

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

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In the Matter of	:	
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AZUBUIKE OSEMENE, ESQUIRE	:	Disciplinary Docket No. 2017-D101
	:	
Respondent,	:	
	:	
A Member of the Bar of the	:	
District of Columbia Court of Appeals	:	
Bar Number: 496245	:	
Date of Admission: February 3, 2006	:	
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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 February 3, 2006, and assigned Bar number 496245.

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

Respondent is an attorney working with a law firm, Legal Clinic, located in California. Respondent is only licensed in the District of Columbia, and practices primarily immigration law.

2. In or about December 2015, Erwin Montepeque, a Guatemalan national, was referred to the Legal Clinic. Mr. Montepeque scheduled an appointment for a consultation with Respondent who was the attorney assigned to immigration cases. Following the initial consultation with Respondent, Mr. Montepeque retained Respondent for representation in his

immigration case. Respondent did not speak Spanish, but his secretary Blanca Bibiyan, provided translation for Mr. Montepeque.

3. Respondent did not provide Mr. Montepeque with a written retainer agreement but made a verbal agreement to represent him in his immigration matter for \$5,000. Mr. Montepeque agreed to make an initial \$1,000 payment and additional monthly installment of \$350 until the \$5,000 was paid in full. Mr. Montepeque paid Respondent \$50 at the initial meeting and returned the next day and paid him an additional \$950, for a total of \$1,000.

4. Respondent agreed to represent Mr. Montepeque in his upcoming removal hearing in immigration court.

5. In January 2016, Mr. Montepeque stopped by Respondent's office to make his first installment payment. Mr. Montepeque inquired from Ms. Bibiyan about his case and she told him everything was fine.

6. In February 2016, Mr. Montepeque made his second payment and asked to talk to Respondent. Mr. Montepeque waited at the office for three hours for Respondent to arrive. When Respondent arrived, Ms. Bibiyan translated for Mr. Montepeque. Respondent assured Mr. Montepeque that his case was going well and that they were waiting for a court date.

7. At this same meeting, Ms. Bibiyan told Mr. Montepeque that he would need to pay an additional \$1,000 for Respondent to file a work permit application on his behalf. This was not part of the original verbal agreement.

8. On February 23, 2016, Respondent entered his appearance in the removal case.

9. In March 2016, Mr. Montepeque stopped by Respondent's office to make his third monthly payment and asked to talk to Respondent. Respondent was not in the office, and

Mr. Montepeque waited for two hours. Respondent did not arrive, so Mr. Montepeque left without seeing him.

10. Mr. Montepeque did not make payments in April, May and June. Respondent was not providing him any information or updates about his case.

11. In July 2016, Mr. Montepeque stopped by Respondent's office and brought a friend to translate for him.

12. Mr. Montepeque was upset that Respondent had not provided him with a retainer agreement and was not telling him the status of his case. Mr. Montepeque wanted evidence that Respondent was working on his case.

13. Mr. Montepeque met with Respondent and told him that if he was not going to work on the case, then Mr. Montepque wanted a full refund. Mr. Montepeque had paid Respondent \$2,050.

14. Mr. Montepeque expressed his displeasure with Respondent's conduct during this meeting. The owner of the Legal Clinic intervened in the discussion and assured Mr. Montepeque that if he did not take his case elsewhere and paid the monies due, his case would move forward and be given priority.

15. Mr. Montepeque said that he had the money with him and was willing to make the payments, but he wanted a signed agreement. Respondent refused to provide him one.

16. After some discussion, Respondent agreed to refund \$1,700 to Mr. Montepeque. Two days later, Respondent refunded this sum.

17. Notwithstanding the fact that Mr. Montepeque terminated the attorney-client relationship in July 2016, Respondent did not take any steps to withdraw from the pending case. Rather, Respondent continued to receive court notices in the matter and failed to inform the client

that he would continue to receive court notices in the case until he filed his withdrawal and the Court granted it.

18. On or about August 15, 2016, Respondent received notice that a hearing on the merits had been scheduled in Mr. Montepeque's case for November 1, 2016. Respondent never mailed Mr. Montepeque a copy of the scheduling notice.

19. On or about August 23, 2016, Respondent filed a motion to withdraw. Respondent did not serve this motion on Mr. Montepeque. The certificate of service provided that a copy of the motion was mailed to two incorrect addresses. The apartment number was wrong for one address, and the other address was outdated and had never been provided by Mr. Montepeque to Respondent.

