fact**

¶4. Robert N. Trainor was admitted to the practice of law in the Commonwealth of Kentucky on October 1, 1976. He was admitted to the practice of law in the State of Ohio on November 20, 1978.

¶5. The entirety of Respondent's career has involved the general practice of law. At some point, however, Trainor developed a reputation in the Cincinnati area for handling cases dealing with claims based on mold infestation. This reputation resulted in referrals of these types of cases from other lawyers and ultimately led to a Ms. Kathleen Childress contacting Respondent in the early fall of 2005. Apparently Childress was having difficulty getting her homeowners insurer, Allstate, to pay for mold removal in her home. She also had a claim against a company that had done some mold remediation work for her.

¶6. After their initial discussions, Childress retained Respondent to represent her. She signed a fee agreement on October 3, 2005, that called for the payment of a \$925 retainer; Respondent was to be paid for his work at the rate of \$185 per hour. Respondent did not carry professional liability insurance at this time and did not initially tell Childress of this fact. Respondent eventually told Childress of his lack of insurance seven weeks after she had signed the fee agreement and paid the retainer, by which time the litigation against the responsible

parties had commenced. Respondent's notice to the client that he was uninsured was in the form of a letter that also requested that the client sign an acknowledgement that she received the notice and return it to Respondent.

¶7. Childress testified that she was upset when she learned after the fact that Respondent did not have liability coverage. She initially told the panel that had she known Respondent was uninsured she would not have hired him, but by six weeks into the case she felt she had too much time and money invested in Respondent's representation to change lawyers. Later in her testimony the client admitted that she probably would have hired Respondent even if he had timely informed her he was self-insured. She disclosed that she had gone to three different lawyers, all of whom declined to represent her, before hiring Respondent. Consequently, by the time she contacted Respondent she was desperate for a lawyer to accept her case.

¶8. Although she received Respondent's letter, Childress stated that she never signed the waiver/acknowledgment that Respondent directed her to return to him. Further, she and Respondent never discussed the letter or his lack of insurance over the next three and half years that the litigation was pending. For his part, Respondent admits that he never pressed Childress to sign the waiver.

¶9. Respondent's initial explanation for his failure to tell Childress that he was uninsured was that he had made a "mistake." Toward the conclusion of his testimony, however, Respondent admitted that his non-disclosure was a conscious act on his part – a conclusion that is for the most part inescapable given the fact that during this time he had a disciplinary complaint pending against him filed by the Cincinnati Bar Association involving the same conduct.<sup>1</sup> Furthermore, Respondent was also working with Kevin Roberts, bar counsel in that

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<sup>1</sup> *Cincinnati Bar Assn. v. Trainor*, 110 Ohio St.3d 141, 2006-Ohio-3825.

case, to try to obtain professional liability insurance, and to draft and send a letter regarding his lack of insurance to his current clients.

¶10. By all accounts, Respondent did a good job for Childress. He was able to get a settlement from the company that had done the remediation work and a got a judgment against Allstate for \$12,500. Ms. Childress received \$17,500 from both defendants before attorney fees and expenses in a case that no other lawyer seemed to want to touch. Indeed, but for the events that took place in March 2009, the professional relationship between Childress and Respondent would have had a happy ending, and Respondent would not be in the position that he currently finds himself.

¶11. The settling of accounts between Childress and Respondent took place sometime in March 2009 after settlement checks were received from the two defendants. Before the distribution of the money in the case, Respondent provided his client with a final statement of the attorney fees owed. When the settlement checks arrived, Childress endorsed the checks and the funds were placed in Respondent's IOLTA account to sit until the checks cleared the bank. Shortly thereafter Childress received a check from the Respondent for her share of the settlement proceeds.

