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

**In the Matter of**

**PABLO M. ZYLBERGLAIT,**

**Respondent**

**A Member of the Bar of the  
District of Columbia Court of Appeals**

**Bar Number: 453710**

**Admitted: January 6, 1997**

**DCCA No. 20-BG-115**

**Board Docket No. 20-BD-014**

**Disc. Docket No. 2019-D244**

**PETITION FOR NEGOTIATED DISCIPLINE**

Pursuant to D.C. Bar R. XI, § 12.1 and Board Rule 17.3, the Office of Disciplinary Counsel and Respondent Pablo M. Zylberglait respectfully submit this Petition for Negotiated Discipline in the above-captioned matter. Jurisdiction for this disciplinary proceeding is prescribed by D.C. Bar R. XI, § 1(a), because Respondent is a member of the Bar of the District of Columbia Court of Appeals.

**I. STATEMENT OF THE NATURE OF THE MATTER BROUGHT TO  
DISCIPLINARY COUNSEL'S ATTENTION**

This is a disciplinary proceeding based upon Respondent's guilty plea to attempted voyeurism in violation of D.C. Code § 22-3531(d), a misdemeanor. On February 13, 2020, the District of Columbia Court of Appeals referred this matter to Disciplinary Counsel for investigation. Order, *In re Zylberglait*, 20-BG-115 (D.C.

Feb. 13, 2020). Attempted voyeurism does not constitute a “serious crime” as defined in D.C. Bar R. XI, § 10(b).

## **II. STIPULATIONS OF FACTS AND CHARGES**

1. Respondent is a member of the Bar of the District of Columbia Court of Appeals, having been admitted by motion on January 11, 1997, and assigned Bar number 453710. 62

2. On June 5, 2019, Respondent stood behind a woman on the escalator at the L’Enfant Plaza Metro station. Respondent placed his cell phone on top of his duffel bag and attempted to record images under the woman’s skirt. Respondent did not have the woman’s consent to take images under her skirt. Respondent’s actions were recorded on Metro security cameras.

3. A witness who knew the victim confronted Respondent on the escalator and alerted the victim of Respondent’s actions. After exiting the escalator, the victim confronted Respondent, asked to view the photos on his phone, and saw blurry photos or video that appeared to have been taken that day.

4. After his arrest, Respondent cooperated with the government. On September 24, 2019, Respondent pled guilty to attempted voyeurism. He was sentenced to 60 days incarceration, with execution of sentence suspended, and placed on three months of unsupervised probation. Respondent has successfully completed the terms of his probation.

5. Respondent violated Rule 8.4(b) of the District of Columbia Rules of Professional Conduct, in that Respondent committed a criminal act that reflected adversely on his honesty, trustworthiness, or fitness as a lawyer in other respects.

### **III. STATEMENT OF PROMISES MADE BY DISCIPLINARY COUNSEL**

In connection with this Petition for Negotiated Discipline, Disciplinary Counsel agrees not to pursue any charges arising out of the conduct described in Section II, *supra*, other than those set forth above, or any sanction for that misconduct other than that set forth below.

### **IV. DISCIPLINARY COUNSEL'S CERTIFICATIONS REGARDING MORAL TURPITUDE**

Pursuant to the framework set forth in *In re Rigas*, 9 A.3d 494, 497 (D.C. 2010), Disciplinary Counsel certifies the following:

(1) Respondent's crime cannot involve moral turpitude *per se* because it is a misdemeanor.

(2) Disciplinary Counsel has exhausted all reasonable means of inquiry to find proof in support of moral turpitude. The only evidence Disciplinary Counsel has regarding the offense is Respondent's admissions made as part of his guilty plea.

(3) Disciplinary Counsel does not believe that there is sufficient evidence to prove moral turpitude on the facts.

(4) All of the facts relevant to a determination of moral turpitude are set forth in the petition.

(5) Any cases regarding similar offenses have been cited in the petition.

#### **V. AGREED UPON SANCTION**

Disciplinary Counsel and Respondent agree that the sanction to be imposed in this matter is a six-month suspension, stayed, and six months of unsupervised probation during which Respondent must continue complying with the recommendation of his therapist and provide Disciplinary Counsel with monthly reports regarding his compliance with this term.

