

2. On October 1, 2001 a Kimberly L. Olden (Olden) filed a small claims action in the Bridgton District Court (the Court) against Brenda generally alleging that Brenda had breached a contract with Olden requiring her to reimburse Olden for snow removal and to return a security deposit for Olden's rental unit.

3. While the small claims lawsuit was collateral to the other matters in which Rodway represented Brenda, he advised that he would be willing to assist her in defending the claim, including appearing in court if she desired.

4. Rodway, however, filed no formal appearance for Brenda in the matter. His and Brenda's recollections differ about how he would become involved in the case. Brenda thought he would approach the court directly to obtain a hearing date and Rodway believed that Brenda would inform him of the hearing date when she received the Notice of Hearing from the clerk's office. Because of this honest miscommunication and misunderstanding, neither Brenda nor Rodway appeared at any hearing.

5. On October 12, 2001 the Court mailed a Notice of Hearing to Ms. Sperrin and Ms. Olden in their case stating that the hearing would be on December 20th at 8:30 a.m. Brenda did not notify Rodway of the hearing date. On that same date the Court entered a default judgment against Brenda in the amount of \$836.64 plus costs of \$45.00.

6. On January 2, 2002 Brenda wrote Rodway enclosing a copy of the default judgment, and for the first time he was made aware of the hearing of December 20, 2001. Within several weeks thereafter Rodway told Brenda that he would file a motion to vacate that judgment. However, he failed to do so which he recognizes was a violation of M. Bar R. 3.6(a)(3).

MEMORANDUM

To: Members, Panel B of the Grievance Commission

From: Geoffrey S. Welsh, Assistant Bar Counsel

Re: *Board of Overseers of the Bar v. Pete.
E. Rodway, Esq.*, GCF# 02-185

Date: January 6, 2004

Enclosed for the Panel's review and consideration is a copy of the **proposed** Report of Findings of Panel B of the Grievance Commission regarding the above captioned matter scheduled for a disciplinary hearing on **Monday, December 1, 2003 @ 9:30 a.m.** at the Maine District Court, 205 Newbury Street, 2nd Floor – Courtroom #10, Portland, Maine, 04112.

As indicated in the proposed Report, both parties have agreed that the appropriate disposition of this disciplinary matter is by a reprimand.¹ Assuming that Report is acceptable to the Panel, we are prepared to proceed with the normal abbreviated format in such matters, whereupon the parties and counsel appear and the Panel accepts and signs the Report at that time. Please notify the Grievance Commission Clerk or me if for any reason that procedure will be unacceptable to the Panel.

Because of the tentative disposition of this case agreed upon by Mr. DeTroy and me, I shall not be proceeding with witnesses, etc., if the Panel rejects the proposed disposition. Consequently, I have agreed with him that this case then would be reassigned to another Grievance Commission Panel for a full evidentiary hearing.

Thank you.

Enclosure

C: Peter J. DeTroy, III, Esq.,
(With enclosure)

¹ The complainants do not object with the disposition proposed herein. See attached copies of my correspondence with the Sperrins.