¶12. Sometime shortly after the distribution, Childress checked the docket of her case online and noticed that the clerk had issued a refund of the court costs to Respondent. Because she had provided the funds for filing the case, she rightfully concluded that this refund of \$225 belonged to her and called Respondent's office inquiring whether this money would be sent to her. She testified that she left two messages with Respondent's secretary, but Respondent never returned her call. When she placed a third call to Respondent's office, she was able to speak with Respondent who told her that he would check into the matter and call her back. The return

call never came, and Childress made yet a fourth call. She again got to speak with Respondent who told her that the funds were due to him for extra work he had performed in the case.<sup>2</sup>

¶13. Respondent's position regarding the funds troubled Childress because she had been told that the bill prior to the distribution was a final bill and that there was nothing more to be done in the case. Consequently, she asked Respondent to send her an itemized statement of this extra work but none was ever forthcoming. Eventually Childress's frustration in not getting a satisfactory explanation from the Respondent prompted her to file a complaint with the Cincinnati Bar Association and the Better Business Bureau of Cincinnati. It was during Relator's investigation of this complaint that it was learned that Respondent had not timely disclosed his lack of insurance and had not obtained a written waiver/acknowledgement. After the Relator's complaint was filed, Trainor paid \$225 to his client.

#### **Conclusions of Law**

¶14. Relator charged Respondent with a violation of Prof. Cond. R. 1.4(c) for his failure to timely notify Childress of his lack of insurance. Both the applicable provisions of the Ohio Rules of Professional Conduct and the Code of Professional Responsibility direct that the required disclosure be made at the time the lawyer is engaged by the client. In this case the time for disclosure would have been October 3, 2005, the date on which the fee agreement was signed by Respondent and Kathleen Childress. Consequently, the conduct involved in this case, as it relates to malpractice insurance preceded the effective date of the Ohio Rules of Professional Conduct. The applicable ethical requirement, therefore, is set forth in DR 1-104(A) of the Code of Professional Responsibility.

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<sup>2</sup> Respondent testified that he did not recall the conversations with Childress, though he did not deny that they took place.

¶15. Respondent stipulated to all of the misconduct charges outlined in this report and stipulated to a violation of Prof. Cond. R. 1.4(c). The panel concludes, therefore, that a stipulation to the underlying facts and to a violation of Prof. Cond.R. 1.4(c) is in effect a stipulation to a violation of DR 1-104(A).

¶16. The only remaining issue regarding this aspect of the case is whether the belated disclosure by Respondent of his lack of insurance constituted a substantial compliance with the rule or, at least, makes the violation of the DR 1-104(A) *de minimus*, such that the conduct should be ignored. For a number of reasons the panel concludes otherwise.

¶17. First, as will be pointed out in the portion of the report dealing with the proposed sanction, this is the third time that Respondent has found himself facing disciplinary action because of his failure to obtain insurance or notify his clients of his lack of malpractice insurance. Given this fact, it is impossible to view Respondent's conduct as anything other than substantial.

¶18. Second, the Code of Professional Responsibility and the Ohio Rules of Professional Conduct clearly direct that the disclosure come at the beginning of the attorney-client relationship. It is not difficult to see why the timing of the disclosure is important. Clearly it is much easier to decline to retain a lawyer at the beginning of the attorney-client relationship than it is to unravel the financial, personal, and legal entanglements that develop as the attorney-client relationship progresses. Consequently, a client faced with the decision of whether or not to hire an uninsured lawyer will be much freer of collateral influences if given the choice at the inception of the relationship.

¶19. The panel therefore finds by clear and convincing evidence that Respondent has violated DR 1-104(A).

¶20. The panel likewise finds by clear and convincing evidence that Respondent violated Prof. Cond. R. 1.15(d) [failing to promptly notify and return funds to a client and render a full accounting]. Respondent has stipulated to the violation and the evidence in this case supports the stipulation. Once the settlement funds were divided between Respondent and Childress, there was no additional work to be done in the case and Respondent clearly had no claim to the refund issued by the Hamilton County Clerk of Courts.

#### **Panel's Recommended Sanction**

¶21. Relator in this case asks that an actual suspension be imposed. Specifically, Relator asks for a two year suspension with 18 months stayed, and that Respondent serve an 18 month period of probation with a monitor to supervise Respondent's law practice. Relator also asks that Respondent be required to obtain and maintain professional malpractice insurance during his probation.

