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February 7, 2024

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*In re Bernard C. Coleman, Jr., Esquire*  
Disciplinary Docket No. 2019-D265  
D.C. Bar Membership No. 437011

Dear Mr. Coleman:

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 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.

This matter was docketed for investigation based on a complaint filed by your former client, J.R. Based on our investigation, we find that your conduct violated Rule 1.16(d) (Terminating Representation).

In August 2017, J.R. was attempting to negotiate a personal injury settlement with his landlord's insurer. J.R. rejected a settlement offer of \$4,000.

The month before his statute of limitations ran, J.R. asked you to help him with his case and sue his landlord. You agreed to represent him on a contingency basis, and you filed a complaint on his behalf on October 30, 2018, within the statute of limitations.

In March 2018, during discovery, you hired an expert to review J.R.'s case and medical records. In May 2018, the expert informed you that J.R. would not be able to prove his alleged damages were caused by the defendant's alleged negligence. You advised J.R. that he had no likelihood of success given the expert's analysis. Nevertheless, J.R. insisted on pursuing his claim, which he wanted to pursue even without a supporting expert and while refusing to submit to medical examinations.

J.R.'s expert disclosures were due in July 2018. You informed the defendant's counsel that J.R. would submit to a deposition but not a medical examination. You also informed the defendant's counsel that J.R. had no medical expert witness to disclose under Rule 26. On July 19, the defendant filed a motion for sanctions, requesting that the court compel J.R. to attend a medical examination and complete his expert disclosures, or alternatively, preclude his claims. On July 24, the defendant also moved for summary judgment. Both motions were based on J.R.'s refusal to submit to a medical examination and the lack of a supporting expert. J.R. was required to respond to the motion for sanctions by August 2, and the motion for summary judgment by August 7. You believed it was highly unlikely that J.R. could successfully oppose the motions, and you instead attempted to negotiate a settlement.

On July 30, the defendant offered to settle J.R.'s claim for \$5,000. The next day, you discussed the offer with J.R. You advised him to accept the settlement given the inability to prove causation and the likelihood that his case would otherwise be dismissed. J.R. rejected the settlement because he wanted to go to trial. On August 2, during another discussion with J.R., he became frustrated with your assessment of his case, and he told you that he wanted to proceed with a new attorney. You notified J.R. that you would file a motion to withdraw from his case and that he should either have his new attorney enter his appearance or respond himself to the court within 10 days. You also reminded him about the pending dispositive motions.

On August 6, the day before the summary judgment deadline, you moved to withdraw, noting that J.R. had terminated you and that you had already provided him with notice of your motion to withdraw in accordance with local rules. *See* Sup. Ct. R. Civ. P. 101(c). Although you knew that J.R. wanted to oppose summary judgment with new counsel, you did not request that the court grant him additional time to retain other counsel or oppose summary judgment. J.R. did not file anything in response to your motion to withdraw or the pending dispositive motions.

On August 22, 2018, the court granted summary judgment for the defendant, noting that summary judgment was unopposed. The court granted your motion to withdraw and entered judgment against J.R., noting that no opposition was filed, and J.R. did not timely respond to your motion to withdraw within 10 days. *See* Sup. Ct. R. Civ. P. 101(c). The court noted that if an objection had been filed, its determination on summary judgment would have been subject to a more stringent review. (The court also dismissed the sanctions motion as moot because the requested relief was limited to precluding J.R.'s claims, which were dismissed.)

A lawyer is required to "take timely steps to the extent reasonably practicable to protect [his] client's interests," including by "giving reasonable notice" and "allowing time for employment of other counsel." *See* Rule 1.16(d). Thus, even though J.R. discharged you, you were still required to assist him and "take all reasonable steps" to mitigate the consequences of your withdrawal from the case. *See* Comment [9] to Rule 1.16. You knew that J.R. wanted to hire new counsel to oppose the defendant's motions, and you had a continuing professional obligation to take steps that protected his right to respond. Indeed, you remained his counsel of record as his responses came overdue.

By failing to take readily available steps to afford your client more time to seek counsel and oppose summary judgment, you violated Rule 1.16.

Informal Admonition is the lowest form of discipline in this jurisdiction. In deciding to issue this letter of Informal Admonition rather than institute formal disciplinary charges, we have considered that at the time you withdrew, you were actively advising and advocating for your client, and you had secured a settlement offer that you believed your client should accept in lieu of opposing summary judgment due to the unlikelihood that your client would prevail. In addition, although you violated Rule 1.16, the investigation supports that you had a good faith but mistaken belief that upon being discharged by J.R., you had no obligation except to move to withdraw. We also considered that you took this matter seriously, cooperated with our investigation, and accepted responsibility by agreeing to this Informal Admonition.

This letter constitutes an Informal Admonition for your violation of D.C. Rule 1.16(d) 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,

A handwritten signature in cursive script that reads "Hamilton P. Fox, III".

Hamilton P. Fox, III  
Disciplinary Counsel

Enclosure: Attachment to Letter of Informal Admonition

cc: Joseph P. Russell (without enclosure)

HPF:SPO:dv