Respondent and Disciplinary Counsel agree that there are no additional conditions attached to this negotiated discipline that are not expressly agreed to in writing in this Petition.

#### **VI. RELEVANT PRECEDENT**

The agreed sanction in a negotiated discipline case must be supported by relevant precedent under D.C. Bar R. XI, § 12.1(b)(1)(iv) and justified when taking into consideration the record as a whole under Board Rule 17.5(a)(iii). Although there is no precedent involving Respondent's specific crime, there is caselaw that provides guidance regarding the parties' agreed-upon sanction in this matter.

In *In re Harkins*, 899 A.2d 755 (D.C. 2006), the Court imposed a 30-day suspension (as opposed to public censure), for conduct involving misdemeanor sexual abuse in the form of unwanted touching on a Metro train. While non-precedential, the Court has imposed a stayed suspension in a negotiated matter

involving an attorney who “used his work-issued phone to take lewd photographs and video of clothed, unaware, and nonconsenting individuals.” *In re Fuller*, 172 A.3d 886 (D.C. 2017). The non-consensual filming in *Fuller* took place over a period of months and occurred in both the attorney’s workplace and in public venues.

Respondent’s conduct is also readily distinguishable from the much more serious video voyeurism that resulted in disbarment in *Cross*. *In re Cross*, 155 A.3d 835 (D.C. 2017) (adopting Board finding that secretly taping in a gym locker room using a concealed camera, then using force to break into a toilet stall and wrest his camera from the victim, involved moral turpitude on the facts). The misconduct in *Cross* was aggravated by repeated false testimony in an attempt to avoid responsibility. *In re Cross*, 12-BD-086 at 27 (BPR July 29, 2016). *Cross* also violated a different subsection of the voyeurism statute relating to recording in places with heightened expectations of privacy. D.C. Code § 22-3531(c).

Because Respondent’s misconduct was a single incident rather than the lengthy course of conduct in *Fuller*, did not involve the physical violence or deceit found in *Cross*, and did not involve the physical harassment in *Harkins*, a six-month suspension, fully stayed, would not be “unduly lenient.” See Board Rule 17.5(a)(iii).

## **VI. MITIGATING FACTORS**

Respondent cooperated with the criminal and disciplinary investigations. He promptly began regular counseling and therapy sessions and continues to see a

licensed psychotherapist at least monthly. Respondent Disciplinary Counsel has no information suggesting Respondent has engaged in any further misconduct.

#### **VII. RESPONDENT'S AFFIDAVIT**

Accompanying this Petition is Respondent's Affidavit pursuant to D.C. Bar R. XI, § 12.1(b)(2).

#### **VIII. CONCLUSION**

Respondent and Disciplinary Counsel request that the Executive Attorney assign this matter for review pursuant to D.C. Bar R. XI, § 12.1(c) and Board Rule 17.4(b).


Dated: March \_\_\_\_, 2021

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Hamilton P. Fox, III  
Disciplinary Counsel

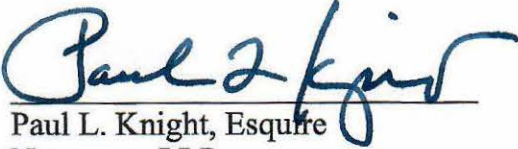
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William R. Ross  
Assistant Disciplinary Counsel



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Pablo M. Zylberglait, Esquire  
Respondent



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Paul L. Knight, Esquire  
Nossaman LLP  
1666 K Street, NW #500  
Washington, DC 20006  
Attorney for Respondent

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## **VII. RESPONDENT'S AFFIDAVIT**

Accompanying this Petition is Respondent's Affidavit pursuant to D.C. Bar R. XI, § 12.1(b)(2).


## **VIII. CONCLUSION**

Respondent and Disciplinary Counsel request that the Executive Attorney assign this matter for review pursuant to D.C. Bar R. XI, § 12.1(c) and Board Rule 17.4(b).

Dated: March 25, 2021

  
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Hamilton P. Fox, III  
Disciplinary Counsel

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Pablo M. Zylberglait, Esquire  
Respondent

  
\_\_\_\_\_  
William R. Ross  
Assistant Disciplinary Counsel

\_\_\_\_\_  
Paul L. Knight, Esquire  
Nossaman LLP  
1666 K Street, NW #500  
Washington, DC 20006  
Attorney for Respondent