20. In the Motion to Withdraw, Respondent falsely claimed that the client "failed to cooperate with counsel and has failed to comply with requests making it difficult for counsel to continue representing this respondent [client]." Respondent also stated, "Respondent showed up at counsel's office in a rude and abusive manner creating disruption in counsel's office and demanded that he did not want to be represented anymore."

21. Respondent enclosed an affidavit with his Motion to Withdraw, in which he stated, "This individual came to counsel's office in a rude, belligerent, and absolutely uncooperative manner."

22. The court did not rule on Respondent's Motion to Withdraw until the November 1, 2016 hearing, when the motion was granted. The immigration court transcript reveals that Respondent did not appear for the hearing. Respondent remained Mr. Montepeque's attorney of record until November 1, 2016.

23. Mr. Montepeque was unaware that a hearing was taking place on November 1, 2016 and did not appear in court. The Immigration Judge ordered him removed *in absentia*.

24. In or around November 2016, Mr. Montepeque received a text message from Respondent's secretary, Ms. Bibiyan with a screenshot of a court notice referring to the order of deportation in his case.

25. Mr. Montepeque was surprised to learn the court had issued a deportation order. He contacted Ms. Bibiyan at Respondent's office concerning the order.

26. Ms. Bibiyan told Mr. Montepeque that since he received a refund and terminated Respondent's representation, they were under no obligation to continue notifying him of court hearings or notices from the court.

27. Mr. Montepeque requested his documents and his file, but Respondent's office refused to return his documents to him, despite repeated requests.

28. In early 2017, Mr. Montepeque hired successor counsel for his immigration case. Successor counsel obtained a copy of his court file from Immigration Court.

29. Successor counsel advised Mr. Montepeque of everything that had happened after his last meeting with Respondent in July 2016. Successor counsel explained to Mr. Montepeque that Respondent had filed a motion to withdraw as his attorney.

30. On March 10, 2017, successor counsel filed a motion to Rescind In Absentia Removal Order and Reopen Removal Proceedings on behalf of Mr. Montepeque. On March 22, 2017, the Immigration court granted successor counsel's motion for good cause shown.

31. After Mr. Montepeque filed a complaint with Disciplinary Counsel, Respondent falsely stated that he appeared at the November 1, 2016 in immigration court, signed in with the clerk, and waited for the case to be called. Respondent falsely claimed that while he was in court

he asked his secretary to contact Mr. Montepeque to remind him to appear, but that Mr. Montepeque dismissed the secretary's reminder.

32. Respondent's conduct violated the following provisions of the California and/or D.C. Rules of Professional Conduct:

a. California Rule 3-500 and/or 8 CFR § 1003.102(r) and/or D.C. Rule 1.4(a), in that Respondent failed to keep his client reasonably informed about the status of their matter and promptly comply with reasonable requests for information;

b. California Rule 3-500 and/or Rule 1.4(b), in that Respondent failed to explain a matter to the extent reasonably necessary to permit his client to make informed decisions regarding the representation;

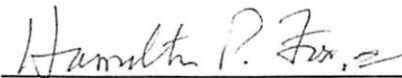
c. California Code, Business and Professions Code, BPC § 6148 and/or D.C. Rule 1.5(b), in that Respondent failed to provide the client with a written document setting forth the basis or rate of his fee or the scope of the representation;

d. California Rule 3-100 and/or D.C. Rule 1.6(a), in that Respondent knowingly revealed a secret of his client without authorization; "secret" refers to other information gained in the professional relationship the disclosure of which would be embarrassing, or would likely be detrimental to the client;

e. California Rule 3-700 and/or D.C. Rule 1.16(d), in that Respondent, in connection with the termination of representation, failed to take timely steps to the extent reasonably practicable to protect his client's interests, including surrendering papers and property to which his client was entitled; and

f. California Code, Business and Professions Code, BPC § 6106 and/or D.C. Rule 8.4(c), in that Respondent engaged in conduct involving dishonesty, deceit, or misrepresentation.

Respectfully submitted,



Hamilton P. Fox, III
Disciplinary Counsel

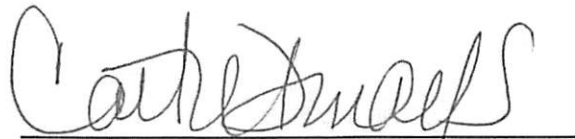


Carroll Donayre Somoza
Assistant Disciplinary Counsel

OFFICE OF DISCIPLINARY COUNSEL
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(202) 638-1501

VERIFICATION

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



Carroll Donayre Somoza
Assistant Disciplinary Counsel

Subscribed and affirmed before me in the District of Columbia this 30th day of November 2018.

