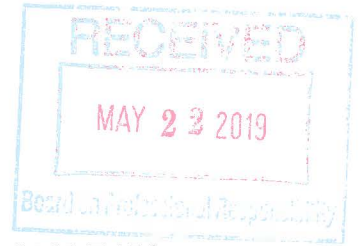


**DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY**



In the Matter of :
 :
WILLIAM H. BRAMMER, JR., ESQUIRE, :
 :
 Respondent :
 :
 Member of the Bar of the District of :
 Columbia Court of Appeals :
 Bar Number: 478206 :
 Date of Admission: July 8, 2002 :
 :
 :
 :

Bar Docket Nos. 2012-D174

PETITION FOR NEGOTIATED DISCIPLINE

Disciplinary Counsel and William H. Brammer, Jr., Esquire, (“Respondent”), represented by Daniel Schumack, Esquire, agree to enter into a negotiated discipline pursuant to D.C. Bar Rule XI, § 12.1 and Board Rule 17.3. Respondent is the subject of the above-referenced investigation by Disciplinary Counsel pursuant to D.C. Bar Rule XI §§ 6(a)(2), 8(a) and Board Rule 2.1. The parties agree that a 30-day suspension, stayed upon the successful completion of probation and restitution to his client in the amount of \$5,000, is the appropriate discipline for his misconduct.

Respondent is an attorney admitted to practice before the District of Columbia Court of Appeals, having been admitted on July 8, 2002 and assigned Bar number 478206.

I. STATEMENT OF THE NATURE OF THE MATTERS

This matter was docketed for investigation upon Disciplinary Counsel’s receipt and review of an ethical complaint filed by Respondent’s former client, Neema Mgana, reporting that Respondent had neglected her case.

II. STIPULATION OF FACTS AND CHARGES

1. Respondent was retained by Ms. Neema Mgana on February 15, 2005 to represent her in pursuit of remedies for the breach of a professional services contract by her employer. Respondent agreed to represent the client on an hourly basis of \$200 per hour. The initial retainer payment was \$5,000, which the client paid in two installments.

2. Respondent conducted legal research regarding Ms. Mgana's claim and developed a litigation strategy. Respondent also contacted the putative defendant for purposes of attempting to negotiate settlement, but settlement overtures were rebuffed.

3. In or about June 2006, Respondent's wife accepted a position in California. Shortly thereafter, Respondent moved to California with his wife.

4. Respondent did not regularly communicate with Ms. Mgana during the representation, due to his relocation to California and a disability (as described in more detail below).

5. In March 2007 and again in August 2007, Respondent suggested to Ms. Mgana that she retain additional counsel to assist him with her claim. Ms. Mgana declined to do so because of the expense.

6. In August and September 2007, Ms. Mgana sent electronic correspondence to Respondent asking for an update on the status of her claim. Respondent did not respond to the correspondence, nor did he communicate with his client thereafter.

7. In his responses to the bar complaint, Respondent stated his belief and recollection that he returned to Ms. Mgana her file via the U.S. Postal Service in or about September 2007. He conceded that he has no USPS receipts and does not recall whether he used

Certified Mail. He further reported having found no copies of any Mgana related materials from 2006 or 2007 by which to challenge Ms. Mgana's report of events. Respondent further recalled that there were legal problems with Ms. Mgana's claims, which were not discussed at the time of engagement that seriously impacted the merits of her claim (such as visa eligibility for the job she sought and a prior settlement with the putative defendant).

8. Respondent did not file an action on behalf of his client before the statute of limitations on her claim expired.

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

- a. Rule 1.1(a), in that Respondent did not provide competent representation to his client;
- b. Rule 1.3(c), in that Respondent did not act with reasonable promptness in representing his client;
- c. Rule 1.4(a), in that Respondent did not keep his client reasonably informed about the status of a matter; and

III. MITIGATION

10. Respondent has cooperated with Disciplinary Counsel's investigation of this matter and has accepted responsibility for his misconduct.

11. Respondent's misconduct did not involve dishonesty.

12. Respondent's misconduct in this matter dates to events that began in 2005. Ms. Mgana reported this matter to Disciplinary Counsel in 2012.

13. In or about October 2006, Respondent relocated his residence to the State of

California, and unsuccessfully attempted to find successor counsel for his client's case.

14. During the time that Respondent was living in California, he was experiencing troubles in his marriage which culminated in a divorce from his wife in 2011.

15. Also, during the time relevant to his representation of Ms. Mgana, Respondent was suffering from alcohol addiction. (The agreed sanction in this matter is not materially impacted by the principles set forth in *In re Kersey*, 520 A. 2d 321 (D.C. 1987) because the sanction agreed here would be within the range of proper sanctions even if there were no *Kersey* issues. There is, therefore, no need for the disciplinary system to determine whether Respondent could meet his burden of proof on *Kersey* in a contested case.)

16. The combination of his personal issues and his relocation to California, contributed significantly to Respondent's mishandling of Ms. Mgana's case.

17. In June 2011, Respondent voluntarily sought and received assistance for his alcohol addiction from the District of Columbia Bar's Lawyer's Assistance Program ("LAP").

18. Respondent has successfully remained sober since his involvement with LAP.

19. Disciplinary Counsel is not aware that Respondent has engaged in any other misconduct since the filing of Ms. Mgana's ethical complaint in 2012.

