

1 Cleveland Bar Association v. Kates.

2 [Cite as Cleveland Bar Assn. v. Kates (1997), \_\_\_\_\_ Ohio St.3d \_\_\_\_\_.]

3 *Attorneys at law -- Misconduct -- Public reprimand -- Neglect of an*  
4 *entrusted legal matter.*

5 (No. 96-2373 -- Submitted December 11, 1996 -- Decided March 26,  
6 1997.)

7 ON CERTIFIED REPORT by the Board of Commissioners on Grievances  
8 and Discipline of the Supreme Court, No. 93-30.

9 On June 21, 1993 the Cleveland Bar Association, relator, charged  
10 Robert A. Kates, last known address in Philadelphia, Pennsylvania,  
11 Attorney Registration No. 0017287, respondent, in one count with violation  
12 of DR 1-102(A)(4) (engaging in conduct involving dishonesty, fraud,  
13 deceit, or misrepresentation), 6-101(A)(3) (neglecting a legal matter  
14 entrusted to him), and 7-101(A)(2) (intentionally failing to carry out a  
15 contract of employment entered into with a client), and in another count  
16 with violation of DR 6-102 (attempting to exonerate himself from or limit  
17 his liability to his client for his personal malpractice). After the respondent  
18 filed an answer asserting affirmative defenses, relator and respondent

1 entered into a stipulation in which respondent agreed that he had violated  
2 DR 6-101(A)(3) and 6-102, and relator agreed to withdraw the allegations  
3 that respondent's conduct had violated 1-102(A)(4) and 7-101(A)(2). Both  
4 parties agreed to a sanction of public reprimand, and waived a formal  
5 hearing.

6 A panel of the Board of Commissioners on Grievances and Discipline  
7 of the Supreme Court ("board") found that, as stipulated, in March 1986  
8 respondent was retained by Judith Anne Crunelle Kereki and Albert Kereki  
9 to handle a personal injury claim against Dwayne Snyder and Ganley Dodge  
10 and, subsequently, to handle a personal injury claim against Richard Self  
11 and Eileen Beerck. In March 1988, respondent filed suit in common pleas  
12 court against Snyder, Ganley Dodge, Self and Beerck. During the following  
13 months, respondent failed to answer interrogatories or produce documents,  
14 and failed to respond to motions to compel answers and production. Beerck  
15 obtained a summary judgment against the Kerekis, and the actions against  
16 Self, Snyder, and Ganley Dodge were dismissed. In December 1990, the  
17 Kerekis discovered their case had been dismissed. When contacted by the  
18 Kerekis, respondent said that the case was still pending; then, when

1 confronted with the facts, said it was “possible” that the case had been  
2 dismissed. The Kerekis’ motion to vacate the orders of dismissal was  
3 denied, and the denial was affirmed on appeal.

4 After the Kerekis sued respondent for malpractice in December 1991,  
5 respondent attempted to insert into a proposed settlement agreement a  
6 clause that the Kerekis would “dismiss and not further prosecute any  
7 complaints made to the Cleveland Bar Association or any other such body.”  
8 Although the settlement agreement was not signed, the malpractice suit was  
9 settled in January 1992 for \$5,000, and the case was dismissed.

10 The panel found that respondent had violated DR 6-101(A)(3) and 6-  
11 102(A). Because respondent had relocated to Philadelphia, Pennsylvania,  
12 and had expressed his intention not to practice law in Ohio, the panel  
13 recommended that respondent receive a public reprimand. The board  
14 adopted the panel’s findings, conclusions, and recommendation.

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16 *Elmer G. Cowan and Robert C. Tucker, for relator.*

17 *Robert A. Kates, pro se.*

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1           COOK, J., dissenting. Because respondent failed to advise the Kerekis  
2   that their case had been dismissed, lied when they confronted him, and even  
3   when challenged as to the truthfulness of his assertion conceded only that it  
4   was “possible” that the case had been dismissed, he should be actually  
5   suspended from the practice of law. See *Disciplinary Counsel v.*  
6   *Fowerbaugh* (1995), 74 Ohio St.3d 187, 658 N.E.2d 237.

7           MOYER, C.J., concurs in the foregoing dissenting opinion.