

VIRGINIA:

BEFORE THE FIFTH DISTRICT SECTION I SUBCOMMITTEE  
OF THE VIRGINIA STATE BAR

IN THE MATTER OF  
James Patrick Hodges

VS B Docket No. 12-051-092060

SUBCOMMITTEE DETERMINATION  
(PUBLIC REPRIMAND WITH TERMS)

On October 27, 2014, a meeting was held in this matter before a duly convened Fifth District Section I Subcommittee consisting of Stephanie Smith, Esquire, David Bowie, Lay Member, and Raymond F. Morrogh, Esquire, presiding. During the meeting, the Subcommittee voted to approve an agreed disposition for a Public Reprimand with 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 Kathleen Maureen Uston, Assistant Bar Counsel, and James Patrick Hodges, Respondent, pro se.

WHEREFORE, the Fifth District Section I Subcommittee of the Virginia State Bar hereby serves upon Respondent the following Public Reprimand with Terms:

I. FINDINGS OF FACT

1. At all times relevant hereto, James Patrick Hodges ("Respondent"), has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. Ms. Juliet Lee (hereinafter "Complainant") retained Respondent to assist her in settling a case filed against her by M&T Bank. Complainant had been sued by M&T due to her default upon an equipment lease, and a Motion for Default Judgment was pending at the time she retained Respondent due to her failure to file responsive pleadings.
3. Complainant stated that Respondent assured her that he could settle the case for her out of court, and he promised to bring her former partner into the lawsuit so that liability could be shared. Complainant stated further that Respondent stopped communicating with her, failed to advise her of the trial date, and failed to advise her that default judgment had been entered against on the date of trial, and that he failed to appear on her behalf. Complainant stated

that it was not until months after default judgment was entered that she learned of it through notice from opposing counsel.

4. Complainant stated finally that she demanded return of her file and Respondent failed to provide it to her.

5. Respondent provided documents and information which showed that he did make efforts to attempt to settle the case pending against Complainant, and also contacted opposing counsel and secured her agreement to withdraw her Motion for Summary Judgment and permit him to file responsive pleadings on Complainant's behalf. Documents show that Respondent subsequently did so.

6. Documents also demonstrated that Respondent's offer of settlement was rejected. Respondent stated finally that Complainant did not want to participate in the case as she had no defense to the suit.

## II. 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.

(c) A lawyer shall inform the client of facts pertinent to the matter and of communications from another party that may significantly affect settlement or resolution of the matter.

### **RULE 1.16 Declining Or Terminating Representation**

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, refunding any advance payment of fee that has not been earned and handling records as indicated in paragraph (e).

(e) All original, client-furnished documents and any originals of legal instruments or official documents which are in the lawyer's possession (wills, corporate minutes, etc.) are the property of the client and, therefore, upon termination of the representation, those items shall be returned within a reasonable time to the client or the client's new counsel upon request, whether or not the client has paid the fees and costs owed the lawyer. If the lawyer wants to keep a copy of such original documents, the lawyer must incur the cost of duplication. Also upon termination, the client, upon request, must also be provided within a reasonable time copies of the following documents from the lawyer's file, whether or not the client has paid the fees and costs owed the lawyer: lawyer/client and lawyer/third-party communications; the lawyer's copies of client-furnished documents (unless the originals have been returned to the client pursuant to this paragraph); transcripts, pleadings and discovery responses; working and final drafts of legal instruments, official documents, investigative reports, legal memoranda, and other attorney work product documents prepared or collected for the client in the course of the representation; research materials; and bills previously submitted to the client. Although the lawyer may bill and seek to collect from the client the costs associated with making a copy of these materials, the lawyer may not use the client's refusal to pay for such materials as a basis to refuse the client's request. The lawyer, however, is not required under this Rule to provide the client copies of billing records and documents intended only for internal use, such as memoranda prepared by the lawyer discussing conflicts of interest, staffing considerations, or difficulties arising from the lawyer-client relationship. The lawyer has met his or her obligation under this paragraph by furnishing these items one time at client request upon termination; provision of multiple copies is not required. The lawyer has not met his or her obligation under this paragraph by the mere provision of copies of documents on an item-by-item basis during the course of the representation.

### III. PUBLIC REPRIMAND WITH TERMS

Accordingly, having approved the agreed disposition, it is the decision of the Subcommittee to impose a Public Reprimand with Terms. The terms are:

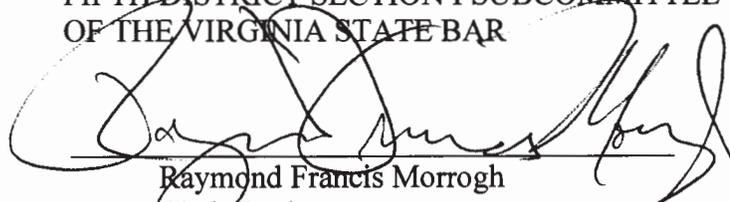
1. Respondent shall commit no violations of the Rules of Professional Conduct enumerated above.
2. If, within the next twelve (12) months, a finding by any disciplinary tribunal is made of a violation of the Rules of Professional Conduct enumerated above, then Respondent's license to practice law in the Commonwealth of Virginia shall be suspended for a period of forty-five (45) day. If no finding is made, then this matter shall be closed.

3. Any such finding must include a factual determination that the misconduct occurred during the twelve (12) month period running from the date of service upon Respondent of this Agreed Disposition.

If a finding, as detailed in Paragraphs 2 and 3 above, is made, pursuant to Part 6, § IV, ¶13-15.F of the Rules of the Supreme Court of Virginia, the District Committee shall hold a hearing and Respondent shall be required to show cause why a forty-five (45) day suspension should not be imposed. Any proceeding initiated due to failure to comply with terms will be considered a new matter, and an administrative fee and costs will be assessed pursuant to ¶13-9.E of the Rules of the Supreme Court of Virginia.

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.

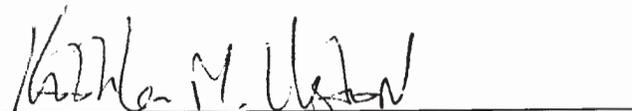
FIFTH DISTRICT SECTION I SUBCOMMITTEE  
OF THE VIRGINIA STATE BAR



Raymond Francis Morrogh  
Chair Designate

CERTIFICATE OF MAILING

I hereby certify that on the 19<sup>th</sup> day of December, 2014, a true and complete copy of the Subcommittee Determination (Public Reprimand With Terms) was sent by certified mail to James Patrick Hodges, Respondent, at Hodges & Associates, P.C., 11325 Random Hills Rd Ste 400, Fairfax, VA 22030, Respondent's last address of record with the Virginia State Bar.



Kathleen Maureen Uston  
Assistant Bar Counsel