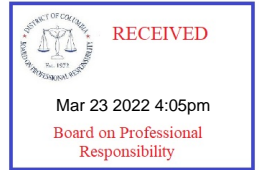


**DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY**



In the Matter of	:	
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DARLENE C. JACKSON, ESQUIRE,	:	Disciplinary Docket No. 2020-D171
	:	
Respondent,	:	
	:	
	:	
A Member of the Bar of the	:	
District of Columbia Court of Appeals.	:	
Bar Number: 445931	:	
Date of Admission: March 3, 1995	:	

SPECIFICATION OF CHARGES

The disciplinary proceeding instituted by this petition is 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 March 3, 1995, and assigned Bar number 445931.

The facts giving rise to the charges of misconduct are as follows:

2. On January 21, 2015, Respondent filed a civil action on behalf of plaintiff Brittany Cobb in D.C. Superior Court against the Washington Metropolitan Area Transit Authority. *Cobb v. Washington Metropolitan Area Transit Authority (WMATA)*, Case No. 2015 CA 000371. The complaint alleged, *inter alia*, that Ms. Cobb had been a passenger on a Yellow Line train on January 12, 2015, and that she had suffered damages when her train became disabled and filled with smoke while inside a tunnel.

3. Ms. Cobb's civil suit was one of many individual suits that had been filed against WMATA alleging common issues of fact stemming from the Yellow Line train incident. Many of the plaintiffs in these other civil suits were represented by Patrick Regan, Esq., who had filed the initial civil complaint against WMATA in the United States District Court for the District of Columbia, captioned *Glover v. Washington Metropolitan Area Transit Authority*, Case No. 1:15-cv-153.

4. On February 17, 2015, WMATA removed Ms. Cobb's case from D.C. Superior Court to the United States District Court for the District of Columbia. *Cobb v. Washington Metropolitan Area Transit Authority (WMATA)*, Case No. 1:15-cv-226.

5. On February 19, 2015, the federal district court stayed Ms. Cobb's case.

6. On May 12, 2015, Respondent entered her appearance on behalf of Ms. Cobb in Ms. Cobb's federal district court case.

7. On July 27, 2015, the federal district court established a master case file for all cases "filed, transferred, or removed to this court and related to the Yellow Line Cases." Ms. Cobb's case was included in the master case file. All Yellow Line Cases, including Ms. Cobb's case, were thereafter stayed to allow parties time to, *inter alia*, negotiate potential settlements.

Ms. Cobb's Death and Subsequent Litigation in the District Court

8. Ms. Cobb's federal district court case remained stayed over the next three years, and multiple other Yellow Line Cases were resolved during this time.

9. On September 2, 2018, Ms. Cobb died.

10. On or about October 19, 2018, Respondent called chambers to inform the court that Ms. Cobb had passed away. Chambers staff instructed Respondent to file the appropriate notice.

11. On October 30, 2018, the court entered an order requiring a suggestion of death to be filed no later than November 16, 2018, “to avoid dismissal of this action for failure to prosecute.”

12. On October 31, 2018, Respondent issued a subpoena to WMATA even though Ms. Cobb’s case was stayed. The subpoena commanded WMATA to produce various documents at a status conference scheduled for November 14, 2018.

13. On November 7, 2018, Respondent filed a Motion for Substitution of Parties Under Fed. R. Civ. P. 25(a)(1). Respondent recited facts surrounding Ms. Cobb’s death, but included no argument other than the conclusion that “a motion for substitution of parties must be filed to avoid dismissal.” Furthermore, Respondent did not identify a party to be substituted for Ms. Cobb. Respondent also informed the court that Ms. Cobb had two minor children, and she identified both children by their first names and dates of birth contrary to Local Civil Rule 5.4(f).

14. That same day, the court denied Respondent’s Motion without prejudice because it did “not indicate who counsel wishes to substitute for the decedent.” The court also advised the parties in its minute order that it had sealed the Motion because it contained “unredacted information in violation of Local Civil Rule 5.4(f).”

15. On November 8, 2018, Respondent filed a Motion to Substitute Successor-in-Interest. Respondent sought “the substitution of a Doe Plaintiff pending the identification of Plaintiff Cobb’s successor-in-interest,” cited case law from the Ninth Circuit and the Court of Federal Claims, and represented that, to the best of her knowledge, “there is no proceeding for the administration of the decedent’s estate pending in state jurisdiction and there is no personal representative acting on behalf of the decedent’s estate.”

16. On November 10, 2018, Respondent filed an Amended Motion for Substitution of Parties Under Fed. R. Civ. P. 25(a)(1), in which she merely combined various portions of her earlier two motions.

