

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



In the Matter of :

BRYAN A. CHAPMAN, ESQUIRE :

Respondent :

A Member of the Bar of the :
District of Columbia Court of Appeals :
Bar Number: 439184 :
Date of Admission: October 4, 1993 :

Disciplinary Docket No. 2014-D269

CORRECTED SPECIFICATION OF CHARGES¹

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 Rules X and XI, § 2(b).

JURISDICTION

1. Pursuant to D.C. Bar Rule XI, § 1(a), jurisdiction for this disciplinary proceeding is based upon Respondent’s admission by motion to membership in the Bar of the District of Columbia Court of Appeals on October 4, 1993. Respondent is also a member of the Pennsylvania and Wisconsin Bars.

CONDUCT AND VIOLATIONS

The conduct, and the standards that Respondent has violated, are as follows:

2. Myrna Roberts was hired in 1999 as a mathematics teacher at Crossland High School in Temple Hills, Maryland.

3. In October 2010, while still employed at Crossland High School as a teacher,

¹ In Paragraph 32, the citation to “8.5(b)(2)(i)” is corrected to “8.5(b)(1).”

Ms. Roberts alleged that she was discriminated against by the principal (Charles Thomas), based on her national origin (Virgin Islands) beginning in 2005 up until March 2008, when the principal removed her from teaching regular mathematics courses and assigned her to a mathematics computer lab, and subsequently assigned her to a role as a co-teacher. Ms. Roberts alleged that: 1) she was retaliated against for complaining about the alleged discriminatory practices of the principal; 2) she worked in a hostile environment; and 3) the Prince George's County Educator's Association (Union) breached its duty of fair representation when the Union failed to assist in addressing her claims.

4. On October 28, 2010, Ms. Roberts retained Respondent to represent her with respect to her claims against the Board of Education of Prince George's County (Board of Education) and the Union. Respondent agreed to represent Ms. Roberts for \$300 per hour, and requested she pay an initial retainer of \$3,000.

5. Ms. Roberts paid Respondent the initial retainer of \$3,000 in installment payments with the last \$500 payment made in August 2011.

6. Respondent was aware that in order to pursue claims for race or national origin discrimination or retaliation under Title VII of the Civil Rights Act, Ms. Roberts had to file a charge of discrimination or retaliation with the U.S. Equal Employment Opportunity Commission (EEOC) within 300 days of the last discriminatory or retaliatory act.

8. When Ms. Roberts hired Respondent in October 2010, Respondent knew that Ms. Roberts had not filed a discrimination complaint with the EEOC.

9. Respondent did not communicate to Ms. Roberts that her claims might be time-barred or dismissed for failure to exhaust administrative remedies.

10. At the time that Respondent took the \$3,000 initial retainer fee from Ms. Roberts, although he knew that she had not filed a complaint with the EEOC and that her claims might be timed-barred, he did not communicate to her that there was little to no chance that her claims would be successful.

11. Respondent initially determined that the solution for Ms. Roberts's failure to exhaust administrative remedies and file a timely charge of discrimination with the EEOC was to employ the "single filing" or "piggybacking" rule which allows plaintiffs who did not file charges of discrimination with the EEOC to "piggyback" onto the charge of a named plaintiff. Respondent decided to join Ms. Roberts's discrimination claim in a lawsuit with a group of eleven current and former teachers from Largo High School whom he also represented, including one teacher who had filed a timely EEOC charge of discrimination.

12. Respondent did not discuss his legal strategy with Ms. Roberts, nor did he provide her sufficient information about his strategy for her to make an informed decision about the course of the representation.

13. Respondent began collectively representing the group of eleven current and former teachers from Largo High School in September 2010 through May 2011 in an employment discrimination lawsuit against the Board of Education and the Union for alleged retaliatory actions taken against them by the principal at Largo High School, Ms. Angelique Simpson-Marcus, based on race.

14. On November 22, 2010, Respondent filed a lawsuit on behalf of the group and Ms. Roberts in the United States District Court for the District of Maryland styled *Johnson, et. al v. Prince George's County School Board, et. al*, Civil Action No. 10-CV-3291-PJM. The *Johnson*

Complaint demanded \$50 million collectively, for the twelve plaintiffs, for lost pay and benefits, compensatory and punitive damages, and attorneys' fees and costs. Respondent later amended the complaint on January 19, 2011, to include a Title VI of the Civil Rights Act of 1964 claim against the Defendants.

15. In the *Johnson Complaint*, Respondent recounted that Ms. Roberts was then a 61-year old black woman, born in the Virgin Islands, who spoke with a "distinct accent," and worked as a mathematics teacher at Crossland High School in Temple Hills Maryland for eleven years.

16. The *Johnson Complaint* identified Ms. Roberts' age, race, and national origin, but failed to include facts asserting that Ms. Roberts' age, race, or national origin were a factor or in any way motivated the decisions made about her employment, or the alleged retaliation against her.

17. Ms. Roberts's claims in the *Johnson Complaint* did not have any connection to the facts asserted on behalf of the other plaintiffs as she did not work at the same school as the other plaintiffs and her dispute involved a different principal. Additionally, Ms. Roberts' claims focused on national origin discrimination and not age or race discrimination as the other plaintiffs.

