

VIRGINIA:

BEFORE THE TENTH DISTRICT—SECTION I SUBCOMMITTEE  
OF THE VIRGINIA STATE BAR

IN THE MATTER OF  
Richard Waters Davis, Jr.

VSB Docket No. 12-101-090309  
11-101-086786

SUBCOMMITTEE DETERMINATION  
(PUBLIC REPRIMAND WITHOUT TERMS)

On April 22, 2013 a meeting was held in these matters before a duly convened Tenth District—Section I Subcommittee consisting of Michael John Sobey, William Rex Webb, and Karen Marie Lado Loftin. During the meeting, the Subcommittee voted to approve an Agreed Disposition for a Public Reprimand without Terms pursuant to Part 6, § IV, ¶ 13-15.B.4 of the Rules of the Supreme Court of Virginia. The Agreed Disposition was entered into by the Virginia State Bar, by Edward James Dillon, Jr., Assistant Bar Counsel; and Richard Waters Davis, Jr., Respondent; and Anthony Anderson, Esquire, counsel for Respondent.

WHEREFORE, the Tenth District—Section I Subcommittee of the Virginia State Bar hereby serves upon Respondent the following Public Reprimand without Terms:

**VSB Docket No. 11-101-086786**

FINDINGS OF FACT

1. At all relevant times, Respondent Richard Waters Davis, Jr. (“Respondent”) was an attorney licensed to practice law in the Commonwealth of Virginia.
2. In or about May 2000, Respondent was retained by a client (the “Client”) to provide legal representation in regard to injuries sustained in an automobile accident that occurred on or about May 5, 2000 (the “Accident”).
3. Client received treatment from a chiropractic clinic (the “Chiropractic Clinic”) for her injuries.

4. On or about May 23, 2002, Respondent filed a Motion for Judgment (“Lawsuit 1”) on behalf of Client in the Circuit Court of Pulaski County seeking to recover damages for injuries suffered in the Accident.
5. Respondent did not file Lawsuit 1 within the two-year period prescribed by the applicable statute of limitations.
6. Respondent did not disclose to Client the fact that Lawsuit 1 was time-barred and took no further action to prosecute or settle Lawsuit 1.
7. In or about September 2005, Lawsuit 1 was stricken from the docket by the Circuit Court of Pulaski County, pursuant to Virginia Code § 8:01-335B, as a result of Respondent’s failure to pursue Lawsuit 1 on behalf of Client.
8. Respondent stated to the Virginia State Bar that he did not know that Lawsuit 1 had been purged from the docket until sometime after the Bar Complaint was filed in 2011.
9. In 2008, Respondent paid \$2,000 to the Chiropractic Clinic to cover medical expenses incurred by Client in regard to the Accident. Respondent has stated that he believed Client to be indigent. Client was not ultimately liable for the \$2,000 advanced to the Chiropractic Clinic.
10. During the course of his representation of Client, Respondent also paid approximately \$1,560 to Client to cover expenses unrelated to Lawsuit 1. Respondent has stated that he made these payments because he believed Client to be indigent.
11. In or about February 2011, an officer of the Chiropractic Clinic filed the instant Bar Complaint against Respondent. Respondent subsequently paid an additional \$2,500 to the Chiropractic Clinic to cover medical expenses incurred by Client in regard to the Accident. Client was not ultimately liable for the \$2,500 advanced to the Chiropractic Clinic.
12. During the course of the Virginia State Bar’s investigation of the Bar Complaint, Respondent wrote a letter dated June 16, 2011 to Assistant Bar Counsel Alfred L. Carr. The June 16, 2011 letter contained the following material misrepresentations: (a) that Respondent had contacted Client, that Respondent told Client that he could advance no more funds on her case, and that Client had agreed to be responsible for the payments made to the Chiropractic Clinic and (b) Respondent’s advances to Client did not extend beyond the initial \$2,000 advance made to the Chiropractic Clinic.
13. In a September 1, 2011 letter to Mr. Carr, Respondent admitted the forgoing misrepresentations and acknowledged that, in the course of representing Client, he had violated the Rules of Professional Conduct pertaining to financial assistance to clients, diligence, communications with clients, and knowingly making false statements in connection to a disciplinary matter.
14. In the September 1, 2011 letter, Respondent stated: “After you advised me . . . that I should not have made payments on behalf of my client, I panicked and was not completely truthful in my written response. Please accept my apology. I will forever regret my decision not to be completely candid with you and for the embarrassment I may have caused the Bar, my firm, and my family.”
15. During the course of the Virginia State Bar’s investigation of the Bar Complaint, Respondent advised Client of his failure to file Lawsuit 1 within the two-year period

prescribed by the applicable statute of limitations and advised Client to consult another attorney about a possible cause of action against Respondent.

