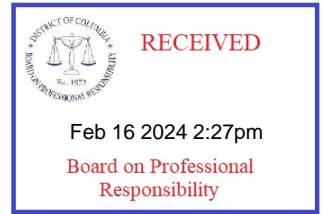


**DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY**



In the Matter of :

IRIS McCOLLUM GREEN, ESQUIRE :
Respondent, :

A Member of the Bar of the :
District of Columbia Court of Appeals :
Bar Number: 932590 :
Date of Admission: 8/22/1977 :

Disciplinary Docket No. 2021-D173

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 Rule X and Rule XI, § 2(b).

Jurisdiction for this disciplinary proceeding is prescribed by D.C. Bar Rule XI. Pursuant to D.C. Bar Rule 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 by examination on August 22, 1977, and assigned D.C. Bar number 932590. Respondent's principal area of practice is civil litigation.

The Rules and standards that Respondent violated are as follows:

2. On January 31, 2020, Michelle Berry filed a *pro se* complaint seeking a divorce from Rasheed Berry, *Berry v. Berry*, 2020 DRB 000390. The complaint for divorce was filed in D.C. Superior Court. Ms. Berry asked for an absolute divorce, alimony, custody, child support, and division of marital property. Ms. Berry initially proceeded *pro se*, but on March 10, 2020, retained Jeffrey Markowicz to represent her. Ms. Berry's Complaint, Summons and Notice of Hearing were served on Mr. Berry on February 19, 2020. Accordingly, Mr. Berry's responsive pleading was due on March 11, 2020.

3. On or about March 9, 2020, Respondent entered her appearance in the divorce action on behalf of Rasheed Berry by way of filing a Motion to Continue Initial Hearing Date. The initial hearing was scheduled for the following day, March 10, 2020. Respondent's Motion to Continue states she was retained "today (March 3, 2020)" and made other references to March 3, 2020, and included a Certificate of Service dated March 3, 2020. But the Motion was not filed until March 9, 2020, one day prior to the scheduled hearing.

4. The Court held the hearing on March 10, 2020. Although Mr. Berry's answer and counterclaim to the divorce were due on March 10, 2020, during

the March 10th status hearing, upon Respondent's request, the Court extended the time for Mr. Berry to file an answer until March 23, 2020.

5. On April 15, 2020, Plaintiff filed a Motion for Entry of a Default Judgment. On April 21, 2020, nearly thirty days after the extended deadline, Respondent filed Mr. Berry's answer and counterclaim. In the Opposition to Plaintiff's Motion for Default filed on April 22, 2020, Respondent claimed that she could demonstrate "excusable neglect" for failing to file Defendant's answer and counterclaim on time due to becoming ill the day after the initial scheduling conference and then not returning to her office as a result of COVID-19. Respondent also claimed that the Court's March 18th Amended Coronavirus Order extended the time for filing the answer, even though the Amended Coronavirus Order specifically exempted deadlines that were "otherwise ordered by the Court."

6. On April 20, 2020, Plaintiff filed a Motion for Pendente Lite Relief to which Respondent filed an opposition on May 22, 2020, more than two weeks after it was due.

7. On August 29, 2020, Plaintiff filed a Motion for Sanctions, claiming that Defendant's responses to Plaintiff's April 16, 2020 discovery requests (which were not served until June 18, 2020) were deficient. On

November 24, 2020, Judge Wingo denied the Motion for Sanctions, but ordered that all discovery in the case would be due December 31, 2020. Respondent did not serve her discovery responses until January 4, 2021.

8. On February 19, 2021, Plaintiff filed a Second “Motion to Immediate Sanctions” and noted that Defendant’s discovery responses were still deficient. At a status hearing held on February 22, 2021, Judge Wingo granted Respondent’s oral request for additional time to respond to Plaintiff’s Second Motion for Immediate Sanctions. At a status hearing held on February 22, 2021, Judge Wingo granted Respondent’s oral request for additional time to respond to Plaintiff’s Second Motion for Immediate Sanctions. Respondent filed an opposition to said motion. Then, on March 21, 2021, Respondent filed the motion she already filed out of time.

9. On March 31, 2021, the Court orally granted, in part, the February 19, 2021, Motion to Immediate Sanctions, finding that Defendant’s responses to discovery were clearly deficient. The Court ordered Defendant to pay attorney’s fees to the Plaintiff and imposed sanctions against both him and Respondent in the amount of \$4,427.50. The Court orally ordered Defendant to submit proper responses to Plaintiff’s discovery requests by

April 30, 2021, and scheduled a status hearing on June 11, 2021, and a pretrial conference on August 11, 2021.

