

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



**In the Matter of**

**DONALD R. HARRIS, ESQUIRE**

**Respondent,**

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

**Bar Number: 485340**

**Date of Admission: 03/01/2004**

**Disciplinary Docket No. 2017-D364**

**SPECIFICATION OF CHARGES**

The disciplinary proceedings instituted by this petition are based upon conduct that violates the standards governing the practice of law in the District of Columbia as prescribed by D.C. Bar R. X and XI, § 2(b). Jurisdiction for this disciplinary proceeding is prescribed by D.C. Bar R. XI. Pursuant to D.C. Bar R. XI, § 1(a); jurisdiction is found because:

1. Respondent is a member of the Bar of the District of Columbia Court of Appeals, having been admitted on March 1, 2004, and assigned Bar number 485340.

The facts giving rise to the charges of misconduct are as follows:

2. Although Respondent is not licensed in any jurisdiction other than the District of Columbia, Respondent resides and practices in Ohio. He is admitted to practice in the federal district courts for the Northern and Southern Districts of Ohio, where he primarily practices federal bankruptcy law. He is not, however, permitted to practice state law in Ohio.

3. Victoria Bailey (nee Hubbard) has nine children. In February 2015, seven of Mrs. Bailey's children were in the custody of Lucas County Children Services in Ohio. Mrs. Bailey's oldest child was no longer a minor, and her second oldest child was living with her.

4. Children Services had placed the seven children in its custody with the H. family. In October 2015, however, Children Services discovered that the conditions in the H. family home were “unsatisfactory,” and it removed the children to foster homes.

5. On November 4, 2015, Children Services filed an original complaint for permanent custody of Ms. Bailey’s eight minor children in the Lucas County Court of Common Pleas Juvenile Division in Lucas County, Ohio. On November 10, 2015, Mrs. Bailey filed an emergency motion for reunification, requesting custody of her children with her husband, Armond Bailey, who is the biological father of the two youngest children.

6. On October 17, 2016, the Juvenile Division court entered an order, finding it was in the best interest of the three oldest minor children to return or remain in the Baileys’ custody, with Children Services providing protective supervision. The court concluded, however, that it was in best interest of the five youngest children to grant permanent custody to Children Services.

7. Mrs. Bailey appealed the court’s decision. Laurel Kendall, an Ohio attorney, represented Mrs. Bailey on the appeal. Mrs. Kendall was not associated with Respondent in any way.

8. On January 3, 2017, while the appeal was pending, the Baileys met with Respondent. Even though he knew the state-court appeal was already pending at the Ohio Court of Appeals, Respondent told the Baileys that he could separately challenge Children Services’ actions and force them to return custody of the children by alleging that the agency had acted in a “prejudicial manner.”

9. Respondent did not explain that federal courts — the only Ohio courts where he was licensed to practice — cannot issue custody decrees and are an inappropriate forum to

challenge ongoing state custody proceedings.

10. Respondent provided Mr. and Mrs. Bailey with a “retainer” agreement. The agreement provided:

I, Victoria Hubberd [sic], hereby retain and instruct you to represent me in the matter of **Custody**, and to conduct such actions and to take such proceedings as you may consider necessary or proper, and to employ such agents and retain such counsel as you consider expedient.

(Emphasis added). Both Mr. and Mrs. Bailey signed the agreement the same day, January 3, 2017.

11. Under the agreement, Mr. and Mrs. Bailey agreed to pay Respondent \$300 per hour for work performed on their matter. They also agreed to pay \$2,500 in advance.

12. The “retainer” agreement and a “terms of engagement” document noted that client funds would be “placed in a client trust account,” and they would be “held for use against time and expenses as incurred.” The terms of engagement document also noted that Respondent would send monthly billing statements.

13. On January 3, 2017, the same day they signed the retainer agreement, Mr. and Mrs. Bailey paid \$2,500.00 to Respondent’s PayPal merchant account.

14. Although he maintained a trust account, Respondent did not deposit or transfer the funds to his trust account.

15. The same day he received the \$2,500 into his PayPal account, Respondent began using and disbursing the funds from his PayPal account, as follows:

<u>AMOUNT</u>	<u>DISBURSEMENT</u>	<u>DATE</u>
\$67.50	2.5% Fee to PayPal	1/3/2017
\$125.00	Transfer to First Tennessee Bank, Acct 1742	1/3/2017
\$2,100.00	Transfer to Huntington National Bank, Acct 8701	1/3/2017
\$32.00	Loan Payment to “PayPal Working Capital”	1/3/2017

	\$179.00	Loan Payment to "PayPal Working Capital"	1/4/2017
<b>TOTAL:</b>	<b>\$2,503.50</b>		<b>1/4/2017</b>

(The excess \$3.50 came from a \$3.00 cash-back bonus as well as the account's preexisting \$0.95 balance, leaving an ending balance of \$0.45 on January 4, 2017.)

