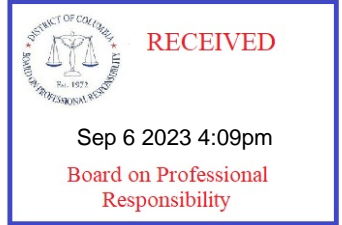


**DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY**



In the Matter of :
 :
Nicole Wilt :
 :
 : **Disciplinary Docket Nos. 2021-D022,**
 Respondent : **2021-D066 & 2022-D009**
 :
Bar Registration No. 978258 :
 :

SPECIFICATION OF CHARGES

The disciplinary proceedings instituted by this petition are based upon conduct that violates the standards governing the practice of law in the District of Columbia as prescribed by D.C. Bar R. X and XI, § 2(b).

Jurisdiction for this disciplinary proceeding is prescribed by D.C. Bar R. XI. Pursuant to D.C. Bar R. XI, § 1(a), jurisdiction is found because:

1. Respondent is a member of the Bar of the District of Columbia Court of Appeals, having been admitted on December 10, 2007, and assigned Bar number 978258.

The Rules and standards that Respondent has violated are as follows:

Count I – Wilt/Disciplinary Counsel
Disciplinary Docket 2021-D022

2. Respondent maintained a trust account at PNC Bank titled “Nicole Mackin Wilt Esq” ending in #8811.

3. Respondent regularly entered into hourly fee agreements with her

clients that required them to pay advances of legal fees, which Respondent would bill against as she performed work on their cases. When the advanced fees were drawn down below \$500, clients were required to replenish their accounts with additional advanced fees.

4. Respondent did not regularly bill clients.

5. Respondent did not maintain client ledgers or other records that showed when client funds were deposited into or withdrawn from her trust account, and how much money she held in trust for each client at any given time.

6. Respondent accepted advance fee payments through Square and Paypal. When Square and Paypal routed the advance fees to Respondent's trust account, they deducted their financial services fees from the transferred funds. This meant that the amount deposited in Respondent's trust account was less than the amount of the advanced fee the client had agreed to pay and that should have been placed in trust. Respondent did not reimburse the clients for these deducted fees by depositing equal amounts of her own funds in her trust account.

7. Respondent used the funds in her trust account to pay for personal and business operating expenses.

8. Respondent routinely wrote checks in round numbers to herself and to Nicolas Wilt, her husband, who worked as a paralegal in her firm. Respondent did not indicate on the checks, or anywhere else, which client's advanced legal fees were

being withdrawn from the trust account.

9. On December 1, 2020, Respondent overdrew her trust account when check #195 in the amount of \$800 was drawn on the account, leaving a -\$209.16 balance.

10. On December 4, 2020, the Respondent overdrew her trust account again when check #196 in the amount of \$1,000 was drawn on the account, leaving a balance of -\$409.16.

11. PNC reported the overdrafts to Disciplinary Counsel.

12. Disciplinary Counsel opened an investigation and issued a subpoena to Respondent for her financial records that accounted for funds deposited into and withdrawn from the #8811 trust account from December 2019 through January 2021.

13. Respondent provided incomplete records in response to the subpoena. The records did not explain when and on what basis each client's funds were withdrawn from the trust account.

14. Disciplinary Counsel also subpoenaed Respondent's bank records from PNC.

15. The PNC bank records revealed that on January 1, 2020, the balance in Respondent's trust account was \$1,761.06. According to Respondent's billing records, on January 1, 2020, she should have been holding at least \$13,050.41 in trust for ten clients – Eric Birts, Michael Ceres, April Davis, Marisa Jennings,

Carmen Leon, Tabatha McNeill, Starkoda Plummer, Roger Scaife, Tracey Scott, and Darrell Shipman.

- a. Respondent's billing records showed that on January 1, 2020, she should have held \$1,396.64 of Eric Birts's advanced legal fees in trust.
- b. Respondent's billing records showed that on January 1, 2020, she should have held \$879.03 of Michael Ceres's advanced legal fees in trust.
- c. Respondent's billing records showed that on January 1, 2020, she should have held \$1,812.50 of April Davis's advanced legal fees in trust.
- d. Respondent's billing records showed that on January 1, 2020, she should have held \$1,000 of Marisa Jennings's advanced legal fees in trust.
- e. Respondent's billing records showed that on January 1, 2020, she should have held \$1,562.50 of Carmen Leon's advanced legal fees in trust.
- f. Respondent's billing records showed that on January 1, 2020, she should have held \$1,375 of Tabatha McNeill's advanced legal fees in trust.
- g. Respondent's billing records showed that on January 1, 2020, she

should have held \$937.50 of Starkoda Plummer's advanced legal fees in trust.

