

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



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**In the Matter of** :  
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**KEVIN P. MURPHY, ESQUIRE,** :  
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 : **Disciplinary Docket No.**  
 : **2023-D133**  
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**Respondent,** :  
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**A Member of the Bar of the** :  
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**District of Columbia Court of Appeals.** :  
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**Bar Number: 496103** :  
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**Date of Admission: August 14, 2006** :  
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**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 August 14, 2006, and assigned Bar number 496103.

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

2. In March 2016, L.C.Q. (then 16 years old) came to the United States from El Salvador without immigration status to escape gang violence. She was

apprehended by U.S. immigration officials at the border but released pending removal proceedings. She reunited with her mother, who had previously come to the United States and was living in Virginia. Her father remained in El Salvador.

3. After she reunited with her mother, L.C.Q. completed an intake with Kids in Need of Defense (“KIND”), which is a non-profit organization that partners with law firms to provide pro bono representation to unaccompanied minors in legal proceedings after their arrival in the United States. KIND determined that L.C.Q. may qualify for Special Immigrant Juvenile (“SIJ”) Status, which is available to undocumented immigrants under the age of 21 and allows them to apply for lawful permanent residency.

4. KIND referred L.C.Q. to the law firm of O’Melveny & Myers. The firm agreed to represent her for free regarding a petition for SIJ status, a subsequent application for lawful permanent residency, and in defending against removal from the United States. In late February 2017, Respondent, who was a staff attorney at O’Melveny, became counsel for L.C.Q.

5. An attorney at KIND mentored Respondent in his representation of L.C.Q. Because many pro bono attorneys may not have experience in immigration law, the role of a KIND mentor is to, *inter alia*, provide guidance on case strategy, feedback on draft documents, mock adjudications, and various templates and

checklists for the representation. The mentor does not, however, represent the client.

6. As a condition precedent to obtaining SIJ status, L.C.Q.'s mother needed to obtain a family court order granting her full custody, with a finding that the father had abused, neglected, or abandoned the child. Respondent, working with other attorneys in his firm, successfully represented L.C.Q.'s mother in this process, which concluded on November 2, 2017.

7. On or about June 15, 2018, Respondent filed a petition for SIJ Status on L.C.Q.'s behalf with the United States Citizenship and Immigration Services ("USCIS"). As an oversight, Respondent did not answer one of the petition's required questions, *i.e.*, whether L.C.Q. was married. A petitioner must be unmarried to qualify for SIJ status.

8. On November 12, 2019, USCIS mailed Respondent a Request for Evidence letter asking for evidence that L.C.Q. was unmarried. USCIS required that the evidence be provided by February 7, 2020. It warned that the case would be dismissed if the requested evidence was not received by that date.

9. The envelope from USCIS was placed unopened in Respondent's mailbox on his desk at the law firm by a mailroom clerk. It was addressed to L.C.Q. and Respondent. Respondent did not have a regular practice of going through

correspondence in his mailbox, although he knew USCIS would communicate with him about L.C.Q.'s case by mail, and even though he had previously received mail from immigration officials regarding L.C.Q.'s case. As a result, Respondent did not see the envelope, open it, or respond to USCIS by the deadline.

10. In mid-March 2020, Respondent's law firm closed its offices due to the COVID-19 pandemic and required staff to work from home. Before he left, Respondent sorted the correspondence in his mailbox and saw the envelope from USCIS for the first time. However, Respondent did not open the envelope and instead placed it in the client's physical file. He did not take the physical file home with him.

11. On March 31, 2020, USCIS mailed Respondent a decision letter. The mailroom at his law firm opened, scanned, and emailed a copy of the letter to him, since staff was still working remotely. This letter notified him that USCIS had not received a response to its Request for Evidence, and that L.C.Q.'s SIJ petition had therefore been denied. This letter also informed Respondent that the decision could not be appealed, but that he could file a motion to reopen or reconsider within 30 days. Based on this letter, Respondent requested that his firm send him the physical file. When he received the file, he reviewed the Request for Evidence letter for the first time.