¶22. Respondent's counsel has suggested a one year suspension all stayed on the condition that Respondent commit no further misconduct, and that he obtain training in law office management.

#### **Aggravating Factors.**

¶23. *Prior Disciplinary Offenses.* This is the third occasion in seven years that Respondent has faced disciplinary action. In *Cincinnati Bar Assn. v. Trainor*, 99 Ohio St.3d 318, 2003-Ohio-3634, Respondent was given a stayed six month suspension for violation of DR 9-102(A) [failing to preserve the identity of client funds] and (B) [failing to maintain complete records of and appropriately account for client funds]. The facts revealed that Respondent's poor management of his IOLTA account resulted in a miscalculation of the amount that a personal

injury client was to be paid. In fact Respondent's error resulted in the client being overpaid by \$12,737.

¶24. In *Cincinnati Bar Assn. v. Trainor*, 110 Ohio St.3d 141, 2006-Ohio-3825, Respondent received a public reprimand for a single violation of DR 1-104. Of significance to this case is the fact that not only did this prior case mark the second disciplinary action against Respondent, but also that the violation in this case was a failure to notify a client that he was uninsured.

¶25. Finally, in *Trainor v. Kentucky Bar Assn.*, 311 S.W.3d 719 (2010), Respondent was found to have committed two instances of client neglect and failing to have malpractice insurance. As a result of his conduct the Kentucky Supreme Court imposed a thirty day suspension to be probated for one year on conditions. Trainor is currently serving his probation for this case.

¶26. *Dishonest or Selfish Motive.* It is not difficult to conclude that Respondent's retention of the refund issued by the Clerk was prompted by both a selfish and dishonest motive. He knew the funds did not belong to him, and after Childress brought the matter to his attention with her multiple phone calls, he was well of aware to whom the money belonged. Apparently Respondent thought Childress would find pursuing the matter too inconvenient and abandon her attempt to retrieve her funds. He clearly miscalculated his client's perseverance.

¶27. *Pattern of Misconduct.* The panel concludes that Respondent has a history of ignoring his insurance obligations, thus revealing a pattern of misconduct. This case is the third in which he has been charged with violating his obligation to either have malpractice insurance or notify his clients of his uninsured status. Furthermore, the testimony in this case revealed that during the pendency of the second Cincinnati Bar Association complaint, it was disclosed that many of Respondent's clients at that time had not been informed of his uninsured status resulting

in his working with bar counsel to formulate notices to these clients. It is, therefore, apparent that keeping his clients ignorant of his self-insured status is the norm – not the exception.

¶28. Finally, it was revealed to the panel during the hearing that Respondent's current method of informing clients of his status is to tell them verbally at the initial interview and then later send written waivers for the clients to sign. He admitted that, as was the case with Childress, he has clients that have not signed and returned the required waiver and he is continuing to represent them. Prof. Cond. R. 1.15(c) requires that notice be given at the time of the client's engagement and clearly also requires that the notice mirror the form set forth in the rule. Furthermore, this rule makes it absolutely imperative that the client sign the form. If a client refuses to sign, then the uninsured attorney should not proceed with the representation.

¶29. The panel also finds that Respondent has engaged in a pattern of misconduct as it relates to the mishandling of client funds. This case is the second time that Respondent has been found to have improperly handled client funds; the first being the 2003 disciplinary action filed by the Cincinnati Bar Association where Respondent was found to have improperly accounted for funds in his IOLTA account.

¶30. *Multiple Offenses.* The within complaint involved one client, but two acts of misconduct. Thus the panel concludes that Respondent committed multiple offenses in this case.

#### Mitigating Factors

¶31. *Restitution.* The panel finds that Respondent has made restitution although it stretches credulity to characterize it as timely. As noted previously, Respondent declined to return the cost refund (\$225) to his client until after Childress filed her complaint with the Cincinnati Bar Association.