- h. Respondent's billing records showed that on January 1, 2020, she should have held \$1,312.50 of Roger Scaife's advanced legal fees in trust.
- i. Respondent's billing records showed that on January 1, 2020, she should have held \$687.50 of Tracey Scott's advanced legal fees in trust.
- j. Respondent's billing records showed that on January 1, 2020, she should have held \$2,087.24 of Darrell Shipman's advanced legal fees in trust.

16. The PNC bank records also showed that on June 22, 2020, the balance in Respondent's trust account was \$1,347.64. According to Respondent's billing records, on June 22, 2020, she should have been holding at least \$7,881.59 in trust for eight clients – Eric Birts, Michael Ceres, Rita Collins, April Davis, Seon French, Marisa Jennings, Tabatha McNeill, James Scholler and Darrell Shipman.

- a. Respondent's billing records showed that on June 22, 2020, she should have held \$1,792.50 of Eric Birts's advanced legal fees in trust.
- b. Respondent's billing records showed that on June 22, 2020, she should have held \$350.77 of Michael Ceres's advanced legal fees in

trust.

- c. Respondent's billing records showed that on June 22, 2020, she should have held \$625 of Rita Collins's advanced legal fees in trust.
- d. Respondent's billing records showed that on June 22, 2020, she should have held \$62.50 of April Davis's advanced legal fees in trust.
- e. Respondent's billing records showed that on June 22, 2020, she should have held \$2,000 of Seon French's advanced legal fees in trust.
- f. Respondent's billing records showed that on June 22, 2020, she should have held \$1,000 of Marisa Jennings's advanced legal fees in trust.
- g. Respondent's billing records showed that on June 22, 2020, she should have held \$26.08 of Tabatha McNeill's advanced legal fees in trust.
- h. Respondent's billing records showed that on June 22, 2020, she should have held \$687.50 of James Scholler's advanced legal fees in trust.
- i. Respondent's billing records showed that on June 22, 2020, she should have held \$1,337.24 of Darrell Shipman's advanced legal fees in trust.

17. According to Respondent's records, at the time she overdrew the #8811

trust account on December 1st, 3rd, and 4th of 2020 she should have been holding at least \$522.78 in trust for four clients – Karen Coles, Jennifer Washington, Darrell Shipman, and Tracey Scott.

- a. Respondent’s billing records showed that at the time of the overdrafts she should have held \$375 of Ms. Coles’s advanced legal fees in trust.
- b. Respondent’s billing records showed that at the time of the overdrafts she should have held \$1,573.73 of Ms. Washington’s advanced legal fees in trust.
- c. Respondent’s billing records showed that at the time of the overdrafts she should have held \$200.10 of Mr. Shipman’s advanced legal fees in trust.
- d. Respondent’s billing records showed that at the time of the overdrafts, she should have held \$123.95 of Ms. Scott’s advanced legal fees in trust.

18. Respondent’s conduct violated the following Rules of the District of Columbia Rules of Professional Conduct:

- a. Rules 1.15(a) and 1.15(e), in that Respondent recklessly or intentionally misappropriated client funds;
- b. Rule 1.15(a), in that Respondent failed to maintain complete records of entrusted funds.

Count II – Wilt/Washington
Disciplinary Docket 2021-D066

19. On July 9, 2020, Jennifer Washington retained Respondent to represent her in a legal dispute with her employer. They executed an engagement agreement that defined the scope of the representation as “Represent you in issues relating to disputes with your employer in a manner agreed upon by Attorney and Client.” The agreement called for an hourly fee of \$250 with an advance of \$1,500.

20. On that same day, Ms. Washington paid Respondent \$1,500 via Square.

21. On July 10, 2020, Square deposited \$1,456.20 into Respondent’s #8811 trust account. This amount represented Ms. Washington’s \$1,500 payment minus a \$43.80 deduction by Square for processing fees.

22. On August 13, 2020, Respondent sent a demand letter to Ms. Washington’s employer, The Westchester Corporation.

23. Westchester rejected the demand.

24. On September 9, 2020, Ms. Washington and Respondent executed a new engagement agreement. This new agreement contained the same description of the scope of the representation – “Represent you in issues relating to disputes with your employer in a manner agreed upon by Attorney and Client.” The agreement called for an hourly fee of \$250 with an advance of \$2,500. Ms. Washington paid Respondent \$2,500 via Square.

