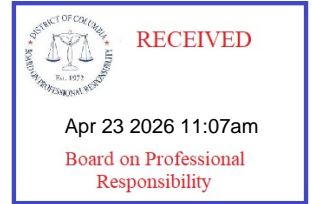


**DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY**



In the Matter of :
 :
CHARLES A. ROSS, ESQUIRE : **Disciplinary Docket No. 2024-D022**
 :
Respondent, :
 :
A Member of the Bar of the :
District of Columbia Court of Appeals :
 :
Bar Number: 1044644 :
Date of Admission: July 7, 2017 :
 :
 :

PETITION FOR NEGOTIATED DISCIPLINE

Pursuant to D.C. Bar Rule XI, § 12.1 and Board Rule 17.3, Disciplinary Counsel and Respondent, Charles A. Ross, submit this Petition for Negotiated Disposition in the above-captioned matter. Jurisdiction for this disciplinary proceeding is prescribed by D.C. Bar Rule XI. Pursuant to Rule XI, §1(a), jurisdiction is found because Respondent is a member of the Bar of the District of Columbia Court of Appeals.

I. Statement of the Nature of the Matter

In this matter, Disciplinary Counsel received a complaint from Paul Holston alleging that Ross mishandled his divorce case, failed to adequately communicate with him during the representation, and lied to him about the status of his case. As part of its investigation, Disciplinary Counsel asked Ross to respond in writing to

the complaint, interviewed him, and subpoenaed Ross's client file. Disciplinary Counsel's investigation revealed that Ross did not file Holston's complaint for divorce nor a motion to modify a protective order despite telling Holston that both had been filed and hearings were set. After learning that his case had not been filed, Holston fired Ross, hired successor counsel, and filed a disciplinary complaint against Ross. During Disciplinary Counsel's investigation, Ross claimed that he outsourced the filings to an administrative service; however, there is no evidence to support Ross's claims.

II. Stipulation of Facts and Rule Violations

1. Ross is a member of the Bar of the District of Columbia Court of Appeals, having been admitted July 7, 2017, and assigned Bar number 1044644.

2. At all relevant times herein, Ross was a solo practitioner and maintained his law office, Charles Ross, PLLC, in the District of Columbia.

3. In March 2023, Holston retained Ross to represent him in all matters related to his divorce and child custody case. At the time, Holston lived in South Carolina while his wife and children lived in D.C, and there was also an active D.C. civil protective order between Holston and his wife. Ross agreed to file a motion to amend the order while also helping arrange visitation with Holston and his children.

4. On August 28, 2023, Ross sent Holston a text message stating "I filed

[the complaint for divorce] this morning and the filing is under review.” This was false, as Ross never filed the complaint. Two days later, Ross sent an email to opposing counsel stating “My client would like to begin divorce proceeding. We will file this week.”

5. During a phone call on October 6, 2023, Ross told Holston that the initial hearing for his divorce case was set in November. On November 1, 2023, he told Holston that the hearing had been rescheduled to later in the month. Both statements were false.

6. On November 2, 2023, Ross sent Holston a text message falsely stating that he had filed the motion to modify the civil protective order and that Holston’s wife would be served with the motion by 12 p.m. the next day. On November 7, 2023, Ross sent Holston a text falsely stating that service had been confirmed on the motion.

7. After the text message on November 7th, Ross failed to maintain adequate communication with Holston. Holston tried contacting Ross by email and phone several times to discuss the case and prepare for the upcoming hearing, which Holston believed was scheduled for November 21, 2023. Finally, on November 16th, Holston contacted D.C. Superior Court and discovered that his divorce complaint and motion to modify the civil protective order had never been filed and there was no hearing scheduled in his matter. Holston immediately sent

Ross a text message, questioning him about the false information Ross had previously provided. Ross responded saying that he would forward his emails with the attached filings, but he only sent the drafts of both the divorce complaint and motion to modify the civil protective order.

8. On November 20, 2023, Holston sent Ross a formal termination letter, asked for a refund, and requested his client file. Ross called Holston's successor counsel to explain the status of the matter then forwarded the client file, which consisted only of the separation agreement Ross had drafted, the draft complaint for divorce, and the draft motion to modify the CPO. Ross also refunded the entire retainer to Holston, but only after Disciplinary Counsel opened an investigation.

9. After Holston filed a disciplinary complaint, Disciplinary Counsel opened an investigation and requested Ross to respond to Holston's allegations of misconduct. Ross promptly responded to Disciplinary Counsel's request, provided Holston's client file, and answered follow-up questions. However, in his written response and during a Zoom interview with Disciplinary Counsel, Ross falsely claimed that he outsourced the filing of Holston's divorce complaint and motion to modify the civil protective order to an administrative legal support service, ABC Legal. He falsely claimed that ABC Legal notified him that it had completed the filings and that court hearings had been scheduled; however, Ross

never produced any communications with ABC Legal, nor did he produce any contract or service agreement between him and ABC Legal.

10. Disciplinary Counsel subpoenaed records from ABC Legal for the relevant time. In response to the subpoena, ABC Legal stated it had “no records of providing services to or otherwise working with ‘Charles A. Ross, Esquire’ or ‘Charles Ross Law, PLLC.’”

