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January 6, 2022

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Via email only to wshawn@shawncoulson.com

In re Pawnee A. Davis, Esquire
Disciplinary Docket No. 2020-D011
D.C. Bar Membership No. 979107

Dear Ms. Davis:

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 R. XI, §§ 3, 6, and 8 for violating Rules 1.6 (confidentiality) and 3.1 (meritorious claims and contentions).

We docketed this matter for investigation based on a disciplinary complaint from your former client regarding your representation of her in a civil action filed in D.C. Superior Court. During the representation, you filed a Motion to Withdraw Appearance of Counsel and to Appoint a Guardian Ad Litem for your client, alleging “there has been a breakdown in the attorney-client relationship,” that the client “has failed to adhere to the terms of her signed retainer agreement,” and that the client “over time, has demonstrated actions that call into question her capacity.” In the motion you asked the court, pursuant to Rule 1.14, to “explore the need for a Guardian ad litem on behalf of [the client] to protect her interests, should this case continue forward.”

When arguing your motion at a hearing, you expanded upon your allegations by describing the client’s behavior as “bizarre,” explicitly calling into question her credibility, and doubting her capacity. The court asked for the basis of your request to appoint a Guardian *ad litem*, and in response you detailed longstanding and ongoing billing disputes with the client. The court denied your motion.

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Rule 1.6(a)(1) states, in pertinent part, that a lawyer “shall not knowingly reveal a confidence or secret of the lawyer’s client.” Subsection (b) defines a “secret” as “information gained in the professional relationship that the client has requested to be held inviolate, or the disclosure of which would be embarrassing, or would be likely to be detrimental, to the client.” Comment 4 to the Rule makes clear that maintaining confidentiality is a fundamental principle of the attorney-client relationship.

Here, your personal impressions of the client’s mental state and credibility, as well as the nature and extent of her billing disputes with you, constitute information that you gained during the representation, the disclosure of which would be embarrassing to the client and potentially detrimental to her case. You were, therefore, obligated to preserve the confidentiality of this information unless permitted by the Rules to reveal it. You failed to comply with this fundamental principle when you disclosed the information in support of your motion to withdraw and request for a Guardian *ad litem*. As discussed below, we do not find that you could have reasonably believed that the client’s mental state required you to take protective action under Rule 1.14. Even assuming *arguendo* that your belief was reasonable, Rule 1.14(c) only authorizes disclosure of confidential information “to the extent reasonably necessary to protect the client’s interests.” You did not seek to file your motion *ex parte* or under seal, and you did not ask the court to review your request *in camera*. Instead, you improperly revealed confidential information in a public filing and on the record in open court. Your conduct did not fall within any of the exceptions enumerated at Rule 1.6(c)-(e). Accordingly, you violated Rule 1.6.

Rule 3.1 states, in pertinent part, that a lawyer “shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous” Only the objective merits of a claim, not the lawyer’s intent, is considered when determining whether a lawyer has violated Rule 3.1. *See In re Yelverton*, 105 A.3d 413, 426 (D.C. 2014).

Here, the court opined at the hearing that there was “no basis” for your request to appoint a Guardian *ad litem*. We likewise have not find any factual basis upon which it would be reasonable for you to believe that the client had diminished capacity, that she was unable to act in her own interest, or that she was at risk of substantial physical, financial, or other harm unless action was taken. Your request clearly lacked evidentiary support and was therefore meritless, which you would have known had you completed an objective appraisal of it prior to making it. Accordingly, you violated Rule 3.1.

In deciding to issue this Informal Admonition rather than institute formal disciplinary charges against you, we considered that you took this matter seriously, cooperated with our investigation, have no prior discipline in the District of Columbia, and have accepted responsibility for your actions by agreeing to this Informal Admonition. You have also agreed as a condition of this Informal Admonition to complete the DC Bar Practice Management Advisory Service’s

Pawnee A. Davis, Esq.
c/o William H. Shawn, Esq.
Disciplinary Docket No. 2020-D011
Page 3

“Basic Training & Beyond” course, and you have provided us with confirmation of registration. You agree to provide us with confirmation of attendance within ten days of completing the course.

This letter constitutes an Informal Admonition for your violation of Rules 1.6 and 3.1 pursuant to D.C. Bar Rule XI, §§ 3, 6, and 8, and it is public when issued. Please refer to the attachment to this letter of Informal Admonition for a statement of its effect, as well as 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 within 14 days of the date of this letter to the Office of Disciplinary Counsel, with a copy to the Board on Professional Responsibility, unless Disciplinary Counsel grants an extension of time. If a hearing is requested, this Informal Admonition will be vacated, and Disciplinary Counsel will institute formal charges pursuant to D.C. Bar Rule XI, §§ 8(b) and (c). This 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 Rule XI, § 8(c). Such a hearing could result in a recommendation to dismiss the charge(s) 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,

/s/ Hamilton P. Fox, III

Hamilton P. Fox, III
Disciplinary Counsel

Encl.: Attachment to Letter of Informal Admonition

cc: Former client (by email)

HPF:JRH:itm