25. On September 10, 2020, Square deposited the \$2,572.55 into Respondent's #8811 trust account. This amount represented Ms. Washington's \$2,500 fee plus another client's \$150 fee, minus Square's processing fees.

26. On October 11, 2020, Respondent sent a draft complaint to Ms. Washington by email.

27. On October 20, 2020, Respondent filed the civil complaint in the Superior Court for the District of Columbia.

28. On December 10, 2020, counsel for Westchester filed a motion to dismiss.

29. Respondent did not tell Ms. Washington that a motion to dismiss had been filed.

30. Respondent did not file an opposition to the motion to dismiss.

31. On December 31, 2020, the Court granted Westchester's motion and dismissed the case with prejudice.

32. On January 5, 2021, Respondent sent an email to Ms. Washington informing her of the Court's order dismissing the case and providing a copy. Respondent stated that she would file a motion for reconsideration but did not explain that she had failed to file an opposition to the motion to dismiss.

33. After reading the Court order, Ms. Washington discovered that Respondent had not opposed the motion to dismiss. She asked Respondent to explain

why no opposition was filed.

34. Respondent never explained to Ms. Washington the reason for her failure to file an opposition to the motion to dismiss.

35. Respondent never filed a motion for reconsideration.

36. Even though the case was dismissed, Respondent continued her attempts to reach a settlement with Westchester. A settlement could not be reached.

37. Respondent violated the following Rules of the District of Columbia Rules of Professional Conduct:¹

- a. Rule 1.1(a) in that Respondent failed to provide competent representation to Ms. Washington;
- b. Rule 1.1(b) in that Respondent failed to serve Ms. Washington with skill and care commensurate with that generally afforded to clients by other lawyers in similar matters;
- c. Rule 1.3(a) in that Respondent failed to represent Ms. Washington zealously and diligently within the bounds of the law;
- d. Rule 1.3(c) in that Respondent failed to act with act with reasonable promptness in representing Ms. Washington;
- e. Rule 1.4(a) in that Respondent failed keep Ms. Washington

¹ Respondent also failed to keep records of, and misappropriated, Ms. Washington's advanced legal fees. Those allegations are included in Count I.

reasonably informed about the status of a matter and promptly comply with reasonable requests for information;

- f. Rule 1.4(b) in that Respondent did not explain matters to the extent reasonably necessary to permit her client to make informed decisions regarding the representation.

Count III – Wilt/Headley
Disciplinary Docket 2022-D009

38. On August 8, 2021, Monique Headley hired Respondent to represent her in a dispute involving her co-op. They executed an engagement agreement that defined the scope of the representation as “Represent you in issues relating to disputes with your co-op in a manner agreed upon by Attorney and Client.” The agreement called for an hourly fee of \$350 with an advance of \$5,000.

39. The agreement stated that \$2,500 of the \$5,000 advance was “earned upon receipt and nonrefundable.”

40. Ms. Headley paid the \$5,000 advanced fee on August 8, 2021, through LawPay.

41. On October 29, 2021, Respondent filed a complaint on Ms. Headley’s behalf in the Superior Court for the District of Columbia.

42. Respondent did not file anything else on Ms. Headley's behalf.

43. On December 2, 2021, Respondent sent a resignation letter to Ms. Headley, informing her that Respondent was leaving the practice of law and would

be withdrawing from the representation, but that she would be turning over Ms. Headley's case to two other attorneys.

44. On December 3, 2021, Ms. Headley filed a complaint with Disciplinary Counsel.

45. On December 7, 2021, Ms. Headley sent a letter to Respondent terminating the representation. She explained that she did not want to be represented by either of the two attorneys listed in Respondent's resignation letter. She asked Respondent to return her client file and to provide an accounting of the advanced fee she had paid.

46. On December 10, 2021, Nicolas Wilt sent an invoice to Ms. Headley claiming the firm had earned \$4,755.97 and refunded the remaining \$244.03. Nicolas Wilt also returned some documents to Ms. Headley, but they did not contain any work product other than the complaint Respondent had filed on October 29, 2021.

47. Ms. Headley had not received any bills throughout the representation and felt she was being overcharged. She immediately emailed Mr. Wilt disputing the charges on the invoice.