17. On November 13, 2018, WMATA filed an Opposition to Respondent's Motion to Substitute Successor-in-Interest and her Amended Motion for Substitution. WMATA argued that both motions should be denied with prejudice because, *inter alia*, Respondent had no authority to act on Ms. Cobb's behalf following her death.

18. Also on November 13, 2018, WMATA filed a Motion to Quash relating to the subpoena that Respondent issued two weeks prior. WMATA argued that Respondent had no authority to act on Ms. Cobb's behalf when she issued the subpoena because the attorney-client relationship had ended with Ms. Cobb's death. WMATA also argued that the subpoena was improper because the court had stayed the case since February 2015, and that Respondent prematurely issued it because the parties had not conferred as required by Fed. R. Civ. P. 26(d).

19. Also on November 13, 2018, Respondent filed a Motion to Stay Civil Proceedings Pending Appointment of Personal Representative, although the stay in Ms. Cobb's case remained in place. Respondent invoked the "choses in action legal principle" and cited case law from the Ninth Circuit and Court of Federal Claims in support of her request.

20. After the various motions had been filed on November 13, 2018, the court entered a minute order disallowing any further motions prior to the status conference scheduled for the next day.

21. Contravening the court's order, Respondent subsequently filed a Motion to Withdraw on November 13, 2018. Respondent argued that "the client's death terminated the

agency relationship.” Respondent also contended that she could not file a suggestion of death since she was not a party and her representative authority had ended, and she cited case law from the United State District Court for the District of Kansas.

22. Respondent failed to appear for the status conference on November 14, 2018. At that conference, the court denied Respondent’s pending motions (except that it did not rule on the Motion to Withdraw), and it granted WMATA’s motion to quash. During the status conference, Mr. Regan volunteered to take over Ms. Cobb’s case *pro bono*.

23. Despite failing to appear for the status conference that day, Respondent filed a Suggestion of Death on November 14, 2018. The Suggestion indicated that a personal representative would be appointed to represent Ms. Cobb’s estate and that “an appropriate substitution of parties will be filed as soon as the personal representative is formally appointed.” In fact, Ms. Cobb’s mother had been appointed on September 28, 2018.

24. On February 20, 2019, Mr. Regan filed an Amended Substitution of Counsel, signed by Respondent, which asked the court to enter his appearance, and withdraw Respondent’s, on behalf of Ms. Cobb.

25. On February 21, 2019, Mr. Regan filed a Motion to Substitute, which sought to substitute Ms. Cobb’s mother as the plaintiff. The Motion included Letters of Administration issued on September 28, 2018, by the Register of Wills for Prince George’s County, Maryland.

26. On February 21, 2019, the court granted Respondent’s Motion to Withdraw. The next day, the court granted Mr. Regan’s Motion to Substitute.

Respondent Tweets Portions of a Sealed Court Order in an Attempt to Collect Her Fee

27. In a sealed order entered on July 12, 2019, the court approved a settlement in Ms. Cobb's case. WMATA agreed as part of the settlement to pay \$5,000 directly to Respondent as attorney's fees. Respondent did not request this payment, but Mr. Regan negotiated it with WMATA to ensure that Respondent was compensated for the work she performed. The \$5,000 was not deducted from the settlement amount.

28. Mr. Regan provided Respondent with a copy of the sealed order to inform her that that she would receive the \$5,000 payment. Mr. Regan explained to Respondent that it may take a couple of weeks for WMATA to issue the payment, and he encouraged her to contact WMATA's attorney with questions. Respondent then contacted WMATA's attorney, who explained that it may take 30-45 days to issue payment.

29. On or about July 30, 2019, Respondent, using the handle @DJacksonNBRC (with the associated name "Darlene Jackson, GOP"), publicly posted the following on Twitter in a single, since-deleted tweet:

- a. Excerpts from the court's sealed order,
- b. Emails from WMATA's attorney,
- c. A picture of WMATA's attorney,
- d. A news article regarding Ms. Cobb's death, and
- e. The words "Where's MY CASH [*sic*]".

The tweet tagged the Twitter accounts of several high-profile personalities, including then-President Donald Trump, then-First Lady Melania Trump, and U.S. Senator Marsha Blackburn, as

well as several major news outlets, including ABC, NBC, CBS, CNN, The Washington Post, and The Hill.

30. WMATA's attorney learned of Respondent's Twitter post and informed chambers.

31. On August 1, 2019, the court entered a minute order requiring Respondent to appear on August 5, 2019, and "to show cause why the Court should not impose sanctions, including instituting proceedings under Fed. R. Crim. Pro. 42, for violating this Court's July 12, 2019 Order." The court also ordered Respondent to "cease and desist" from posting any other material from the sealed order.