16. Respondent used the \$2,100 he transferred to his Huntington 8701 account to pay credit card bills, employees' payroll, rent, and Sears. By January 9, 2017, the Huntington account had a negative balance (– \$53.12).

17. Respondent used the Baileys' funds before he earned them. He did not keep records of his use of the funds. Respondent did not tell Mr. and Mrs. Bailey he was using their funds, nor did he provide them with an invoice or billing statement. The Baileys did not authorize Respondent to use their funds before he had earned them.

18. On or about January 30, 2017, Respondent hired Miles Mull as an assistant. Mr. Mull was not an attorney and had no previous experience assisting attorneys with legal work.

19. Respondent assigned the Baileys' matter to Mr. Mull. Mr. Mull reviewed the clients' documents and performed research. He created a timeline, a "Case Brief," a list of cases, and a draft complaint. The draft complaint was prepared as if it would be filed in federal court to challenge the state court's custody determination. Other than the documents Mr. Mull prepared, no other work product was generated for the Baileys' matter.

20. In March 2017, Mr. Mull reviewed the draft complaint with Respondent and thereafter stopped working on the Baileys' matter.

21. Respondent did not share the draft complaint with the Baileys, nor did he file the complaint in federal court.

22. After reviewing the complaint with Mr. Mull, Respondent did not work on the

Baileys' matter.

23. Although he was aware of the ongoing state proceedings, Respondent performed no services in the state matter. On June 23, 2017, the Court of Appeals of Ohio affirmed the juvenile court's judgment.

24. In October 2017, the Baileys became concerned about the status of their case with Respondent and requested a meeting with him. On October 31, 2017, Respondent met the Baileys at the Toledo, Ohio library to discuss their case.

25. On or about November 29, 2017, Respondent met with the Baileys to discuss their case at his office in Sandusky, Ohio.

26. On December 7, 2017, Mrs. Bailey fired Respondent by email, and on December 11, 2017, she sent a complaint to Disciplinary Counsel.

27. Respondent did not bill Ms. Bailey or provide an invoice for legal services at any time. After January 2018, Respondent generated invoices purporting to show the time that was spent on her matter. On February 19, 2018, Respondent produced the invoices he prepared, which contained false and inflated charges, to Disciplinary Counsel.

28. On February 26, 2018, Disciplinary Counsel asked Respondent certain questions about the invoices.

29. Respondent made false statements to Disciplinary Counsel about the invoices, including that the invoices were created during the representation.

30. Respondent's conduct violated the following Rules:

a. Rule 1.4(b), in that Respondent failed to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;

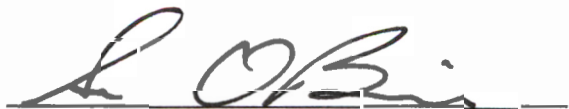


- b. Rule 1.5(a), in that Respondent charged and collected an unreasonable fee;
- c. Rule 1.15(a) (Failure to Maintain Records), in that Respondent failed to keep complete records of the Baileys' entrusted funds;
- d. Rule 1.15(a) (Commingling), in that Respondent failed to hold advances of unearned fees and unincurred costs that were in his possession in connection with a representation separate from his own funds and thereby engaged in commingling;
- e. Rule 1.15(a) (Misappropriation), in that Respondent used his clients' advanced fees before he earned them and without the clients' authorization, thereby engaging in intentional or reckless misappropriation of client funds;
- f. Rule 1.15(e), in that Respondent did not treat his clients' advances of unearned fees as the clients' property and did not keep his clients' advances of unearned fees in his trust account;
- g. Rule 8.1(a), in that Respondent knowingly made false statements of fact to Disciplinary Counsel in connection with a disciplinary matter;
- h. Rule 8.4(c), in that Respondent engaged in conduct involving dishonesty, fraud, deceit, and misrepresentation.

Respectfully submitted,



Hamilton P. Fox, III  
Disciplinary Counsel



Sean P. O'Brien  
Assistant Disciplinary Counsel

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**VERIFICATION**

I do affirm that I verily believe the facts stated in the Specification of Charges to be true.



Sean P. O'Brien  
Assistant Disciplinary Counsel

Subscribed and affirmed before me in the District of Columbia this \_\_ day of December 2018.



Notary Public



My Commission Expires