¶32. *Full and Free Disclosure.* The panel finds that Respondent has been cooperative throughout these proceedings and has made a good faith effort to expedite the disciplinary process. The panel also finds that Respondent has acknowledged the wrongful nature of his conduct and has otherwise made full disclosure to Relator and the panel.

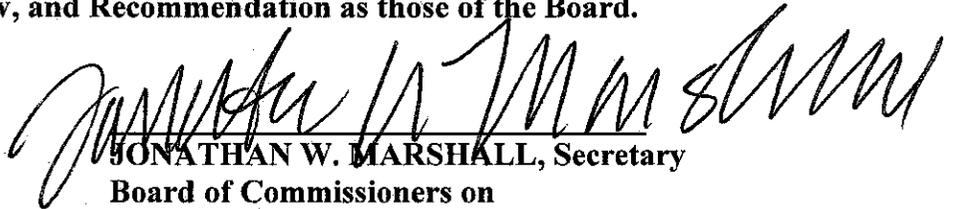
¶33. *Miscellaneous.* Respondent's personal situation evokes no small amount of sympathy. Personal health problems, family problems, and significant financial set backs have placed a great many stressors on his life. Multiple malpractice suits have made liability insurance either cost prohibitive or unavailable, placing him in the unenviable position of telling potential clients who represent potential fees that he has no insurance. As a consequence of all of these tribulations, Respondent has undergone psychological counseling in the past and has told the panel that he intends to return for further counseling.

¶34. The panel has evaluated all of the aggravating and mitigating facts in arriving what it believes to be the appropriate sanction. The facts in this case, taken by themselves, would probably result in either a public reprimand or stayed suspension. However, given Respondent's three prior disciplinary cases, two of which involve his failing to obey the applicable insurance requirements for attorneys, the panel feels that the imposition of an actual suspension is mandated. As a result, the panel recommends that Respondent be suspended from the practice of law for 24 months, with the final 18 months stayed. Upon return to the practice of law, Respondent's law practice shall be monitored for the 18 month period by an attorney chosen by the Cincinnati Bar Association. The monitor shall satisfy herself that Respondent is either maintaining liability insurance in an amount that conforms with the Ohio Rules of Professional Conduct, and that Respondent is complying with Prof. Cond. R 1.15, or any substantially similar rule imposed by any other state where Respondent is licensed to practice law.

**BOARD RECOMMENDATION**

Pursuant to Gov. Bar Rule V(6)(L), the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio considered this matter on October 7, 2010. The Board adopted the Findings of Fact, Conclusions of Law and Recommendation of the Panel and recommends that Respondent, Robert N. Trainor, be suspended from the practice of law for a period of twenty four months with eighteen months stayed upon the conditions specified by the Panel. The Board further recommends that the cost of these proceedings be taxed to Respondent in any disciplinary order entered, so that execution may issue.

**Pursuant to the order of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio, I hereby certify the foregoing Findings of Fact, Conclusions of Law, and Recommendation as those of the Board.**



**JONATHAN W. MARSHALL, Secretary  
Board of Commissioners on  
Grievances and Discipline of  
the Supreme Court of Ohio**

BEFORE THE BOARD OF COMMISSIONERS  
ON GRIEVANCES AND DISCIPLINE  
OF  
THE SUPREME COURT OF OHIO

FILED  
AUG 17 2010  
BOARD OF COMMISSIONERS  
ON GRIEVANCES & DISCIPLINE

In re: :  
Complaint against :  
ROBERT N. TRAINOR : Case No. 10-023  
Respondent : **STIPULATIONS OF THE PARTIES**  
CINCINNATI BAR ASSOCIATION : **(SECOND SET)**  
Relator :

The parties hereby stipulate to the following aggravating and mitigating factors as set forth by the Rules and Regulations Governing Procedure on Complaints and Hearings Before the Board of Commissioners on Grievances and Discipline:

