

1 Wayne County Bar Association v. Naumoff.

2 [Cite as *Wayne Cty. Bar Assn. v. Naumoff* (1996), _____ Ohio St.3d _____.]

3 *Attorneys at law -- Misconduct -- Six-month suspension -- Aiding a*
4 *non-lawyer in the unauthorized practice of law -- Delegating*
5 *tasks to lay persons without maintaining a direct relationship*
6 *with client.*

7 (No. 95-2179--Submitted December 6, 1995--Decided February 28,
8 1996.)

9 ON CERTIFIED REPORT by the Board of Commissioners on Grievances
10 and Discipline of the Supreme Court, No. 94-45.

11 On June 20, 1994, relator, Wayne County Bar Association, filed a
12 complaint with the Board of Commissioners on Grievances and Discipline
13 of the Supreme Court (“board”) charging Mitchell Naumoff of Barberton,
14 Ohio, Attorney Registration No. 0037544, with two violations of the
15 Disciplinary Rules and one violation of the Ethical Considerations. The
16 complaint alleges that Naumoff violated DR 3-101(A) (aiding a non-lawyer
17 in the unauthorized practice of law) and 5-107(B) (permitting a person who
18 recommends, employs, or pays him to render legal services for another to
19 direct or regulate his professional judgment in rendering such legal

1 services). The complaint also alleged a violation of EC 3-6 (delegating
2 tasks to clerks, secretaries and other lay persons is proper if the lawyer
3 maintains a direct relationship with his client, supervises the delegated
4 work, and has complete professional responsibility for the work product).
5 The parties stipulated some facts, and a panel of the board heard the matter
6 on August 11, 1995.

7 In 1991, respondent became acquainted with Terry M. Sustar, who
8 operates the Data View Tax Service in Wooster, Ohio. In September 1993,
9 Sustar asked respondent if Sustar could refer estate planning matters to
10 respondent. Respondent then gave work sheets to Sustar for Sustar to
11 gather data for preparing legal documents. Respondent developed a
12 working relationship with Sustar.

13 In that year, Mrs. Audry Peterman, a seventy-one-year-old widow
14 residing in Wayne County, attended two seminars conducted by Sustar.
15 Sustar gave Peterman work sheets for her to complete and forward directly
16 to respondent. Respondent thereafter prepared documents for Peterman,
17 including a will, a living trust, financial power of attorney, health care
18 power of attorney, and a living will. Respondent never met personally, nor

1 corresponded, with Peterman. Respondent forwarded the documents to
2 Sustar for Peterman to execute on November 16, 1993. Sustar collected a
3 fee of \$731 from Mrs. Peterman for Sustar's services, which included
4 respondent's fee.

5 As a result of a question on the documents, Peterman contacted a
6 member of relator. Relator subsequently filed the instant complaint.

7 Relator asked the board to publicly reprimand respondent; respondent
8 asked the board to dismiss the complaint.

9 Nevertheless, the panel found that respondent violated DR 3-101(A).
10 The panel ruled that finding a violation of this Disciplinary Rule did not
11 require, as a condition precedent, a judicial determination that Sustar had
12 engaged in an unauthorized practice of law. The panel also found a
13 violation of EC 3-6. Finally, the panel recommended that we suspend
14 respondent from the practice of law for six months and stay the suspension
15 on condition that respondent cease the conduct producing the violation.

16 The board adopted the findings of fact and conclusions and
17 recommendation of the panel. The panel and the board did not base the
18 recommended sanction on the violation of EC 3-6.

