

VIRGINIA:

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

IN THE MATTER OF
JOHN LYDON MCGANN

VSB Docket No. 09-051-076260

DISTRICT COMMITTEE DETERMINATION
(PUBLIC REPRIMAND WITHOUT TERMS)

On March 15, 2011, a hearing in this matter was held before a duly convened Fifth District Section I Committee Panel consisting of Beth A. Bittel, Esquire, Gary V. Davis, Esquire, John E. Byrnes, Esquire, Debra Powers, Esquire, Harry A. Thomas, Lay Member, and John E. Coffey, Esquire, presiding.

Respondent appeared in person, *pro se*. Kathleen Maureen Uston, Assistant Bar Counsel, appeared as counsel for the Virginia State Bar.

Pursuant to Part 6, Section IV, Paragraph 13-16.Z of the Rules of the Virginia Supreme Court, the Fifth District Section I Committee of the Virginia State Bar hereby serves upon the Respondent the following Public Reprimand:

I. FINDINGS OF FACT

1. At all times relevant hereto, John Lydon McGann, (hereinafter the "Respondent") has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. On July 12, 2006, the Respondent filed suit on behalf of his client, Mr. Kamil Poullath, the Complainant herein, in the Fairfax County Circuit Court alleging personal injuries arising out of a motor vehicle accident that took place on August 3, 2004. On July 23, 2007, the Respondent moved for a first voluntary non-suit of the case, which Motion was granted.

3. Thereafter, on January 22, 2008, one (1) day before the expiration of the six (6) month tolling period, the Respondent re-filed the Complainant's case in the Fairfax County General District Court. On April 17, 2008, the first return of Complainant's General District Court matter (the "GDC case"), the court dismissed the case without prejudice. The Respondent was not present on that date, but had arranged for another attorney to appear on his behalf. The Complainant was present in court that day, but testified that the Respondent never advised him of the court date. The Complainant testified that he learned of the court date by personally contacting the court clerk. The Respondent testified that it was not likely he would have advised the Respondent to appear on the first return date.

4. On April 23, 2008, the Respondent noted his client's appeal of the dismissal of the General District Court case and in response the defendant driver filed a Motion to Strike the Appeal.

5. On June 20, 2008, the Circuit Court heard argument on defendant driver's Motion to Strike the Appeal, took the matter under advisement and asked for briefs on the limited issue of whether the General District Court's dismissal order was a final, appealable order, and on July 15, 2008, issued its Letter Opinion granting the defendant driver's motion and dismissing the Complainant's case. Thereafter, the Respondent appealed this dismissal to the Virginia Supreme Court which, by Order dated February 27, 2009, affirmed the trial court finding no reversible error.

6. The evidence established that English was the Complainant's second language and that he likely had great difficulty reading English. The Complainant did have family members available who were able to translate written documents for him.

7. The evidence was uncontroverted that the Respondent failed to provide to the Complainant important documents and pleadings in the case, e.g. the original Motion for Judgment filed in Circuit Court, the Order of Nonsuit of the Circuit Court case, the Warrant in Debt filed in the General District Court, the Order of Dismissal of the General District Court case, the Respondent's brief in the Circuit Court supporting the Appeal, and the Letter Opinion of Judge Bellows granting the Motion to Strike the Appeal of the dismissal of the GDC case.

8. The Respondent's failure to provide important documents and pleadings in the case to the Complainant deprived the Complainant of the opportunity to make informed decisions regarding the representation.

II. NATURE OF MISCONDUCT

The Subcommittee finds that the Virginia State Bar failed to prove by clear and convincing evidence a violation of the following Rules of Professional Conduct:

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.
- (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.

The Subcommittee finds that the Virginia State Bar proved by clear and convincing evidence a violation of the following Rule of Professional Conduct:

RULE 1.4 Communication

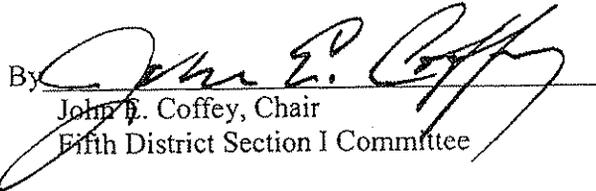
- (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

III. PUBLIC REPRIMAND WITHOUT TERMS

Accordingly, it is the decision of the Fifth District Section I Committee to impose a Public Reprimand Without Terms and the Respondent is hereby so Reprimanded.

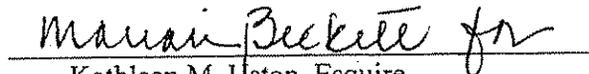
Pursuant to Paragraph 13-9.E of the Rules of Court, the Clerk of the Disciplinary System shall assess costs.

FIFTH DISTRICT SECTION I COMMITTEE
OF THE VIRGINIA STATE BAR

By 
John E. Coffey, Chair
Fifth District Section I Committee

CERTIFICATE OF SERVICE

I certify that on April 5, 2011, I caused to be mailed by certified mail, a true copy of the District Committee Determination (Public Reprimand) to John Lydon McGann, Respondent, at Suite 206, 4101 Chain Bridge Road, Fairfax, VA 22030, Respondent's last address of record with the Virginia State Bar.


Kathleen M. Uston, Esquire
Assistant Bar Counsel