48. Respondent did not communicate with Ms. Headley to attempt to resolve the fee dispute.

49. Respondent did not respond to Ms. Headley's disciplinary complaint

and did not cooperate with Disciplinary Counsel's investigation.

50. Disciplinary Counsel obtained a copy of Ms. Headley's file from Nicolas Wilt.

51. Ms. Headley filed a request for arbitration with the Attorney Client Arbitration Board (ACAB) and an arbitration hearing was held on September 26, 2022. Respondent did not participate.

52. On September 28, 2022, ACAB issued a Decision and Award that required The Wilt Law Firm, PLLC to refund the remaining \$4,755.97, plus another \$25 for the ACAB filing fee. The ACAB directed Respondent to provide the refund to Ms. Headley on or before October 31, 2022. Respondent did not refund the money to Ms. Headley.

53. On October 4, 2022, Ms. Headley filed a Motion to Confirm the Arbitration Award in the Superior Court for the District of Columbia.

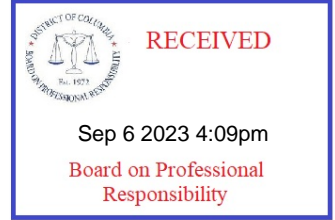
54. On May 3, 2023, the court confirmed the arbitration award and entered judgment in the amount of \$4,780.97 for Ms. Headley.

55. Respondent has not paid the judgment.

56. Respondent's conduct violated the following Rules of the District of Columbia Rules of Professional Conduct:

- a. Rule 1.4(a) in that Respondent failed keep Ms. Headley reasonably informed about the status of a matter and promptly comply with

**DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY**



In the Matter of

NICOLE E. WILT

Respondent

Bar Registration No. 978258

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:
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: **Disciplinary Docket Nos. 2021-
D022, 2021-D066 & 2022-D009**
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PETITION INSTITUTING FORMAL DISCIPLINARY PROCEEDINGS

A. This Petition (including the attached Specification of Charges which is made part of this Petition) notifies Respondent that disciplinary proceedings are hereby instituted pursuant to Rule XI, § 8(c), of the District of Columbia Court of Appeals' Rules Governing the Bar (D.C. Bar R.).

B. Respondent is an attorney admitted to practice before the District of Columbia Court of Appeals on the date stated in the caption of the Specification of Charges.

C. A lawyer member of a Hearing Committee assigned by the Board on Professional Responsibility (Board) pursuant to D.C. Bar R. XI, § 4(e)(5), has approved the institution of these disciplinary proceedings.

D. Procedures

(1) **Referral to Hearing Committee** - When the Board receives the Petition Instituting Formal Disciplinary Proceedings, the Board shall refer it to a Hearing Committee.

(2) **Filing Answer** - Respondent must respond to the Specification of Charges by filing an answer with the Board and by serving a copy on the Office of Disciplinary Counsel within 20 days of the date of service of this Petition, unless the time is extended by the Chair of the Hearing Committee. Permission to file an answer after the 20-day period may be granted by the Chair of the Hearing Committee if the failure to file an answer was attributable to mistake, inadvertence, surprise, or excusable neglect. If a limiting date occurs on a Saturday, Sunday, or official holiday in the District of Columbia, the time for submission will be extended to the next business day. Any motion to extend the time to file an answer, and/or any other motion filed with the Board or Hearing Committee Chair, must be served on the Office of Disciplinary Counsel at the address shown on the last page of this petition.

(3) **Content of Answer** - The answer may be a denial, a statement in exculpation, or a statement in mitigation of the alleged misconduct. Any charges not

answered by Respondent may be deemed established as provided in Board Rule 7.7.

(4) **Mitigation** - Respondent has the right to present evidence in mitigation to the Hearing Committee regardless of whether the substantive allegations of the Specification of Charges are admitted or denied.

(5) **Process** - Respondent is entitled to fifteen days' notice of the time and place of hearing, to be represented by counsel, to cross-examine witnesses, and to present evidence.

E. In addition to the procedures contained in D.C. Bar R. XI, the Board has promulgated Board Rules relating to procedures and the admission of evidence which are applicable to these procedures. A copy of these rules is being provided to Respondent with a copy of this Petition.

WHEREFORE, the Office of Disciplinary Counsel requests that the Board consider whether the conduct of Respondent violated the District of Columbia Rules of Professional Conduct, and, if so, that it impose/recommend appropriate discipline.

Office of Disciplinary Counsel

/s/

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