

STATEWIDE GRIEVANCE COMMITTEE

Trinene Davis, Regina Moore, Michael Ayers  
and Shirley Weaver  
Complainants :

vs. : Grievance Complaint #09-0040

Francis A. Minter  
Respondent :

DECISION

Pursuant to Practice Book §2-35, the undersigned, duly-appointed reviewing committee of the Statewide Grievance Committee, conducted a hearing at the Superior Court, 80 Washington Street, Hartford, Connecticut on July 2, 2009. The hearing addressed the record of the complaint filed on January 20, 2009, and the probable cause determination filed by the Hartford Judicial District Grievance Panel for Geographical Area 13 and the town of Hartford on May 4, 2009, finding that there existed probable cause that the Respondent violated Rules 1.3, 1.4 and 8.1 of the Rules of Professional Conduct, and Practice Book §2-32(a)(1).

Notice of the hearing was mailed to the Complainants, to the Office of the Chief Disciplinary Counsel, and to the Respondent on June 9, 2009. Pursuant to Practice Book §2-35(d), Chief Disciplinary Counsel Mark Dubois pursued the matter before this reviewing committee. The Complainants and the Respondent appeared at the hearing and testified. Seven exhibits were admitted into evidence.

Reviewing committee member John Walsh was not available for the hearing. Since the Respondent did not waive the participation of Mr. Walsh, Mr. Walsh reviewed the record in this matter, including a transcript of the July 2, 2009 hearing, and participated in the rendering of this decision.

This reviewing committee finds the following facts by clear and convincing evidence:

The Complainants, along with a number of other people, met with the Respondent in September of 2002 to pursue discrimination claims against the Connecticut Department of Children and Families ("DCF"). The Complainants all paid retainer fees to the Respondent.

The original lawsuit filed by the Respondent in federal court was dismissed. This initial dismissal was the subject of a prior grievance by the Complainants, which was dismissed in October of 2007 (Grievance Complaint #07-0700). After the original lawsuit was dismissed, the four Complainants met with the Respondent, who agreed to re-file the lawsuit.

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The new lawsuit was filed in federal court in March of 2007, but against individual employees of the DCF rather than against the DCF itself. Service of the lawsuit was made at the Office of the Attorney General. In a decision dated November 21, 2008, Judge Arterton of the U.S. District Court for the District of Connecticut granted the defendants' motion to dismiss the lawsuit due to improper service.

During the course of the representation on the second lawsuit, the Respondent had a few meetings with the Complainants, but he failed to respond to numerous contact attempts from the Complainants. Ultimately, a decision was made to file yet another lawsuit. The current grievance complaint was filed on January 20, 2009. In a letter to the Complainants dated January 27, 2009, the Respondent's secretary wrote that "Attorney Minter will no longer be representing you in your lawsuit unless, the Grievance Complaint charges are dismissed." The Respondent also stated to the Complainant Davis that he would drop a workers' compensation case which he was handling for her if she did not drop a separate grievance she had filed against him. The Complainants retained successor counsel to pursue the matter. Beginning in February of 2009, the Complainants requested the return of documents and paperwork from the Respondent. As of the date of the hearing, they had not been returned.

This reviewing committee also considered the following:

The Respondent testified that the improper service was the fault of the marshal who served the papers. The Respondent believed that he had a good argument to appeal the dismissal, but that the Complainants thought re-filing the lawsuit was the best option. The Respondent maintained that he did communicate adequately with the Complainants, primarily through a designated "point" person, but he presented no letters that he had sent to the Complainants or memos to file regarding meetings with them. The Respondent did not file an answer to the grievance complaint because he believed that the court's decision dismissing the lawsuit, which was available online through the federal court's PACER system, was exculpatory to him and that there would therefore not be probable cause found in this grievance complaint.

Regarding the January 27, 2009 letter, the Respondent testified that his secretary wasn't as clear as he would have wanted, and that he had instructed her to notify the Complainants that he could not represent them if there was a conflict of interest due to the grievance complaint. The Respondent also testified that he had instructed his secretary to return the Complainants' documents, and was surprised to find that it had not been done yet.

This reviewing committee concludes, by clear and convincing evidence, that the Respondent engaged in unethical conduct. The Respondent is ultimately responsible for the lawsuit that was filed in 2007, and his failure to insure proper service resulted in the dismissal of the case. The dismissal of the lawsuit under these circumstances constituted a lack of

diligence by the Respondent in violation of Rule 1.3 of the Rules of Professional Conduct. Additionally, although there was some communication with the Complainants, this reviewing committee notes that the Respondent has produced no documentation of his contacts with the Complainants and finds that the Respondent's overall level of communication with them was inadequate, in violation of Rule 1.4 of the Rules of Professional Conduct. The Respondent's failure to answer the grievance complaint violates Rule 8.1(2) of the Rules of Professional Conduct and Practice Book §2-32(a)(1).

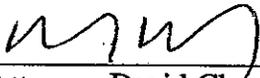
In determining an appropriate sanction, this reviewing committee takes note of the Respondent's prior disciplinary history, which includes five prior reprimands (three of which are under appeal) and two presentment orders. Accordingly, it is the decision of this reviewing committee that the Disciplinary Counsel is directed to file a presentment against the Respondent in Superior Court, for the imposition of whatever discipline the court deems appropriate.

Since a presentment is a trial de novo, it is further ordered that the Disciplinary Counsel include in the presentment: 1) a charge that the Respondent violated Rule 8.4(4) of the Rules of Professional Conduct for engaging in conduct prejudicial to the administration of justice by his threats to drop this litigation and the workers' compensation case if the grievance complaints were not withdrawn; and 2) a charge that the Respondent violated Rule 1.16(d) of the Rules of Professional Conduct for failing to return the Complainant's documents and paperwork.

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DECISION DATE: 10/30/09

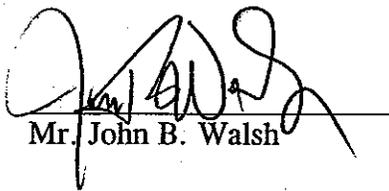
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Attorney David Channing

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Mr. John B. Walsh

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Attorney Nancy E. Fraser