*Aggravating Circumstances:*

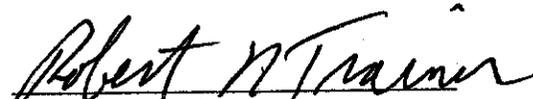
Section 10(B)(1)(a) Prior Disciplinary Offenses: This is Respondent Trainor's fourth ethical complaint. Respondent Trainor has previously been disciplined by the Supreme Court of Ohio on two occasions. In Case No. 2003-420, Respondent received a six month stayed suspension for failing to properly account for client funds. In Case No. 2006-0393, Respondent Trainor received a public reprimand for failing to notify clients of his lack of professional liability insurance. Respondent Trainor has previously been disciplined by the Supreme Court of Kentucky on one occasion. In Case No. 2010-SC-000201-KB, \_\_ S.W.3d \_\_, 2010 WL 2017105, Respondent Trainor received a 30 day suspension with all 30 days stayed upon conditions for a period of 1 year for failing to notify his client of his lack of professional liability insurance.

Section 10(B)(1)(c) Pattern of Misconduct: This is Respondent Trainor's third ethical complaint for failing to notify clients of his lack of professional liability insurance. In Ohio Case No. 2006-0393, Respondent Trainor received a public reprimand for failing to notify clients of his lack of professional liability insurance. In Kentucky Case No. 2010-SC-000201-KB, \_\_ S.W.3d \_\_, 2010 WL 2017105, Respondent Trainor received a 30 day suspension with all 30 days stayed upon conditions for a period of 1 year for failing to notify his client of his lack of professional liability insurance.

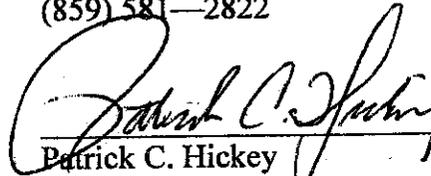
*Mitigating Circumstance:*

Section 10(B)(2)(h) Other Interim Rehabilitation: Respondent Trainor successfully completed a two year monitoring period through the Kentucky Lawyers assistance program from approximately October, 2006 until August, 2008. This monitoring included psychological counseling through Ed Connor, a licensed clinical psychologist. See Connor letter of November 20, 2009 attached to Respondent's Trial Exhibits.

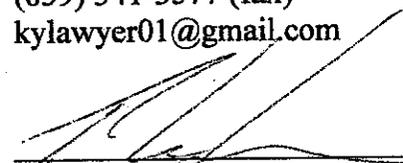
**Respectfully Submitted,**



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Respondent  
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7/10/10  
10-023  
Case No. 10-023

**BEFORE THE BOARD OF COMMISSIONERS  
ON GRIEVANCES AND DISCIPLINE  
OF  
THE SUPREME COURT OF OHIO**

**In re:** :  
**Complaint against** :  
**ROBERT N. TRAINOR** : Case No. 10-023  
: :  
Respondent : **STIPULATIONS OF THE PARTIES**  
: :  
**CINCINNATI BAR ASSOCIATION** :  
: :  
Relator :  
:

Come now the parties and offer the following stipulations in lieu of the trial of this matter:

- 1) Respondent Robert N. Trainor ("Respondent Trainor") was admitted to the practice of law in the State of Ohio in 1978 and is a sole practitioner with offices in Covington, Kentucky.
- 2) Respondent Trainor has previously been disciplined by the Supreme Court of Ohio on two occasions. In Case No. 2003-420, Respondent received a six month stayed suspension for failing to properly account for client funds. In Case No. 2006-0393, Respondent Trainor received a public reprimand for failing to notify clients of his lack of professional liability insurance.
- 3) Respondent Trainor has previously been disciplined by the Supreme Court of Kentucky on one occasion. In Case No. 2010-SC-000201-KB, \_\_ S.W.3d \_\_, 2010 WL 2017105, Respondent Trainor received a 30 day suspension with all 30 days stayed upon conditions for a period of 1 year for failing to notify his client of his lack of professional liability insurance.
- 4) On October 3, 2005 Ms. Kathleen Childress ("Ms. Childress") retained Respondent Trainor to represent her in regard to a civil claim against her home owners insurance arising from toxic mold in her residence. Ms. Childress entered into an hourly contract with Respondent Trainor and signed a fee agreement dated October 3, 2005. The fee agreement contemplated an hourly rate of \$185 and Ms. Childress paid a retainer of \$925 covering the first 5 hours of services. (Ex. A, attached hereto).
- 5) Respondent Trainor did not carry professional liability insurance at the time he was retained by Ms. Childress. He had been rendered uninsurable as a result of several

malpractice lawsuits and claims against his previous professional liability insurance carriers. Respondent Trainor failed to advise Ms. Childress of his lack of professional liability insurance at the inception of his representation on October 3, 2005.