10. On March 31, 2021, prior to the hearing, Respondent filed Defendant's Motion to Compel and for Sanctions. In the Motion, Respondent complained that, in answering interrogatories, Plaintiff failed to attach requested documents. However, Judge Wingo previously had pointed out that it was inappropriate to ask for documents in an interrogatory. Motion also failed to comply with the requirements of setting forth the exact language of the request and the specific nature of deficiencies.

11. Despite having been ordered multiple times to respond to discovery on time and in full, Respondent continuously late-filed incomplete responses to Plaintiff's Interrogatories and Request for Production of Documents. Respondent would not respond to discovery requests by Plaintiff and repeatedly ignored opposing counsel's emails and phone calls.

FAILURE TO APPEAR FOR COURT

12. On May 24, 2021, the Court ordered Respondent and her client to appear on June 11, 2021, for a hearing to discuss their March 31st Motion to Compel and for Sanctions.

13. On June 11, 2021, Respondent and her client failed to appear for a motion hearing even though they were present on May 24, 2021 when the Court scheduled the hearing. The Court called Respondent, and she and her client eventually appeared, approximately 30 minutes late, with Respondent stating that she “mislaidd notification of today’s hearing and so did [her] client.” The Court ordered Defendant and counsel to pay sanctions in the amount of \$288.75 for time wasted by their lateness. During the hearing, Respondent was unprepared to support her client’s Motion to Compel. The Court denied the motion, without prejudice, and told Respondent what she needed to include in any renewed motion.

14. During the hearing, the Court repeatedly asked Respondent to stop interrupting her and described her as “yelling” at the Court.

MISREPRESENTATION ABOUT JOINT DOCUMENT

15. On April 1, 2021, the Court issued a Pretrial Scheduling Order directing the parties, through counsel, to submit a “Joint Pretrial Statement” on or before August 4, 2021. Mr. Markowicz and Respondent exchanged a number of emails about scheduling a meeting to discuss the Joint Pretrial Statement. Eventually, Respondent and Mr. Markowicz spoke on the phone and agreed that Respondent would incorporate Defendant's portion of the

pretrial statement. Mr. Markowicz indicated that he would transmit his portion of the Joint Statement to Respondent, which he did at 9:26 a.m. on August 3. Respondent provided him with the integrated Joint Pretrial Statement at 7:30 p.m. on August 3, but indicated that she would need to review it again and would be submitting “Addenda” with it. The next morning, Mr. Markowicz sent the Joint Pretrial Statement back to Respondent, which she edited and sent to him again at 11:45 a.m., again stating that she intended to file “Addenda.” Mr. Markowicz responded 13 minutes later stating that he would not allow her to submit “Addenda” without an opportunity to review them. However, Respondent failed to follow up with Mr. Markowicz after assuring him at 12:28 p.m. that she would not submit anything related to the Joint Pretrial Statement without sharing it with him. Mr. Markowicz never gave final approval to the joint statement.

16. On August 4, 2021, at 4:13 p.m., Mr. Markowicz filed “Plaintiff’s Pre-Trial Statement.” Respondent admitted that she received notification of the filing of a Pretrial Statement by Mr. Markowicz at 4:14 p.m. but did not immediately retrieve the document or any other filings from Casefile Express as “she was stunned by this filing, and at the time had no idea what Mr. Markowicz had filed.”

17. Respondent waited until around midnight to print out Mr. Markowicz filing, “which at the time, she thought was the joint pretrial statement without her signature.” Upon realizing that the filing was “Plaintiff’s Pretrial Statement,” Respondent at 12:55 a.m. on August 5, 2021, filed the document labelled “Joint Pretrial Statement” with the Court which included a notation in the signature block that Mr. Markowicz had signed the joint statement. Respondent did not make any changes to Plaintiff’s proposed language when she submitted the joint statement, and the Plaintiff’s portion of Respondent’s joint statement was the same in substance as Plaintiff’s Pretrial Statement. Respondent added the statement language: "We, counsel for the parties, hereby state as follows...." which was not true as Respondent filed her document without actually having shared the final copy of her document with Mr. Markowicz.

18. On August 5, 2021, Mr. Markowicz filed a Motion to Strike the Joint Pretrial Statement filed by Respondent. In her explanatory Affidavit filed with the Court on August 5th, Respondent stated that she was unable to finalize the pretrial statement on time because she needed to confer with her client “before finally deciding whether or not to submit the proposed “Addenda” as an attachment to the Joint Pretrial Statement.”

19. On August 10, 2021, Respondent filed a Motion to Strike Plaintiff's Pretrial Statement on the basis that it was not a joint statement and thus violated the Court's Pretrial Scheduling Order. Respondent's Motion to Strike was held in abeyance by the Court on August 11, 2021 and denied on August 12, 2021.

