



# OFFICE OF BAR COUNSEL

Certified Article Number

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SENDERS RECORD

May 14, 2012

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**VIA FIRST CLASS MAIL AND  
CERTIFIED MAIL #7160 3901 9849 1236 7721**

Christopher E. Brown, Esquire  
Brown, Brown & Brown, PC  
6269 Franconia Road  
Alexandria, Virginia 22310

Re: ***In re Christopher E. Brown***  
D.C. Bar Membership No. 458897  
Bar Docket No. 2011-D100

Dear Mr. Brown:

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 Rule XI, §§ 3, 6, and 8 of the District of Columbia Court of Appeals Rules Governing the Bar.

We docketed this matter for investigation on March 10, 2011, based on a complaint filed against you by your client ("L.J.") with regard to your representation of her in an employment discrimination matter.<sup>1</sup> We find as follows:

On or about November 12, 2004, L.J. had filed a charge of discrimination *pro se* with the U.S. Equal Employment Opportunity Commission ("EEOC") against her employer. On July 5, 2005, L.J. had received a Notice of Right to Sue letter from the EEOC. In August 2005, L.J. retained you to represent her in her employment discrimination matter. Although L.J. provided you a \$3,500 retainer, you failed to provide her with a written retainer agreement. You filed a lawsuit on her behalf in the United States District Court for the District of Columbia on

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<sup>1</sup> This letter discusses only those aspects of L.J.'s complaint and of your response that are relevant to the Rule violations found herein.

October 7, 2005, 91 days after the right to sue letter.<sup>2</sup> The defendant filed a motion to dismiss asserting that L.J.'s claims were statutorily time-barred. Because you determined that there was no basis to oppose, you did not file an opposition as permitted by the court's order of January 11, 2006. The court treated the defendant's motion as conceded and dismissed L.J.'s case on January 26, 2006. You immediately informed L.J. that her matter had been dismissed.

Thereafter, you advised L.J. to file another claim with the EEOC, since the discriminatory conduct was ongoing, which she did. L.J. received another Right to Sue Letter from the EEOC on July 11, 2007. On or about October 5, 2007, you filed a second lawsuit on L.J.'s behalf in the United States District Court for the District of Columbia. The defendant filed a motion to dismiss on or about February 12, 2008, and a supplemental motion to dismiss on or about March 20, 2008 based on *res judicata*. You failed to file a response to the motion within the time provided by Local Rule 7(b).<sup>3</sup> However, your firm filed a motion for leave of court to file an opposition out of time on or about March 20, 2008, citing excusable neglect. You state that your firm had implemented a new electronic mail system in your office and, as a result, you had failed to notice the defendant's motion to dismiss for more than a month after it was filed because the electronic docketing notification went to an unattended e-mail address. On April 1, 2008, the court denied your motion for leave, granted the defendant's motions and dismissed L.J.'s case. You immediately advised L.J. that her matter had been dismissed and why it was dismissed.

L.J. thereafter terminated the representation and decided not to pursue her case further. You have refunded the \$3,500 retainer fee to L.J.

Based upon our investigation of this matter, we conclude that you violated Rules 1.1(a), 1.1(b), 1.3(a), 1.3(c), 1.5(b).

Rules 1.1(a) and 1.1(b) state, respectively: "[a] lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation" and "[a] lawyer shall serve a client with skill and care commensurate with that generally afforded to clients by other lawyers in similar matters." We find that you did not provide L.J. with competent representation in that you failed to file her initial lawsuit with the court within the proscribed statutory time frame. Additionally, in her second lawsuit, you failed to timely respond to the defendant's motion to dismiss citing a technical problem with your firm's new electronic mail system as the reason for your failure to receive the court's electronic docketing notification of the defendant's

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<sup>2</sup> A person filing a civil suit under Title VII must act within ninety days after receiving a Notice of Right to Sue Letter from the EEOC. 42 U.S.C. §200e-5(f)(1).

<sup>3</sup> Local Civil Rule 7.1(b) requires an opposing party to file a memorandum of points and authorities in opposition to a motion within 11 days of the date of service of the motion.

motion. As a result of your failure to timely respond to the opposing party's motion to dismiss, the court dismissed your client's matter. Thereafter, L.J. terminated the representation. We find that you lacked competence when you filed the initial lawsuit after the ninety-day deadline and when you failed to take timely action in opposing the defendant's motion to dismiss. Your conduct in this matter violated Rules 1.1(a) and 1.1(b).

Rules 1.3(a) and 1.3(c) state, respectively: "[a] lawyer shall represent a client zealously and diligently within the bounds of the law" and "shall act with reasonable promptness in representing a client." You violated these Rules based upon the same facts discussed above.

Rule 1.5(b) provided:<sup>4</sup> "[w]hen the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, in writing, before or within a reasonable time after commencing the representation." L.J. retained you in or around August 2005. Although you accepted her retainer and undertook action on her behalf, you failed to provide L.J. with a writing stating the rate or basis of your fee. We conclude that your conduct violated Rule 1.5(b).

In deciding to issue this letter of Informal Admonition rather than institute formal disciplinary charges against you, we have taken into consideration that you cooperated with our investigation, you communicated with the client about the status of her cases, including, the adverse rulings, you have accepted responsibility for your actions, and you have no prior discipline, although you have been practicing in this jurisdiction since 1998. You also have agreed to take six hours of Continuing Legal Education (CLE) classes, pre-approved by this office, and on the subject of ethics. You agree to forward proof of attendance of the CLE classes within six months of the date of this Informal Admonition and you agree that if this proof of attendance is not submitted to Bar Counsel within six months of this Informal Admonition, then this Informal Admonition will be considered null and void and we will re-open this matter.

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

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<sup>4</sup> This Rule has since been amended but we quote the Rule as it existed in 2005.

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an Informal Admonition.

Sincerely,

Wallace E. Shipp, Jr.  
Bar Counsel

Enclosure: Attachment letter to Informal Admonition

cc: L.J. (w/o enclosure)

WES/DD/jnb