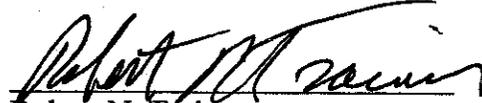
- 6) Respondent Trainor was aware at the time he was retained by Ms Childress of his obligation to advise all new clients of his lack of professional liability insurance at the inception of any representation. The Cincinnati Bar Association had filed a complaint with the Supreme Court of Ohio on August 8, 2005 charging Respondent Trainor with failing to notify a client that he did not carry professional liability insurance. As part of that grievance process, Respondent Trainor had advised all of his Ohio clients of his lack of professional liability insurance on September 12, 2005. That matter was pending at the time Ms. Childress retained Respondent Trainor on October 3, 2005.
- 7) Respondent claims that he “just forgot” to advise Ms. Childress of his lack of professional liability insurance. Relator is concerned about the accuracy of this description given the circumstances of the grievance pending against him at that time for identical conduct. Relator is similarly concerned that Respondent Trainor’s failure to properly advise Ms. Childress was an intentional act and part of an effort to consummate the relationship and process the retainer prior to disclosure.
- 8) Respondent Trainor sent a letter to Ms. Childress on November 21, 2005 stating that, “It has come to my attention that under the Ohio rules governing the practice of law that I am required to give disclosure to all of my Ohio clients that I no longer carry attorney’s malpractice insurance.” The notice contained a form for Ms. Childress to sign indicating her consent. (Ex. B, attached hereto). Ms. Childress did not sign the attached waiver.
- 9) Respondent Trainor did not offer to refund any portion of the retainer which Ms. Childress had paid if she chose to discontinue his representation. Ms. Childress maintains that she felt compelled to continue with Respondent Trainor’s representation and that she would have never hired Respondent Trainor had she been informed of his lack of professional liability insurance.
- 10) Respondent Trainor filed suit against Allstate Insurance Company in the Hamilton County Court of Common Pleas under case number A-0600232. Ms. Childress provided a check to Respondent Trainor in the amount of \$225 to pay the filing fee associated with the lawsuit. That case was voluntarily dismissed without prejudice for strategic reasons pursuant to Civil Rule 41(a) on November 30, 2007.
- 11) A check for the remaining balance of the filing fees was issued to Respondent Trainor by the Clerk of Courts in the amount of \$21.00 on December 4, 2007. These funds were the property of Ms. Childress and should have been returned to her. Respondent Trainor deposited this check into his operating account. These funds were refunded to Ms. Childress during the pendency of these proceedings when the discrepancy was identified by disciplinary counsel herein.
- 12) The matter was re-filed under case number B-0801010 on January 30, 2008. Ms.

Childress provided a check to Respondent Trainor in the amount of \$250 to pay the filing fee associated with the new lawsuit. This check was improperly deposited into Respondent Trainor's operating account. The filing fee paid to the court was \$225. The \$25 balance was improperly retained by Respondent Trainor. These funds were refunded to Ms. Childress during the pendency of these proceedings when the discrepancy was identified by disciplinary counsel herein.

