ORIGINAL

Louisiana Attorney Disciplinary Board
FILED by: Donna P. Burgess
Docket# 14-DB-033
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LOUISIANA ATTORNEY DISCIPLINARY BOARD

IN RE: JALILA ESHE BULLOCK

DOCKET NO. 14-DB-033

REPORT OF THE HEARING COMMITTEE #10

INTRODUCTION

This attorney disciplinary matter arises out of formal charges consisting of one count filed by the Office of Disciplinary Counsel ("ODC") against Jalila Eshe Bullock ("Respondent"), bar roll number 28623. ODC alleges that Respondent violated Rules of Professional Conduct 1.3, 1.4, 8.4(c), and 8.4(a).[1]

PROCEDURAL HISTORY

The formal charges were filed on August 26, 2014. Respondent filed an answer to the charges on October 15, 2014, through her attorney, Dane S. Ciolino. After one continuance, the hearing of this matter was held on April 24, 2015. Chief Disciplinary Counsel Charles B. Plattsmier appeared on behalf of ODC. Dane S. Ciolino appeared on behalf of Respondent.

For the following reasons, the hearing committee finds Respondent violated Rule 1.4 in that she failed to communicate with the client in this matter, failed to keep the client informed as to the status of her case, failed to promptly return the client's file when it was requested of her, tried to conceal her malpractice from the client by claiming there was a settlement in this matter and other actions in which she knowingly violated the rules of professional conduct. Respondent also violated Rule 1.3 (lack of diligence in that she let the case prescribe without the filing of an action and then attempted to conceal this fact from the client. For these violations the Hearing Committee recommends a sanction of suspension for a year and a day with no deferral.

FORMAL CHARGES

[1] The text of the Rules is contained in the attached Appendix.

The amended formal charges read, in pertinent part:

I.

The Respondent is a Louisiana licensed attorney born June 9, 1975 and admitted to the practice of law in the State of Louisiana October 10, 2003. The Respondent has no prior disciplinary record, either public or private.

II.

The complainant, Geron Trenise Jones was the mother of a three year old baby girl who was struck and killed by a speeding motorcycle operated by Shawn Dejean. The tragic accident occurred July 4, 2011 and the subsequent police report reflected that the defendant was insured by Foremost Insurance Company at the time of the incident.

III.

Following the death of her child, the complainant hired Respondent to represent her in a civil action against the defendant and his insurer, signing a contingency fee contract and providing Respondent with all pertinent information.

IV.

At some point during the course of the representation, the Respondent determined that the defendant motorcycle driver did not have a valid policy of insurance in effect on the date of this tragic accident and that the defendant driver was highly unlikely to be able to respond financially to any damage award entered against him.

V.

Respondent's communications during the first year of representation were sporadic. At no time during the year reckoning from the date of the accident did the Respondent disclose to her client that the defendant was not insured at the time of the accident, that she had filed no lawsuit to interrupt prescription, nor that she declined to pursue the matter further.

VI.

More than one year after the accident, the client was able to reestablish communications with the Respondent who misled her into believing that the civil action was still ongoing.

VII.

The Respondent then wire transferred her own funds to her client where Respondent explained that she was personally and temporarily advancing a portion of the settlement.

VIII.

After these events, the Respondent ignored the client's demands for her file; and left her in the dark regarding the pendency of the "litigation" that she was to have filed.

IX.

The actions of the Respondent reflects violations of Rule 1.3 (lack of diligence), Rule 1.4 (failure to communicate), Rule 8.4(c) (conduct involving dishonesty), and Rule 8.4(a) (violating or attempting to violate the Rules of Professional Conduct), and warrant the imposition of discipline.

EVIDENCE

At the hearing of this matter the parties jointly stipulated to the following facts:

1. Jalila Bullock (Bar Roll No. 28623) is a Louisiana licensed attorney born June 9, 1975 and admitted to the practice of law in the State of Louisiana October 10, 2003. The Respondent has no prior disciplinary record, either public or private. The Respondent has not been the subject of any prior diversion opportunity.

2. The complainant, Geron Trenise Jones was the mother of a three year old baby girl who was struck and killed by a speeding motorcycle operated by Shawn Dejean. The accident occurred July 4, 2011 and the subsequent police report reflected that the defendant was insured by Foremost Insurance Company at the time of the incident.

3. As she undertook the representation of Ms. Jones, the Respondent was informed and therefore believed that Shawn Dejean was insured by a policy of the insurance issued by Foremost Insurance bearing policy# 0072039580.

4. At some point during the course of the representation~ the Respondent determined that the defendant motorcycle driver did not have a valid policy of insurance in effect on the date of this tragic accident and that the defendant driver was highly unlikely to be able to respond financially to any damage award entered against him.

5. Respondent's communications during the first year of representation were sporadic. At no time during the year reckoning from the date of the accident did the Respondent disclose to her client that the defendant was ·not insured at the time of the accident, that she had filed no lawsuit to interrupt prescription, nor that she declined to pursue the matter further.

