

**THE FOLLOWING INFORMAL ADMONITION WAS ISSUED
BY BAR COUNSEL ON
August 4, 2007**

**BY FIRST-CLASS AND CERTIFIED
MAIL NO. 71603901984984056844**

Samuel Bailey
c/o Karl W. Carter, Jr., Esquire
1050 - 17th Street, N.W.
Suite 1000
Washington, D.C. 20036

In re Samuel Bailey, Esquire
D.C. Bar No. 384974
Bar Docket No. 2005-D136

Dear Mr. Bailey:

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.

The Complaint

We docketed this matter based upon a complaint by S.McC. alleging that you neglected her matter by failing to communicate with her. She asserts that you failed to provide her with updates despite repeated requests, failed to provide her copies of documents associated with her litigation, and later failed to inform her that you would not be able to proceed with her case due to your upcoming suspension in an unrelated matter.

Your Response

You deny that you failed to communicate with your client, contending that she was difficult to reach due to frequent travel. You further state that the specifics of her case were complicated and resulted in miscommunication because of her "confusion." You state that, as of the time you filed your response (four months after we wrote you enclosing the disciplinary complaint), you had never been suspended, although you acknowledge that there was "a matter pending before the District of Columbia [Court of] Appeals. . . ."

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Our Investigation

Bar Counsel subpoenaed your office file in this case. Upon reviewing it, there do not appear to be any letters updating your client on the status of her case or that you would be unable to proceed in her case due to an upcoming suspension. The only letter you later provided our office as proof that you informed her of your upcoming suspension was dated and presumably mailed on October 10, 2005 – the day before a mediation that you and she were scheduled to attend on October 11, 2005, in an effort to resolve the litigation short of trial.

Our investigation reveals that you failed to attend the mediation and failed to inform your client in advance that you would not represent her interests there. Consequently, she appeared, expecting you to be there, as well. The mediation went forward in your absence on October 11, but no agreement was reached. Four days later – on October 15, 2005 – your nine-month suspension became effective.

Your client found out about your suspension from the Office of Bar Counsel.

Although the District of Columbia Court of Appeals issued its decision suspending you by order dated September 15, 2005, you did not inform your client of the order or provide her a copy of the order at any time before the scheduled mediation. And although D.C. Bar R. XI, Section 14 mandates that you inform all your clients of your suspension and do so in a specific manner, your client found out about your upcoming suspension not from you but from the Office of Bar Counsel. Indeed, in the notice you were required to file pursuant to Section 14, you did not list this client as one of the clients you had notified of your suspension, a matter which we have addressed directly with the Court.

Legal Analysis

Under Rule 1.4 (Communication):

- (a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.
- (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

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We conclude that you violated these Rules in that you failed to keep your client updated about the status of her matter despite her repeated requests, and you failed to inform her that you would not attend the mediation with her, preventing her from taking appropriate and timely steps to protect her interests.

Under Rule 1.16 (Declining or terminating representation):

(d) In connection with any termination of representation, a lawyer shall take timely steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, *allowing time for employment of other counsel*, surrendering papers and property to which the client is entitled and refunding any advance payment of fee that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by Rule 1.8(i).

(Emphasis added.)

We conclude that you violated this Rule when you failed to notify your client before the mediation that you would not attend or your reason for failing to do so, depriving her of the knowledge that she needed to employ other counsel to protect her interests in the mediation.

Conclusion

We are issuing you this informal admonition because you cooperated with our investigation, there is no evidence that your client was prejudiced by your misconduct (other than unnecessary delay), and she was able to retain successor counsel shortly after the mediation in question.

This letter constitutes an Informal Admonition pursuant to D.C. Bar Rule XI, § 3, 6, and 8 and is public when issued. Please refer to the attachment to this letter of Informal Admonition for a statement of its effect and your right to have it vacated and have a formal hearing before a Hearing Committee.

If you would like to have a formal hearing, you must submit a written request for a hearing to the Office of Bar Counsel, with a copy to the Board on Professional Responsibility, within 14 days of the date of this letter, 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). The case will then be assigned to a Hearing Committee, and a hearing will

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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

Encl.: Attachment to Letter of
Informal Admonition

WES:TMT:act

Sent Regular and Certified Mail No. 71603901984984056844

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