12. Respondent did not file a motion to reopen or reconsider within the 30 days allowed, and he did not otherwise request any sort of relief from USCIS regarding the denial of L.C.Q.'s SIJ petition.

13. Over the course of the next 37 months, Respondent communicated intermittently with the client by email. He never informed the client that he missed the deadline to respond to the Request for Evidence, that her SIJ petition had been denied as a result, or that he ignored the deadline to file a motion to reopen or reconsider. Instead, Respondent told L.C.Q. that he was working on the next step in her immigration case, which was obtaining lawful permanent residency, and he requested information from her to complete an application. As a result, L.C.Q. was misled into believing that her immigration case was proceeding appropriately without issue.

14. During this time, Respondent also did not respond substantively to his KIND mentor's requests to know the status of the SIJ petition. Instead, he falsely told her in May 2022 that he "ha[d] not received anything" from USCIS regarding the petition.

15. On May 16, 2023, Respondent finally informed his KIND mentor that L.C.Q.'s petition for SIJ status had been denied more than three years prior. KIND thereafter informed L.C.Q., who terminated Respondent's representation.

This was the first time the client learned that her SIJ petition had been denied. KIND referred her to another law firm (“successor counsel”) for pro bono assistance.

16. On June 23, 2023, successor counsel filed a motion to reopen with USCIS, arguing that Respondent had provided L.C.Q. with ineffective assistance of counsel and that she was otherwise eligible for SIJ status.

17. On September 21, 2023, USCIS reopened L.C.Q.’s SIJ petition. She subsequently hired successor counsel at the firm’s normal hourly rate to prosecute the re-opened SIJ petition and subsequent application for lawful permanent residency because the firm could not represent her further on a pro bono basis.

18. On June 7, 2024, USCIS approved L.C.Q.’s SIJ petition.

19. Respondent’s conduct violated the following District of Columbia Rules of Professional Conduct and/or parallel EOIR grounds for discipline under 8 C.F.R. § 1003.102:

- a. Rule 1.1(a) and/or 8 C.F.R. § 1003.102(o), in that he failed to provide his client with competent representation;
- b. Rule 1.1(b), in that he failed to serve his client with skill and care commensurate with that generally afforded to clients by other lawyers in similar matters;

- c. Rule 1.3(a) and/or 8 C.F.R. § 1003.102(q), in that he failed to represent his client zealously and diligently;
- d. Rule 1.3(b)(1), in that he intentionally failed to seek the lawful objectives of his client through reasonably available means;
- e. Rule 1.3(b)(2), in that he intentionally prejudiced or damaged his client in the course of the professional relationship;
- f. Rule 1.3(c) and/or 8 C.F.R. § 1003.102(q), in that he failed to act with reasonable promptness in representing his client;
- g. Rule 1.4(a) and/or 8 C.F.R. § 1003.102(r)(3), in that he failed to keep his client reasonably informed about the status of the matter;
- h. Rule 1.4(b) and/or 8 C.F.R. § 1003.102(r), in that he failed to explain the matter to the extent reasonably necessary to permit his client to make informed decisions regarding the representation;
- i. Rule 4.1(a) and/or 8 C.F.R. § 1003.102(c), in that he knowingly made a false statement of material fact to a third person in the course of representing his client;
- j. Rule 8.4(c), in that he engaged in conduct involving dishonesty, and/or 8 C.F.R. § 1003.102(c), in that he willfully misled, misinformed or deceived another person concerning relevant and material matters

relating to his client's case; *and*

- k. Rule 8.4(d), in that he engaged in conduct that seriously interfered with the administration of justice, and/or 8 C.F.R. § 1003.102(n), in that he engaged in conduct that is prejudicial to the administration of justice.

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 5<sup>th</sup> 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 16<sup>th</sup> day of July, 2024.

s/ Jason R. Horrell

JASON R. HORRELL

*Assistant Disciplinary Counsel*





**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

515 Fifth Street, N.W.

Building A, Room 117

Washington, D.C. 20001

(202) 638-1501

Fax: (202) 638-0862