6. More than one year after the accident the client was able to reestablish communications with the Respondent.

7. The Respondent then wire transferred her own funds to her client.

8. After these events, the Respondent ignored the client's demands for her file; and left her in the dark regarding the pendency of the litigation that she was to have filed.

9. The Respondent's conduct reflects violations of Ruie 1.3, 1.4, and 8.4(c).

10. The Respondent's conduct reflects violations of duties owed to a client; there is little financial harm by Respondent's conduct inasmuch as the defendant drive was uninsured and by all accounts unable to respond in damages personally. However, had the defendant been insured, the potential for harm would have been significant and amounting to the face value of the insurance policy.

At the hearing of this matter the testimony of the Complainant Geron Trenise Jones was offered. This testimony clearly showed that an attorney/client relationship was formed between Ms. Jones and Respondent concerning the wrongful death of Ms. Jones daughter which occurred on July 4, 2011. To reflect the representation a contract was signed between the parties a few days after the accident. This contract called for a contingency fee of 33 1/3%. A copy of this contract was never given to Ms. Jones.

A short time after this contract was signed Ms. Jones reached out to Respondent for information on her case and was told that the insurance company was giving her the "runaround" (Transcript 11). Respondent said "they sent her a check, but the check was wrong, and she had to send it back to get another one reissued." (Transcript 12)..

A few weeks later Respondent reiterated this story that there was a problem with the check and informed Ms. Jones "I'll just give you something out of my personal account" (Transcript 12) until the check comes. At this point Respondent wired Ms. Jones $7, 500.00 with the promise that another $7,500.00 would be wired at a later date. because Respondant "felt sorry for her and I (sic) shouldn't have to go through this." Ms. Jones did not receive the second payment nor did she receive any documentation about the filing of a lawsuit in the matter.

At this point Ms. Jones began asking repeatedly for a copy of her file or a copy of the lawsuit supposedly filed in this matter, neither were forthcoming. A copy of the file has never been given to Ms.Jones even asa of the date of the hearing despite multiple requests for the same.

Shortly after these events transpired Ms. Jones' stepfather went to the courthouse in attempt to secure a copy of the lawsuit. He found no evidence that any lawsuit in fact had been filed.

After a complaint was filed with the Office of Disciplinary Council, Ms. Jones learned that no complaint had in fact been filed. This information was learned only from a response from Respondent's attorney. As a further result of ODC's investigation into this matter it was further learned that there was, in fact, no insurance check. There was in fact no liability insurance on the defendant driver who caused the death of Ms. Jones' child. It was at this time long after the filing of the original complaint that Ms. Jones was informed of the malpractice and was advised to contact another lawyer.

Respondent also offered testimony in her defense. Respondent testified that she has been licensed to practice law in the State of Louisiana since 2003. Respondent characterized her experience in working with her sister as "a varied law practice. We did many different things :plaintiff's work, business litigation. We did some bankruptcy. We did some family law. Varied practice." (Transcript 24).

On the issue of communications Respondent testified "I was not as--I didn't communicate with her as well as I should have." (Transcript 27) Respondent never communicated the fact that the defendant driver in this case did not have insurance nor dis she file a lawsuit in a timely fashion. No full disclosure was made of this fact to Ms. Jones that the time had passed for the filing of any lawsuit.

In addition Respondent testified that the file was not handled well. No research was done as to other responsible parties or sources of recovery. Respondent testified that she felt bad about Ms. Jones situation and that nothing could be done. It was for this reason that she made the transfer of $7,500.00.

Respondent testified at as of the hearing date she had still not turned over the file ostensibly for the reason that she believed that no one wanted it anymore (Transcript 33) or even worse that it would be inappropriate to do so.

Perhaps, the most disturbing element of testimony by Respondent concerns the issue of the pending malpractice suit. Respondent seems to be alleging the issue of the one year malpractice description as a defense in effect benefitting from her own misconduct:

Q: Have you raised the defense of prescription?

A: I have. But please understand, it was never my intention. I didn't know I was going to be sued in that fashion. It was never my intention to just wait that out, and all of that. Because I'm not even sure if that's going to effect claims, going to be a--if it's a viable claim.

Because it's more than three years or if it was going to be successful rather. Let me say that. I think it's viable. I don't know if it's going to be successful at all. I have no idea.

But it was never my intention to put her in a position where she couldn't see any type of recourse against me at all.

Q: Today as we sit--I didn't mean to interrupt you. I'll let you finish. Go ahead and finish. Im didn't mean to interrupt. Were you done?

A: I'm done.

Q: As of today, have you filed a pleading waiving prescription and allowing her a claim to proceed; have you done that?

A; No.

Q: In fact, what you've done is you plead prescription as a bar against her claim, haven't you?

A: Well, I had to. I had to.