My Commission Expires: 02-01-20


Notary Public

ANDREA DE LA TORRE
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires February 1, 2020



DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR § 1003.102 Grounds

(r) Fails to maintain communication with the client throughout the duration of the client-practitioner relationship. It is the obligation of the practitioner to take reasonable steps to communicate with the client in a language that the client understands. A practitioner is only under the obligation to attempt to communicate with his or her client using addresses or phone numbers known to the practitioner. In order to properly maintain communication, the practitioner should:

(1) Promptly inform and consult with the client concerning any decision or circumstance with respect to which the client's informed consent is reasonably required;

(2) Reasonably consult with the client about the means by which the client's objectives are to be accomplished. Reasonable consultation with the client includes the duty to meet with the client sufficiently in advance of a hearing or other matter to ensure adequate preparation of the client's case and compliance with applicable deadlines;

(3) Keep the client reasonably informed about the status of the matter, such as significant developments affecting the timing or the substance of the representation; and

(4) Promptly comply with reasonable requests for information, except that when a prompt response is not feasible, the practitioner, or a member of the practitioner's staff, should acknowledge receipt of the request and advise the client when a response may be expected;

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

In the Matter of

AZUBUIKE OSEMENE, ESQUIRE

Respondent

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Disciplinary Docket No. 2017-D101

PETITION INSTITUTING FORMAL DISCIPLINARY PROCEEDINGS

A. This Petition (including the attached Specification of Charges which is made part of this Petition) notifies Respondent that disciplinary proceedings are hereby instituted pursuant to Rule XI, § 8(c), of the District of Columbia Court of Appeals' Rules Governing the Bar (D.C. Bar R.).

B. Respondent is an attorney admitted to practice before the District of Columbia Court of Appeals on the date stated in the caption of the Specification of Charges.

C. A lawyer member of a Hearing Committee assigned by the Board on Professional Responsibility (Board) pursuant to D.C. Bar R. XI, § 4(e)(5), has approved the institution of these disciplinary proceedings.

D. **Procedures**

(1) **Referral to Hearing Committee** - When the Board receives the Petition Instituting Formal Disciplinary Proceedings, the Board shall refer it to a Hearing Committee.

(2) **Filing Answer** - Respondent must respond to the Specification of Charges

by filing an answer with the Board and by serving a copy on the Office of Disciplinary Counsel within 20 days of the date of service of this Petition, unless the time is extended by the Chair of the Hearing Committee. Permission to file an answer after the 20-day period may be granted by the Chair of the Hearing Committee if the failure to file an answer was attributable to mistake, inadvertence, surprise, or excusable neglect. If a limiting date occurs on a Saturday, Sunday, or official holiday in the District of Columbia, the time for submission will be extended to the next business day. Any motion to extend the time to file an answer, and/or any other motion filed with the Board or Hearing Committee Chair, must be served on the Office of Disciplinary Counsel at the address shown on the last page of this petition.

(3) **Content of Answer** - The answer may be a denial, a statement in exculpation, or a statement in mitigation of the alleged misconduct. Any charges not answered by Respondent may be deemed established as provided in Board Rule 7.7.

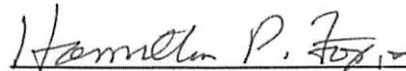
(4) **Mitigation** - Respondent has the right to present evidence in mitigation to the Hearing Committee regardless of whether the substantive allegations of the Specification of Charges are admitted or denied.

(5) **Process** - Respondent is entitled to fifteen days' notice of the time and place of hearing, to be represented by counsel, to cross-examine witnesses, and to present evidence.

E. In addition to the procedures contained in D.C. Bar R. XI, the Board has promulgated Board Rules relating to procedures and the admission of evidence which are applicable to these procedures. A copy of these rules is being provided to Respondent with a copy of this Petition.

WHEREFORE, the Office of Disciplinary Counsel requests that the Board consider whether the conduct of Respondent violated the District of Columbia Rules of Professional Conduct, and, if so, that it impose/recommend appropriate discipline.

Respectfully submitted,

A handwritten signature in cursive script, reading "Hamilton P. Fox, III", written over a horizontal line.

Hamilton P. Fox, III
Disciplinary Counsel

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