20. On August 12, 2021, the Court issued a written order granting Plaintiff's Motion to Strike Defendant's Filing of "Joint Pretrial Statement." In the August 12th order, the Court noted that the attorney's fees assessed against Respondent and her client as discovery sanctions were due on June 24, 2021, but remained unpaid. The Court ordered that the fees were to be paid by August 25, 2021.

21. On August 12, 2021, the Court ordered Defendant to provide updated responses to Plaintiff's discovery requests by August 30, 2021.

22. On September 19, 2021, the Court issued an order, noting that the Court was unable to efficiently evaluate Plaintiff's claims regarding outstanding discovery due to "[Respondent's] failure to have the information organized and easily accessible to demonstrate what had actually been provided." The Court continued the matter for yet another discovery hearing

and provided explicit directions to counsel regarding what they needed to provide to the court.

23. The Court specifically noted the highly inappropriate conduct of Defendant and Respondent, “both of whom repeatedly talked over the Court, refused to stop talking when the Court directed them to do so, and at one point even talked over each other.” The Court found their conduct had delayed resolution of the issues and contributed to the need for the continued hearing.

24. At the October 13, 2021 hearing, Respondent’s client still had not paid one-half of the discovery sanction - \$2,213.75. The Court emphasized that there was no excuse for Defendant’s failure to pay as he earns a six-figure income and has significant assets and ordered it to be paid by the next hearing, by cashier’s check or in cash. The Court scheduled a further hearing for December 9, 2021.

25. On December 8, 2021, the Court issued a scheduling order continuing the hearing for December 20, 2021, at noon. The order was served on Respondent via CaseFile Xpress. Prior to scheduling the date, the Court had conferred with Respondent and accommodated her schedule.

26. On December 19, 2021, the Court entered a default against Respondent’s client, Mr. Berry, for not providing discovery.

27. On December 19, 2021, the Court emailed counsel for the parties about the hearing the next day. The Court's email was served on Respondent via CaseFile Xpress.

28. On December 20, 2021, Respondent and her client failed to appear for the hearing. The Court entered a default as to all remaining issues in the case, including child custody and child support. The Court scheduled an *ex-parte* hearing for Plaintiff to present evidence. Respondent's client was precluded from presenting evidence because of his "egregious failure to provide basic financial information and documents, despite a previous order compelling production."

29. On January 3, 2022, Respondent moved to set aside the December 20, 2021 default. Respondent said that she inadvertently did not attend the hearing and argued that her client should not be punished for her inadvertence.

30. On March 11, 2022, the Court vacated the default as to custody. Based on Respondent's failure to appear, the Court ruled it would impose a monetary sanction to be paid by Respondent, in an amount to be determined later. Based on Respondent's failure to appear, the Court found that Plaintiff was

prejudiced by the delay. Respondent's failure to comply with court orders and her dilatory behavior cost the Plaintiff approximately \$52,466.24.

Respondent's conduct violated the following Rules of Professional Conduct

- a. Rule 1.1(a), in that, Respondent failed to provide competent representation to her client;
- b. Rule 1.1(b), in that, Respondent failed to serve her client with skill and care commensurate with those generally afforded clients by other lawyers in similar matters;
- c. Rule 1.3(c), in that, Respondent failed to act with reasonable promptness in representing her client;
- d. Rule 3.4 (c), in that, Respondent knowingly disobeyed an obligation under the Rules of the Tribunal;
- e. Rule 3.4(d), in that, Respondent failed to make reasonably diligent efforts to comply with a legally proper discovery requests by an opposing party;
- f. Rule 8.4(c), in that, Respondent engaged in conduct that involved dishonesty;
- g. Rule 8.4(d), in that, Respondent engaged in conduct that seriously interfered with the administration of justice.

Respectfully submitted,

/s/Hamilton P. Fox, III

Hamilton P. Fox, III
Disciplinary Counsel

Cynthia Wright

Cynthia G. Wright
Assistant Disciplinary Counsel

OFFICE OF DISCIPLINARY COUNSEL
515 5th Street, N.W.
Building A, Room 117
Washington, D.C. 20001
(202) 638-1501 extension 1722

VERIFICATION

I declare on January 29, 2024, under penalty of perjury, that I believe the foregoing facts stated in the Specification of Charges and Petition are true and correct.

Cynthia Wright

Cynthia G. Wright

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

Hamilton P. Fox, III

Hamilton P. Fox, III
Disciplinary Counsel
515 Fifth Street, N.W.
Building A, Room 117
Washington, D.C. 20001
(202) 638-1501
Fax: (202) 638-0862