(Transcript 53-54)

RULES VIOLATED

The actions of the Respondent reflects violations of Rule 1.3 (lack of diligence), Rule 1.4 (failure to communicate), Rule 8.4(c) (conduct involving dishonesty), and Rule 8.4(a) (violating or attempting to violate the Rules of Professional Conduct), and warrant the imposition of discipline. The parties have stipulated to violations of Rule 1.3, Rule 1.4 . Rule *.4(c) and Rule 8.4 (a). Therefore the primary issue to be resolved is simply one of the appropriate sanction to be imposed.

Rule 1.3:Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client. A lawyer commits infractions of this rule when they negligently or intentionally ignore matters that warrant attention. One of the key violations involves a matter that takes an unreasonably long period to be resolved. This inattention may cause the matter to prescribe prior to the time for the filing of the suit. *In re Broussard* 20 so.3d 131(La2010); *In re Williams-Bensaadat* 964 So.2d 317 (La. 2007); *In re Jackson* 842 So.2d 359 (La. 2003); *In re Thompson* , 712 So.2d 72 (La. 1998).

In this case there is no question that Respondent failed to act diligently in the Jones matter. There was no research into alternate sources of recovery, if any. There was no hunt for available witnesses. There was no mention of alternate theories of responsibility. Respondent failed to return the client's file when requested. Respondent failed to provide a copy of the contract evidencing the attorney client relationship. Respondent testified that the matter was not handled as it should have been and that she let the matter prescribe without the filing of a lawsuit.

There is a very narrow margin between simple malpractice and an ethical violation. Had Respondent admitted the above facts to her client we would not be here today. Respondent chose not to admit to her failures but instead chose to do nothing at best and at worst to cover her mistakes with a series of actions that breached that narrow margin: She refused to return the client's file even as of the date of the hearing, she attempted to pay the client for her misconduct through a personal payment of $7500.00 without advising client of her negligence and without advising client to seek further council.

For this violation a suspension is warranted when the lawyer knowingly fails to perform services for a client or engages in a pattern of neglect and causes injury or potential injury to the client.

All of the subsequent rule violations flow from the Respondent's lack of diligence. The mental element of "knowing" was clearly present in this case. If there was no actual harm there was certainly the possibility of harm. The principal harm is to the profession rather than to the client. Harm is harm nevertheless. A member of a profession may not mislead a client it is unacceptable and sets a bad precedent for other members of that profession. In this case the baseline sanction is suspension.

SANCTION

Louisiana Supreme Court Rule XIX, Section 10(C) states that in imposing a sanction after a finding of lawyer misconduct, the court or board shall consider the following factors:

1. whether the lawyer has violated a duty owed to a client, to the public, to the legal system, or to the profession;
2. whether the lawyer acted intentionally, knowingly, or negligently;
3. the amount of actual or potential injury caused by the lawyer's misconduct; and
4. the existence of any aggravating or mitigating factors.

The Louisiana Supreme Court also relies on the *ABA Standards for Imposing Lawyer Sanctions* ("ABA Standards") to determine the baseline sanction the Committee feels that the appropriate sanction in this case should be suspension for a year and a day with no deferral

CONCLUSION

This Hearing Committee feels that the appropriate sanction in Respondent's case should be a suspension imposed for a year and a day with no deferral.

New Orleans, Louisiana, this 16th day of June, 2015.

Louisiana Attorney Disciplinary Board
Hearing Committee #10

Bryan August Pfleeger, Committee Chair
Racquel B. Pettigrew, Lawyer Member
Shaughnesena Jefferson Seals, Public Member

BY: Bryan August Pfleeger, Committee Chair
FOR THE COMMITTEE

APPENDIX

RULE 1.4. COMMUNICATION

(a) A lawyer shall:
(1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;
(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
(3) keep the client reasonably informed about the status of the matter;
(4) promptly comply with reasonable requests for information; and
(5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.
(b) The lawyer shall give the client sufficient information to participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued.
(c) A lawyer who provides any form of financial assistance to a client during the course of a representation shall, prior to providing such financial assistance, inform the client in writing of the terms and conditions under which such financial assistance is made, including but not limited to, repayment obligations, the imposition and rate of interest or other charges, and the scope and limitations imposed upon lawyers providing financial assistance as set forth in Rule 1.8(e).

RULE 1.15. SAFEKEEPING PROPERTY

(a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Except as provided in (g) and the IOLTA Rules below, funds shall be kept in one or more separate interest-bearing client trust accounts maintained in a bank or savings and loan association: 1) authorized by federal or state law to do business in Louisiana, the deposits of which are insured by an agency of the federal government; 2) in the state where the lawyer's primary office is situated, if not within Louisiana; or 3) elsewhere with the consent of the client or third person. No earnings on a client trust account may be made available to or utilized by a lawyer or law firm. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.
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(d) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. For purposes of this rule, the third person's interest shall be one of which the lawyer has actual knowledge, and shall be limited to a statutory lien or privilege, a final judgment addressing disposition of those funds or property, or a written agreement by the client or the lawyer on behalf of the client guaranteeing payment out of those funds or property. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.
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RULE 8.4. MISCONDUCT

It is professional misconduct for a lawyer to:

(a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

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