18. On January 10, 2011, the Board of Education filed a motion to dismiss the complaint contending, *inter alia*, that Ms. Roberts failed to: 1) adequately state a claim under federal law; 2) exhaust her administrative remedies before asserting her claim under Title VII of the Civil Rights Act of 1964; 3) make a prima facie case of retaliation as no adverse employment action had been taken against her since she did not experience a decrease in compensation or a loss of a tangible employment benefit and received satisfactory job evaluations; and 4) properly plead a hostile work environment claim.

19. On January 12, 2011, the Union filed a motion to dismiss Ms. Roberts's complaint on grounds, *inter alia*, that Ms. Roberts: 1) failed to set forth facts sufficient to establish any actionable claims; 2) failed to allege a claim of discrimination against the Union under federal law; 3) failed to exhaust her administrative remedies before asserting her claim under Title VII; 4) failed to allege a claim of harassment or retaliation by the Union; and 5) improperly made a claim for breach of duty of fair representation for state employees when the law protects only private sector employees.

20. On January 25, 2011, Respondent filed an Opposition to Defendant Union's Motion to Dismiss. On February 19, 2011, Respondent filed an Opposition to Defendant Board of Education's Motion to Dismiss. In his opposition, Respondent conceded several of the Defendant's arguments and abandoned the 42 U.S.C. §§ 1981, 1983, and 1985 claims, leaving only the Title VI claim (national origin disparate treatment) and Title VII claim (national origin disparate treatment).

21. On April 28, 2011, the court heard oral argument on the Defendants' motions to dismiss. That same day, the Court issued an Order dismissing the entire action without prejudice, instructing the Plaintiffs to refile individual complaints within 30 days.

22. During the *Johnson Complaint* litigation, on January 11, 2011, Respondent requested that Ms. Roberts file a complaint with EEOC. Ms. Roberts filed a complaint with the EEOC on March 16, 2011. The facts Ms. Roberts provided in the complaint dated back to 2005 and 2008.

23. Respondent did not assist or provide Ms. Roberts guidance on filing her complaint with the EEOC.

24. Respondent did not explain to Ms. Roberts that to state a timely claim to the EEOC the alleged acts of discrimination or retaliation had to occur within 300 days of her complaint or by no later than May 14, 2010.

25. On March 17, 2011, the EEOC issued a Notice of Right to Sue to Ms. Roberts.

26. On May 23, 2011, based on the court's directive in the *Johnson Complaint* litigation, Respondent filed a separate individual complaint on behalf of Ms. Roberts in the United States District Court for the District of Maryland styled *Roberts v. Prince George's County School Board, et. al*, Civil Action No. 11-CV-1397-PJM. The facts asserted in Ms. Roberts's individual complaint were virtually identical to those asserted in the *Johnson* complaint. The Roberts complaint alleged a Title VI claim and a Title VII claim against the Board of Education, and a Section 1981 claim against the Union.

27. On June 24, 2011, the Union filed a motion to dismiss Ms. Roberts' complaint for failure to state a claim. On June 30, 2011, the Board of Education also filed a motion to dismiss Ms. Roberts' complaint for failure to state a claim.

28. In July 2011, the parties filed several motions. On December 7, 2011, the Court heard oral argument on the Defendants' motions to dismiss.

29. During the motions hearing on December 7, 2011, the Court said to Respondent, "I think you've really encouraged some of your clients to come forth with lawsuits that have no basis."

30. During the hearing, the Court informed the Respondent, *inter alia*, that Ms. Roberts' complaint of national origin discrimination did not apply to Section 1981. The Court also noted that Ms. Roberts' complaint did not state a cause of action for national origin

discrimination, and that her complaint was time barred because the statute of limitations had run by the time Ms. Roberts filed her EEOC complaint.

31. The next day, on December 8, 2011, the Court issued an Order granting the Defendants' motions to dismiss and dismissed Ms. Roberts' claims with prejudice.

32. Under D.C. Rule of Professional Conduct 8.5(b)(1)~~(b)(2)(i)~~ (Choice of Law), the Maryland Attorneys' Rules of Professional Conduct apply. Respondent's conduct set forth above violated the following provisions of the Maryland Attorney's Rules of Professional Conduct:

- (a) Rule 19-301.1, in that he failed to provide competent representation with the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation;
- (b) Rule 19-301.2(a), in that he failed to consult with the client as to the means he would employ in fulfilling the client's objectives of the representation;
- (c) Rule 19-301.4(b), in that he failed to explain a matter to the extent reasonably necessary to permit the client to make an informed decision regarding the representation; and
- (d) Rule 19-303.1, in that Respondent filed an action when there was no basis in law or fact for doing so.

Respectfully submitted,

_____/s/_____
Hamilton P. Fox, III
Disciplinary Counsel

_____/s/_____

Dolores Dorsainvil
Assistant Disciplinary Counsel

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VERIFICATION

I do affirm that I verily believe the facts stated in the Specification of Charges to be true.

_____/s/_____

Dolores Dorsainvil
Assistant Disciplinary Counsel

Subscribed and affirmed before me in the District of Columbia this __19th__ day of February 2020.²

My Commission Expires:

_____/s/_____

Notary Public

² This Corrected Specification of Charges is being filed on September 23, 2020.