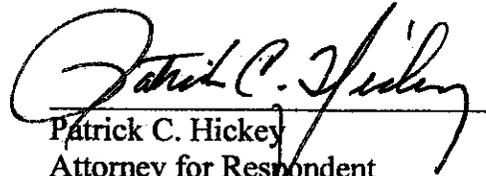
- 13) This case was tried to the bench and resulted in a judgment in favor of Ms. Childress in the amount of \$12,500.
- 14) Respondent Trainor submitted an invoice to Ms. Childress on March 6, 2009 which indicated a total balance due of \$2,704. This amount was deducted from the judgment of \$12,500 and on March 24, 2009 Mr. Trainor issued a check to Ms. Childress for the balance of \$9,796.
- 15) On March 16, 2009 a check refunding the filing fees was issued to Respondent Trainor by the Clerk of Courts in the amount of \$225.00 on March 16, 2009. This amount was improperly deposited into Respondent Trainor's operating account. These funds were the property of Ms. Childress and should have been returned to her.
- 16) On or about April 9, 2009 Ms. Childress checked the docket for the matter and noticed that a check refunding the \$225 filing fee had been paid to Respondent Trainor. Ms. Childress contacted Respondent Trainor's office and left a message with his secretary requesting that the funds be returned to her. She called again on April 14, 2009 and again left a message requesting that the funds be returned to her. Respondent Trainor was aware of these requests. Neither response nor return of the funds was forthcoming.
- 17) Ms. Childress recalls calling on another occasion and speaking with Respondent Trainor. Her recollection of the conversation was that Respondent Trainor was attempting to assert his right to retain the funds. Respondent Trainor does not recall speaking with Ms. Childress.
- 18) Ms. Childress' requests for a refund of the money at issue were not responded to prompting her to file this grievance.
- 19) Respondent Trainor refunded the \$225 filing fee to Mr. Childress on July 13, 2009 during the pendency of this matter. Respondent Trainor agrees he was not entitled to retain these funds which were the property of Ms. Childress and should have been returned to her.
- 20) The deposition of Respondent Trainor has been filed contemporaneous to these stipulations and is incorporated herein.
- 21) By reason of the foregoing, Respondent Trainor stipulates that he has violated his oath of office and Rule of Professional Conduct 1.4(c) by failing to notify Ms. Childress of his lack of professional liability insurance at the inception of the representation.

22) By reason of the foregoing, Respondent Trainor stipulates that he has violated his oath of office and Rule of Professional Conduct 1.15(d) by failing to promptly return funds which the client was entitled to receive.

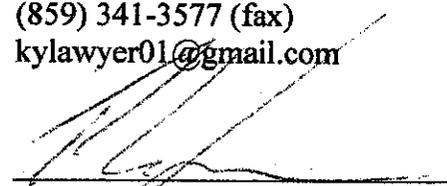
**Respectfully Submitted,**



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Admitted to Practice in  
Kentucky and Ohio

EMPLOYMENT CONTRACT FOR LEGAL REPRESENTATION

THIS AGREEMENT, made and entered into this 3rd day of Oct., 2005,  
by and between Kathi Childress  
(hereinafter "Client") and ROBERT N. TRAINOR.

WITNESSETH:

That Client hereby employs, engages and retains ROBERT N. TRAINOR, to represent  
him/her/them in the matter of:

Childress v. All State and AAA  
and in consideration thereof, the Client hereby promises and  
agrees to pay to the Attorney as an attorney fee a sum equal to \$                     payable as follows:  
\$185 per hour, 5 hrs. retainer  
with an initial retainer of \$ 925.

Whenever any retainer amount becomes exhausted, the Client must pay a new retainer  
to the Attorney in the amount of \$                      in order for the Attorney to continue  
representation of the Client. The new retainer must be paid within two weeks of notification  
by Attorney unless a longer period of time is allowed, in writing, by the Attorney.

Client also understands that any telephone conversations including those with Client  
relative to the matter being handled is billable time to the client.

Client agrees to pay all court costs incurred and all expenses incident to the  
investigation and prosecution of the case, such as medical and other records, cost of  
photographs, long-distance telephone costs, maps, diagrams, costs of investigation such as  
mileage, services of investigator, photocopies, postage, parking, etc. The Attorney shall not,  
in any event, be responsible or liable for any costs or out of pocket expenses of any kind, such  
costs or expenses to be borne solely by the client(s). Client agrees to pay the amount of  
\$                      to be used by Attorney for necessary costs and expenses in pursuit of this  
matter. On a periodic basis, the Attorney may bill the Client for any costs and expenses  
necessary to pursue this matter when the above amount is exhausted. The Client must pay  
any billings within two weeks of the date of the bill unless a longer period of time is allowed,  
in writing, by the Attorney.