32. At the show cause hearing, Respondent conceded publicly posting portions of the sealed order on her Twitter account. Respondent referenced WMATA's alleged delay in paying her the \$5,000 when the court asked why she posted the tweet. Respondent also represented that she had removed the Twitter post. The court decided not to institute criminal contempt proceedings.

33. On October 16, 2019, the court referred Respondent to the Committee on Grievances for the United States District Court for the District of Columbia.

34. On May 19, 2020, the Committee on Grievances referred the matter to Disciplinary Counsel.

Respondent's Failure to Respond to Disciplinary Counsel's Investigation

35. On August 17 and September 17, 2020, Disciplinary Counsel emailed Respondent letters requesting that she submit a written response to the referral from the Committee on Grievances. Disciplinary Counsel used Respondent's email address of record with the D.C. Bar,

which is the same email address Respondent employed in the federal district court case. Neither of Disciplinary Counsel's letters were returned.

36. Respondent failed to respond to Disciplinary Counsel's letters. However, in several tweets posted publicly between August 17 and September 26, 2020, Respondent included images of letterhead from the Office of Disciplinary Counsel. Several tweets juxtaposed Disciplinary Counsel's letterhead with various phrases like, "cease and desist," and "investigate the investigators." One tweet included the first name of the Senior Assistant Disciplinary Counsel who signed Disciplinary Counsel's letters to Respondent.

37. On October 10, 2020, Disciplinary Counsel mailed a copy of its September 17 letter to Respondent's home address of record with the D.C. Bar via certified mail, return receipt requested. Over a year later, on October 29, 2021, the United States Postal Service returned the certified mailing to Disciplinary Counsel unclaimed.

38. On January 5, 2021, Disciplinary Counsel again emailed Respondent a copy of the August 17 and September 17 letters via her email address of record. Disciplinary Counsel's letters were not returned, and Respondent failed to respond.

39. On January 29, 2021, Disciplinary Counsel filed with the Board on Professional Responsibility, pursuant to Board Rule 2.10, a motion to compel Respondent's written response to the investigation. Disciplinary Counsel served its motion on Respondent by email and first-class mail, neither of which were returned.

40. Respondent did not file an opposition or otherwise respond to Disciplinary Counsel's motion.

41. On March 2, 2021, the Board issued an Order compelling Respondent to submit a written response to Disciplinary Counsel's investigation within ten days. Pursuant to Board Rule 2.10(a), the Office of the Executive Attorney sent a copy of the Board's Order to Respondent.

42. As of the date the undersigned Assistant Disciplinary Counsel executed this Specification of Charges, Respondent has failed to comply with the Board's Order, and she has not otherwise contacted the Office of Disciplinary Counsel in regard to this matter.

The Charges

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

- a. Rule 3.4(c), in that she knowingly disobeyed an obligation under the rules of a tribunal, *e.g., inter alia*, revealing confidential identifying information in a public filing, prematurely engaging in discovery, filing a motion subsequent to the court's order to refrain from doing so, and publicly revealing portions of a sealed order on Twitter.
- b. Rule 8.1(b), in that she knowingly failed to respond reasonably to a lawful demand for information regarding this matter from the Office of Disciplinary Counsel;
- c. Rule 8.4(d), in that she engaged in conduct that seriously interfered with the administration of justice; and
- d. D.C. Bar R. XI, § 2(b)(3), in that she failed to comply with an order of the Board.

Respectfully submitted,

/s/ Hamilton P. Fox, III
Hamilton P. Fox, III

Disciplinary Counsel

/s/ Jason R. Horrell

Jason R. Horrell

Assistant Disciplinary Counsel

OFFICE OF DISCIPLINARY COUNSEL

515 5th Street, N.W.

Building A, Room 117

Washington, D.C. 20001

202-638-1501

VERIFICATION

I declare under penalty of perjury under the laws of the United States of America that I verily believe that the facts stated in the Specification of Charges to be true and correct.

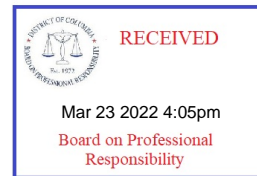
Executed on this 3rd day of March, 2022.

/s/ Jason R. Horrell

Jason R. Horrell

Assistant Disciplinary Counsel

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



In the Matter of

DARLENE C. JACKSON, ESQUIRE

Respondent

Bar Registration No. 445931

Date of Admission: March 3, 1995

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: Disciplinary Docket No. 2020-D171

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/ Hamilton P. Fox, III _____

Hamilton P. Fox, III

Disciplinary Counsel

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