### NATURE OF MISCONDUCT

Such conduct by Respondent constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

#### **Rule 1.3      Diligence**

- (a) A lawyer shall act with reasonable diligence and promptness in representing a client.

#### **Rule 1.4      Communication**

- (a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.
- (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

#### **Rule 1.8      Conflict of Interest: Prohibited Transactions**

- (e) A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that:
  - (1) a lawyer may advance court costs and expenses of litigation, provided the client remains ultimately liable for such costs and expenses; and
  - (2) a lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client.

#### **Rule 8.1      Bar Admission And Disciplinary Matters**

An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

- (a) knowingly make a false statement of material fact[.]

FINDINGS OF FACT

1. At all relevant times, Respondent Richard Waters Davis, Jr. ("Respondent") was an attorney licensed to practice law in the Commonwealth of Virginia.
2. In or about January 2005, Respondent filed a Motion for Judgment in the Circuit Court of Giles County ("Lawsuit 2") on behalf of a client ("Complainant"), alleging that Complainant had suffered injuries in an assault and battery committed by another individual (the "Defendant").
3. In February 2006, the Defendant, by counsel, moved to dismiss Lawsuit 2 for lack of service of process within one year.
4. In or about June 2009, Lawsuit 2 was stricken from the docket by the Circuit Court of Giles County, pursuant to Virginia Code § 8:01-335B, as a result of Respondent's failure to pursue Lawsuit 2 on behalf of Complainant.
5. On or about December 2, 2009, Respondent filed a Motion for Restatement with the Circuit Court of Giles County in regard to Lawsuit 2.
6. By Order dated March 24, 2010, the Circuit Court of Giles County reinstated Lawsuit 2 to the Court's docket.
7. Respondent did not tell Complainant that Lawsuit 2 had been stricken from the docket, but did tell Complainant that Lawsuit 2 had been reinstated to the Court's docket.
8. In or about December 2011, Complainant filed a Complaint with the Virginia State Bar, stating that she was having difficulty getting Respondent to pursue Lawsuit 2.
9. After the Bar Complaint had been filed, Respondent moved to set Lawsuit 2 for trial. Lawsuit 2 was first set for trial on or about May 30, 2012 and was later re-set for trial on or about June 13, 2012. Both trial dates were re-scheduled as a result of difficulty in serving the Defendant with a summons to appear for trial.
10. In or about October 2012, the Circuit Court of Giles County entered an Order of Entry of Judgment by Default in Lawsuit 2. The Order of Entry of Judgment by Default stated that the actions of the Defendant had "directly caused the failure for personal service by the Giles County Sheriff's office[.]"
11. In or about December 2012, the Circuit Court of Giles County held an evidentiary hearing on damages in Lawsuit 2.
12. On or about February 4, 2013, the Circuit Court of Giles County issued a letter opinion granting Complainant judgment in the amount of \$15,000 in Lawsuit 2.
13. No substantial harm to Complainant or the public occurred as a result of this misconduct.

NATURE OF MISCONDUCT

Such conduct by Respondent constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

**Rule 1.3      Diligence**

(a) A lawyer shall act with reasonable diligence and promptness in representing a client.

**Rule 1.4      Communication**

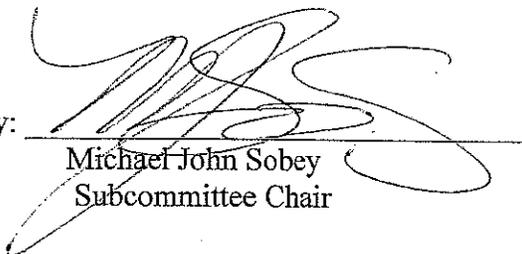
(a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

PUBLIC REPRIMAND WITHOUT TERMS

Accordingly, having approved the Agreed Disposition, it is the decision of the Subcommittee to impose a Public Reprimand without Terms and Richard Waters Davis, Jr. is hereby so reprimanded. This discipline does not limit Respondent's right to practice law, and consequently there will be no further disciplinary action in these matters as this Public Reprimand represents an appropriate sanction if these matters were to be heard through an evidentiary hearing by the Tenth District Committee.

Pursuant to Part 6, § IV, ¶ 13-9.E of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs.

TENTH DISTRICT—SECTION I  
SUBCOMMITTEE OF THE  
VIRGINIA STATE BAR

By:   
Michael John Sobey  
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on May 3, 2013, a true and complete copy of the Subcommittee Determination (Public Reprimand without Terms) was sent by certified mail to Richard Waters Davis, Jr., Respondent, at P.O. Box 3448, Radford, Virginia 24143, Respondent's last address of record with the Virginia State Bar, and by first class mail, postage prepaid to Anthony Anderson, counsel for Respondent, at P.O. Box 1525, Roanoke, Virginia 24007.



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Edward James Dillon, Jr.  
Assistant Bar Counsel