11. Ross’s conduct violated the following District of Columbia Rules of Professional Conduct:

- a. Rule 1.3(a), in that Ross failed to represent Holston zealously and diligently within the bounds of the law;
- b. Rule 1.3(c) in that Ross failed act with reasonable promptness in representing Holston;
- c. Rule 1.4(a), in that Ross failed to keep his client reasonably informed about the status of his matter and promptly comply with reasonable requests for information;
- d. Rule 1.4(b) in that Ross failed to explain the matter to the extent reasonably necessary for Holston to make informed decisions regarding the representation;
- e. Rule 8.1(a) in that Ross, in connection with a disciplinary matter, knowingly made false statements of facts;

- f. Rule 8.4(c) in that Ross engaged in conduct involving fraud, deceit, misrepresentation, and/or dishonesty; and
- g. Rule 8.4(d) in that Ross engaged in conduct that seriously interfered with the administration of justice.

III. Statement of Promises Made by Disciplinary Counsel

In connection with this Petition for Negotiated Disposition, 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 other than that set forth below.

IV. The Agreed-Upon Sanction

A. Agreed Sanction

Disciplinary Counsel and Ross agree that the sanction to be imposed in this matter is a one hundred eighty-day suspension, with all but thirty days stayed in favor of one year of probation with conditions. Ross and Disciplinary Counsel have agreed to the following conditions of this negotiated disposition:

1. The sanction imposed shall not take effect, *i.e.*, the 30-day active period of suspension and one-year period of probation will not begin, until thirty days after the date of the Court's final order of discipline.
2. Ross shall take six hours of continuing legal education in ethics and professional responsibility. Courses must be pre-approved by the undersigned

Assistant Disciplinary Counsel, and Ross must provide documentary proof that he has met these requirements within six months of the date of the Court's final order of discipline.

3. During the one-year probation period, Ross shall inform all clients, in writing, that he is serving a term of probation.

4. From the date on which he signs this petition through the end of his period of probation, Ross shall not engage in any professional misconduct in this or any other jurisdiction. If Disciplinary Counsel has probable cause to believe that Ross has engaged in such misconduct, then Disciplinary Counsel may request that Ross serve the suspension previously stayed herein.

B. Relevant Precedent

Under Board Rule 17.5(a)(iii), the agreed-upon sanction in a negotiated discipline case must be "justified, and not unduly lenient, taking into consideration the record as a whole." However, a justified sanction "does not have to comply with the sanction appropriate under the comparability standard set forth in D.C. Bar Rule XI, § 9(h)." Board Rule 17.5(a)(iii).

The Court has imposed a variety of sanctions for incompetence, neglect, and failure to communicate with attendant dishonesty depending on the scope of neglect and dishonesty, as well as the presence of various aggravating and mitigating circumstances. Cases with facts like those here have resulted in suspensions between 30 and

60 days. *See, e.g., In re Cole*, 967 A.2d 1264 (D.C. 2009) (30-day suspension where respondent neglected a single matter while falsely assuring immigrant client that he had filed requisite pleadings for approximately 15 months and where client received an order of removal that was eventually rescinded, and where respondent accepted responsibility for his misconduct, refunded the client, and had no prior discipline); *In re Outlaw*, 917 A.2d 684 (D.C. 2007) (60-day suspension where lawyer missed statute of limitations and led client to believe case was active and did not tell her otherwise for approximately 26 months, and where attorney refused to accept responsibility and the hearing committee found her testimony about her conduct not credible); *In re Johnson*, 158 A.3d 913 (D.C. 2017) (90-day suspension with 60-days stayed in favor of one year probation with conditions, where lawyer neglected two different immigration matters and failed to acknowledge his misconduct before the hearing committee).

C. Circumstances in Aggravation and Mitigation

Aggravating circumstances include 1) the relative ease with which Ross could have filed the complaint and motion, both of which were already drafted, 2) the attempts to cover-up his misconduct, and 3) the potential prejudice, *i.e.*, Holston's inability to see his children because the motion to modify the protective order had not been filed. Mitigating circumstances include that Ross: 1) acknowledges his misconduct by agreeing to the petition for negotiated discipline,

2) immediately cooperated with Holston's successor counsel and provided the client file, 3) refunded the entire retainer amount and wrote a letter apologizing to Holston, and 4) has no disciplinary history.

D. Justification of Recommended Sanction

Disciplinary Counsel has considered the resources required to prosecute the case and the likelihood of prevailing on the merits if it went to hearing and believes that a negotiated disposition is warranted. Ross has considered the resources necessary to defend the case and the possibility of greater sanction if the matter were to go to hearing. Considering the misconduct along with the aggravating and mitigating factors, the parties submit that the agreed-upon sanction is justified and not unduly lenient.

V. Respondent's Affidavit

In further support of this Petition for Negotiated Discipline, attached is Respondent's Affidavit pursuant to D.C. Bar Rule XI, § 12.1(b)(2).

Conclusion

Respondent and Disciplinary Counsel request that the Executive Attorney assign a Hearing Committee to review the Petition for Negotiated Discipline pursuant to D.C. Bar Rule XI, § 12.1(c).

Respectfully submitted,

s/ Hamilton P. Fox, III
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Disciplinary Counsel
DC Bar No. 113050

s/ Charles Ross
CHARLES A. ROSS
Respondent
DC Bar No. 1044644

s/ Dru M. Foster
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