EXHIBIT

tabbles

A

Attorney accepts the employment under the conditions set forth herein, but it is understood and agreed that if Client fails to honor this employment agreement, that Attorney may declare this contract null and void and may proceed to officially withdraw from said case being entitled to reasonable compensation for services rendered up until date of withdrawal.

Client understands that any attorney, paralegal or other employee or agent of Attorney may work on Client's case, and Attorney makes no representation as to which specific employee shall be assigned to said case by the law firm.

Overdue bills, those delinquent more than thirty (30) days, are subject to an interest charge at the rate of one and one-half (1½) percent per month.

Stephen Childress  
Client's Signature  
9914 Massena Ct.  
Address  
Cinti. Oh. 45231

\_\_\_\_\_  
ROBERT N. TRAINOR

Date: \_\_\_\_\_

\_\_\_\_\_  
742-3559  
Phone

**ROBERT N. TRAINOR**  
**ATTORNEY AT LAW**  
**THE CARROLL HOUSE**  
**216 EAST FOURTH STREET**  
**COVINGTON, KENTUCKY 41011-1759**  
**859-581-2822      FAX 859-581-1047**  
**E-MAIL ADDRESS: rntrainor@fuse.net**

**ADMITTED TO PRACTICE IN  
KENTUCKY AND OHIO**

November 21, 2005

Ms. Kathi Childress  
9914 Grasscreek Court  
Cincinnati, Ohio 45231-2010

Dear Ms. Childress:

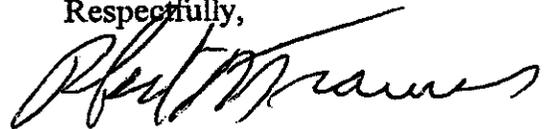
It has come to my attention that under the Ohio rules governing the practice of law that I am required to give disclosure to all of my Ohio clients that I no longer carry attorney's malpractice insurance.

If this disclosure causes you any concerns relative to my professional employment in your case, you may request your file in order to employ other representation. If this same disclosure does not warrant any concern in my representation, then would you please sign the "Client Acknowledgment" portion of the enclosed form and return the signed form to my office in the enclosed return self-addressed envelope.

I apologize for any inconvenience, If you have any questions, please feel free to call me to discuss.

Thanking you in advance for your prompt attention to this matter and with kindest personal regard,  
I am,

Respectfully,

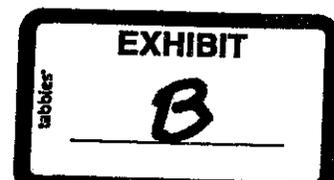


Robert N. Trainor

RNT:dtw

Enclosures

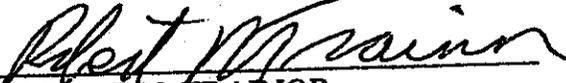
C:\WPDocs2\1660\Client letter 0906-05 (11-21-05).wpd



**NOTICE TO CLIENT**

(Required by DR 1-104, Ohio Code of Professional Responsibility)

Pursuant to DR 1-104 of the Ohio Code of Professional Responsibility, I am required to notify you that I do not maintain professional liability (malpractice) insurance of at least \$ 100,000 per occurrence and \$ 300,000 in the aggregate.

  
ROBERT N. TRAINOR  
Attorney at Law

**CLIENT ACKNOWLEDGEMENT**

I acknowledge receipt of the notice required by DR 1-104 of the Ohio Code of Professional Responsibility that Robert N. Trainor does not maintain professional liability (malpractice) insurance of at least \$ 100,000 per occurrence and \$ 300,000 in the aggregate.

\_\_\_\_\_  
(Client's signature)