20. Respondent has agreed to make restitution in the amount of \$5,000 to Ms. Mgana, within one year of the approval of this petition by the Court.

IV. AGGRAVATION

Respondent was informally admonished on May 10, 2011 in the matter styled *Brammer/Saucedo*, Bar Docket No. 2010-D338, for a violation of Rules 1.1(a) and (b) and 1.4(b).

V. AGREED UPON SANCTION

The parties agree that the appropriate sanction in this matter is a 30-day suspension, stayed upon the successful completion of a period of probation, during which Respondent will not engage in any ethical misconduct. The sanction for violating Rules of Professional Conduct involving competency, diligence, and communications ranges from informal admonition up to and including a suspension from the practice of law. See *In re Fay*, 111 A. 2d 1025 (D.C. 2015) (informal admonition for violating Rule 1.1(b), 1.3(a) and (c), 1.4(a) and (b) and 1.5(b); *In re Chapman*, 962 A.2d 922 (D.C. 2008) (public censure for neglect of a client); *In re Douglass*, 745 A. 2d 307 (D.C. 200) (public censure for violating Rules 1.2(a) and (b), 1.3(a) and (c); serious misconduct mitigated by death of lawyer's mother and his son, as well as his son's serious medical problems, all in the year before his misconduct); *In re Francis*, 137 A 2d 187 (D.C. 2016) (30-day suspension for neglect and other violations, stayed on condition of completion of probation). More severe sanctions are imposed where the attorney's neglect is accompanied with violations involving dishonesty, fraud, misrepresentation or deceit. See *In re Outlaw*, 917 A. 2d at 689 (60-day suspension); *In re Schoeneman*, 891 A 2d 279 (D.C. 2006) (four-month suspension for neglect of three matters, failure to communicate, dishonesty and serious interference with the administration of justice), *In re Chisholm*, 679 A. 2d 495 (D.C. 1996) (six-month suspension for extensive neglect, deceit and significant prejudice to the client).

Respondent's earlier discipline was an informal admonition issued in 2011, for violating Rules 1.1(a) and (b) and Rule 1.4(b) for failing to provide competent representation in an immigration matter. Given Respondent's prior receipt of an informal admonition, the parties agree that he is not eligible for an informal admonition in this matter.

However, given that the misconduct in the prior informal admonition case as well as the misconduct on this docket occurred more than ten years ago, the sanction herein need not be severe. *See In re Parsons*, BDNNo. 72-91, Brd. Rpt. dated Feb. 1, 1996, aff'd 678 A. 2d 1022 (D.C. 1998). Additionally, Respondent's misconduct described in the prior informal admonition took place before he became a client of the D.C. Bar's LAP. Nonetheless, a stayed suspension, coupled with the successful completion of probation is the appropriate sanction. *In re Francis, supra*. The terms of Respondent's probation are that he not engage in any ethical misconduct for a period of one year from the date that the court approves this petition for negotiated discipline and that he make full restitution, during that year.

VI. RELEVANT PRECEDENT

1. Rule 1.1(a) provides:

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

Comment [5] to Rule 1.1 explains that a competent representation:

Includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods and procedures meeting the standards of competent practitioners. It also includes adequate preparation and continuing attention to the needs of the representation to assure that there is no neglect of such needs. The required attention and preparation are determined in part by what is at stake; major litigation and complex transactions ordinarily require more elaborate treatment than matters of lesser consequence.

In *In re Evans*, 902 A.2d 56 (D.C. 2006) (per curium), the Court adopted the report and recommendation of the Board regarding proof of violation of Rule 1.1(a).

To prove a violation, Bar Counsel must not only show that the attorney failed to apply his or her skill and knowledge, but that this failure

constituted a serious deficiency in the representation.

Id. at 69 (citations omitted).

To prove a “serious deficiency”, Disciplinary Counsel must show that the attorney’s incompetence. . . could have prejudiced the client. *In re Yelverton*, 105 A.3d 413, 422 (D.C. 2014). In this matter, the client was deprived of the opportunity to pursue her claim.

2. Rule 1.3(c) provides:

“A lawyer shall act with reasonable promptness in representing a client”.

Comment [1] to the rule provides pertinently that “[t] his duty requires the lawyer to pursue a matter on behalf of a client despite opposition, obstruction, or personal inconvenience to the lawyer, and to take whatever lawful and ethical measures are required to vindicate a client’s cause or endeavor”.

3. Rule 1.4 provides:

(a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.


Respondent’s failure to consistently communicate with his client throughout the representation and his specific failure to respond to his clients’ August and September 2007 requests for an update of the status of her case evinces Respondent’s violation of Rule 1.4. Respondent’s failure to file suit or formally terminate the representation prior to September 2007 evinces a violation of Rule 1.3(c).

IX. PROMISES


Respondent acknowledges that Disciplinary Counsel has made no promises or inducements other than what is contained in this petition for negotiated discipline.

WHEREFORE, the Office of Disciplinary Counsel and Respondent requests that the Executive Attorney assign a Hearing Committee to review the petition for negotiated disposition pursuant to D.C. Bar Rule XI, § 12.1(c).


Dated:



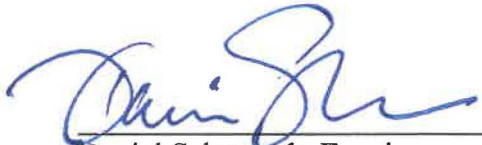
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