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DISTRICT XIII ETHICS COMMITTEE : Supreme Court of New Jersey  
: District XIII Ethics Committee  
Complainant, :  
vs. : Docket No. XIII-94-038E  
: DISCIPLINARY ACTION  
ROBERT J. FORREST, ESQ. :  
: COMPLAINT FOR  
Respondent, : MISCONDUCT  
: R.1:20-4

District XIII Ethics Committee by way of complaint against the respondent, says:

**GENERAL ALLEGATIONS**

ROBERT J. FORREST (the "Respondent") was admitted to the Bar of this state in 1983. Respondent maintains law offices at 141 West End Ave., Somerville, Somerset County, New Jersey.

**FIRST COUNT**

At all times relevant to the allegations of this complaint, Respondent was employed by the law firm of Lieberman and Ryan, Somerville, New Jersey (the "Law Firm").

Respondent's law firm was retained in March of 1993, by Robert A. Fennimore and Mary Ann Fennimore (husband and wife) and filed a personal injury complaint on April 5, 1993, entitled Mary Ann Fennimore and Robert Fennimore v. Samuel Zdanovich, Docket No. SOM-L-507-93 (the "Civil Action").

After April 5, 1993 and prior to December 1993, Robert A. Fennimore died.

After April 5, 1993 and prior to December 1993, Mary Ann Fennimore advised Respondent of Robert A. Fennimore's death.

In December of 1993, following Robert A. Fennimore's death, Respondent served upon Christopher J. Walls, Esq., ("Walls") uncertified answers to interrogatories entitled "ROBERT A. FENNIMORE'S ANSWERS TO DEFENDANT'S SAMUEL ZDANOVICH, MOTOR VEHICLE INTERROGATORIES" a copy of which is attached as Exhibit "A" (hereinafter, the "Answers to Interrogatories").

Neither the Answers to Interrogatories nor any accompanying letter to Mr. Walls stated that Robert A. Fennimore had died.

On June 8, 1994, Respondent and Mary Ann Fennimore appeared at the Somerset County Courthouse for an arbitration hearing in the Civil Action.

Prior to the arbitration hearing Respondent advised Mary Ann Fennimore that she was not to volunteer during her testimony that her husband had died.

When asked by the arbitrator of Robert A. Fennimore's absence, Respondent stated he was "unavailable" (See Exhibit "B" attached).

At no time prior to, during or within 30 days following the arbitration hearing did Respondent or Mary Ann Fennimore advise the arbitrator, the Court or Mr. Walls that Robert A. Fennimore had since died.

The arbitrator awarded \$6,000.00 to Robert A. Fennimore and \$17,500.00 to Mary Ann Fennimore.

Following the arbitration, Respondent contacted Mr. Walls to explore settlement of the Civil Action, but did not advise Mr. Walls of Robert A. Fennimore's death (see Exhibit "C", paragraph 6).

Mr. Walls wrote the Respondent on January 31, 1994 and June 30, 1994, requesting that Respondent make Robert A. Fennimore available for a medical examination.

Respondent did not reply to either of Mr. Walls' requests (see Exhibit "C", paragraphs 7-9).

Mr. Walls telephoned Respondent on August 3, 1994, requesting Robert A. Fennimore to undergo a medical examination, but Respondent still did not advise Mr. Walls of his client's death. (see Exhibit "C", paragraphs 7-9).

Mr. Walls moved for an order (which was not opposed or otherwise replied to by Respondent), compelling Mr. Fennimore to appear for a medical examination.

The Order compelling Robert A. Fennimore to appear for a medical examination was entered by Judge Katherine R. Dupuis on September 9, 1994.

Respondent's failure to disclose Robert A. Fennimore's death during the June 8, 1994 arbitration is a violation of R.P.C. 3.3.

Respondent's failure to advise Mr. Walls of Mr. Fennimore's death in response to Mr. Walls' requests to discover Robert A. Fennimore's physical condition is a violation of R.P.C. 3.4.

Respondent's failure to timely disclose to the arbitrator, the Court or his adversary that Mr. Fennimore was deceased is a violation of R.P.C. 8.4.

WHEREFORE, Respondent should be disciplined.

DISTRICT XIII ETHICS COMMITTEE  
/s/ Donald S. Maurice, Jr., Esq.

DATED: August 28, 1996

### **Disposition**

On June 11, 1999, the Supreme Court of New Jersey suspended Mr. Forrest's license to practice for a period of six months. For further details, click [here](#).