



# OFFICE OF BAR COUNSEL

January 4, 2011

Wallace E. Shipp, Jr.  
Bar Counsel

Elizabeth A. Herman  
Deputy Bar Counsel

Senior Assistant Bar Counsel  
Judith Hetherington  
Julia L. Porter

Assistant Bar Counsel  
Joseph N. Bowman  
Ross T. Dicker  
Gayle Marie Brown Driver  
Catherine L. Kello  
Becky Neal  
William Ross  
H. Clay Smith, III  
Traci M. Toit

Senior Staff Attorney  
Lawrence K. Bloom  
Dolores Dorsainvil  
Joseph C. Perry  
Mary-Helen Perry

***Via First-Class Certified  
and Regular Mail***

Patrick Merkle, Esquire  
2120 L Street, NW, Suite 210  
Washington, D.C. 20037

Re: ***In re Patrick Merkle***  
**Bar Docket No. 2009-D028**

Dear Mr. Merkle:

This office has completed its investigation of the above-referenced matter. We find that your conduct reflected a disregard of certain ethical standards under the District of Columbia Rules of Professional Conduct (the "Rules"). We are therefore, issuing you this Informal Admonition pursuant to D. C. Bar Rule XI, §§ 3, 6, and 8.

On January 28, 2009, we docketed this matter based upon a referral from the District of Columbia Superior Court stating that you were suing a client in the Landlord and Tenant Branch of the District of Columbia Superior Court ("Landlord/Tenant Court") at the same time you were representing this client.

We find as follows: While you were representing a client, "DU," in a child custody/support matter, you permitted this client to move into and rent from you a condo that you owned. At some point, DU stopped paying the rent and you sued her in the Landlord/Tenant Court. When you sued DU, her child custody matter was pending in the District of Columbia Court of Appeals and you were DU's attorney of record. You not only represented DU and her interests before the Court of Appeals but you initially also represented your own interest in appealing the trial court's imposition of a Rule 11 sanction against you and the trial court's finding that you were in contempt. After Bar Counsel opened an investigation of your conduct in these matters, you filed a motion to dismiss the Landlord/Tenant matter and DU moved to have your representation withdrawn before the Court of Appeals. The trial court dismissed the Landlord/Tenant matter and the Court of Appeals allowed you to withdraw your representation of DU. You continue to represent yourself before the Court of Appeals on the issue of whether the trial court, in the custody matter, abused

its discretion in imposing a sanction against you for violating Rule 11 and whether the trial court's finding of contempt was permissible.<sup>1</sup>

In an interview in our office, you described your relationship with DU as her attorney in a hotly contested family matter and as her landlord. You agree that your judgment may have been compromised by the strong feelings that you had regarding DU's ex-husband's successful effort to deny DU visitation rights with her child.

We find that your actions regarding this client violated 1.7(b)(4), 1.8(a), and 1.16(a)(1). Rule 1.7(b)(4) states, in relevant part:

A lawyer shall not represent a client with respect to a matter if: [t]he lawyer's professional judgment on behalf of the client will be or reasonably may be adversely affected by the lawyer's responsibilities to or interests in . . . the lawyer's own financial, business, property, or personal interests.

Rule 1.16(a)(1) states:

[A] lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if: The representation will result in violation of the Rules of Professional Conduct or other law.

Rule 1.8(a)(3) states:

A lawyer shall not enter into a business transaction with a client . . . unless the client gives informed consent in writing thereto.

We find that your conduct violated each of the above-listed Rules because of the conflict of interest that arose when you represented DU at the same time that you entered into a business relationship with her and at the same time that you sued her for rent and possession of your condo. As a result of these conflicts, you should have withdrawn from the representation.

At this time, we will not make a decision as to any violations based upon the contempt or the Rule 11 violations found by the trial court. These issues are under review by the Court of Appeals. When the Court issues its opinion, we will consider whether to open a new investigation.

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<sup>1</sup> We do not address the contempt and Rule 11 sanctions in this Informal Admonition but will reserve the right to consider these issues if the Court upholds the trial court's findings.

In deciding to issue this letter of Informal Admonition rather than institute formal disciplinary charges against you, we have taken into consideration that you took this matter seriously, that you cooperated with our investigation, that you have accepted responsibility for your misconduct by accepting this Informal Admonition, and that the client was not legally prejudiced by your actions and did not complain to this office.

If you would like to have a formal hearing, you must submit a written request for a hearing within 14 days of the date of this letter to the Office of Bar Counsel, with a copy to the Board on Professional Responsibility, unless Bar Counsel grants an extension of time. If a hearing is requested, this Informal Admonition will be vacated and Bar Counsel will institute formal charges pursuant to D.C. Bar R. XI, §§ 8(b) and (c). The case will then be assigned to a Hearing Committee and a hearing will be scheduled by the Executive Attorney for the Board on Professional Responsibility pursuant to D.C. Bar R. XI, § 8(c). Such a hearing could result in a recommendation to dismiss the charges against you or a recommendation for a finding of culpability, in which case the sanction recommended by the Hearing Committee is not limited to an Informal Admonition.

Sincerely,

Wallace E. Shipp, Jr.  
Bar Counsel

Enclosure: Attachment letter to Informal Admonition

WES:EAH/ct/jnb