

VIRGINIA:

Before the Virginia State Bar Disciplinary Board

In the Matter of

SOL ZALEL ROSEN

Attorney at Law

On December 6, 2010, came Sol Zalel Rosen and presented to the Board an Affidavit Declaring Consent to Revocation of his license to practice law in the courts of this Commonwealth. By tendering his resignation at a time when disciplinary charges are pending, he admits that the charges in the attached Certification and Affidavit Declaring Consent to Revocation are true.

The Board having considered the said Affidavit Declaring Consent to Revocation accepts his resignation. Accordingly, it is ordered that the license to practice law in the courts of this Commonwealth heretofore issued to the said Sol Zalel Rosen be and the same hereby is revoked, and that the name of the said Sol Zalel Rosen be stricken from the Roll of Attorneys of this Commonwealth.

Enter this Order this 7th day of December, 2010

For the Virginia State Bar Disciplinary Board

By 
Barbara Sayers Lanier
Clerk of the Disciplinary System

RECEIVED

VIRGINIA:

DEC 6 2010

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

In the Matter of Sol Zalel Rosen
VSB Docket No. 09-021-078910

VSB CLERK'S OFFICE

AFFIDAVIT DECLARING CONSENT TO REVOCATION

Sol Zalel Rosen, after being duly sworn, states as follows:

1. That he was licensed to practice law in the Commonwealth of Virginia on April 21, 1976.
2. That he submits this Affidavit Declaring Consent to Revocation pursuant to Part 6, Section IV, Paragraph 13-28 of the Rules of the Supreme Court of Virginia.
3. That his consent to revocation is freely and voluntarily rendered, that he is not being subjected to coercion or duress, and that he is fully aware of the implications of consenting to the revocation of his license to practice law in the Commonwealth of Virginia.
4. That he is aware that he is the subject of a pending disciplinary proceeding involving allegations of misconduct (VSB Docket No. 09-021-078910), the specific nature of which is as follows:

In early 2008, Respondent was retained by Charles T. Artis, Jr. ("Artis") to prosecute two matters, to-wit: i) a civil action against three sheriff's deputies for allegedly assaulting Artis in March 2003 while he was an inmate at the Virginia Beach Correctional Center ("Assault Case"); and ii) a medical malpractice action for allegedly negligent care provided to Artis while he was an inmate at the Virginia Beach Correctional Center ("Medical Malpractice Case").

In the Assault Case, Respondent filed two amended complaints without obtaining leave of court as required by Rule 1:8 of the Rules of the Supreme Court of Virginia, resulting in the

pretrial dismissal of the Assault Case.

In the Medical Malpractice Case, defense counsel filed a motion to compel alleging that Artis had failed to provide full answers or produce any documents in response to the interrogatories and request for production of documents propounded on Artis by the defendant. By letter to Respondent, defense counsel offered to withdraw the motion to compel upon receipt of a supplemental discovery response. Respondent did not respond to that offer or appear at the hearing held on the motion to compel on September 17, 2008. The motion to compel was granted and Artis was ordered to fully respond to the discovery and pay the defendant \$1,845.00 in costs and attorneys' fees by September 27, 2008. Respondent did not notify Artis of the motion to compel or the sanction order until October 2008. In November 2008, when neither supplemental discovery responses had been filed nor payment of the \$1,845.00 had been made, defense counsel filed a motion to enforce the September 17, 2008 order. Respondent declined to provide his available dates for a hearing on the motion to enforce, and did not appear at the hearing held on that motion on February 4, 2009. On that date, the motion to enforce was granted, resulting in the pretrial dismissal of the Medical Malpractice Case with prejudice and the imposition of an additional sanction against Artis of \$820.00.

Respondent did not notify Artis of the dismissal of either the Assault Case or the Medical Malpractice Case.

Respondent charged a flat fee of \$5,000.00 for the representation of Artis. Respondent did not deposit the \$4,000.00 in payments he received toward the fee for the representation into trust, and instead deposited those monies into his operating account. Respondent did not refund any portion of the \$4,000.00 upon termination of the representation.

5. That he acknowledges that the material facts upon which the allegations of misconduct are predicated are true.

AND

6. That he submits this Affidavit and consents to the revocation of his license to practice law in the Commonwealth of Virginia because he knows that if the disciplinary proceedings based on the said alleged misconduct were brought or prosecuted to a conclusion, he could not successfully defend them.

Given this 26 day of Nov, 2010.

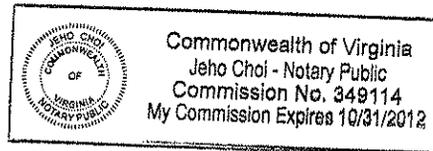
Sol Zalel Rosen
Sol Zalel Rosen
Respondent

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF Arlington, to wit:

The foregoing Affidavit Declaring Consent to Revocation was subscribed and sworn to before me by Sol Zalel Rosen, whose identity is personally known to me, on this 26 day of NOV., 2010.

Jeho Choi
Notary Public

My Commission expires: OCT. 31, 2012



VIRGINIA:

BEFORE THE SECOND DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

RECEIVED

IN THE MATTER OF
SOL ZALEL ROSEN

NOV 30 2010

VSB Docket No. 09-021-078910

SUBCOMMITTEE DETERMINATION
(CERTIFICATION)

VSB CLERK'S OFFICE

On October 27, 2010, a meeting in this matter was held before a duly convened Second District Section I Subcommittee consisting of Ellen C. Carlson, Esquire, Presiding Chair, Dennis T. Lewandowski, Esquire, Member and Michael S. Brewer, Lay Member.

Pursuant to Part 6, Section IV, Paragraph 13-15.B.3. of the Rules of the Supreme Court of Virginia ("Rules"), the Second District Subcommittee of the Virginia State Bar hereby serves upon the Respondent the following Certification:

I. FINDINGS OF FACT

1. At all times relevant hereto, Respondent was an attorney licensed to practice law in the Commonwealth of Virginia.
2. In early 2008, the complainant, Dorothy L. Edwards ("Ms. Edwards"), hired Respondent to represent her incarcerated son, Charles T. Artis, Jr. ("Mr. Artis"), in two legal matters, specifically, a civil action against three sheriff's deputies for allegedly assaulting Mr. Artis in March 2003 while he was an inmate at the Virginia Beach Correctional Center ("Assault Case"), and a medical malpractice action for allegedly negligent care provided to Mr. Artis for the injuries he sustained in the alleged assault ("Medical Malpractice Case").
3. Prior to the hiring of the Respondent, Mr. Artis had been represented by other counsel

whom had: i) filed lawsuits in both the Assault Case and the Medical Malpractice Case in March 2005; ii) non-suited the Assault Case in November 2006 and re-filed it in May 2007; and iii) non-suited the Medical Malpractice Case in December 2007.

4. Respondent filed two (2) amended complaints in the Assault Case without leave of court. Respondent did not take any steps to have the three named defendants served with process. Mr. Artis' initial counsel, who remained co-counsel of record for Mr. Artis in the Assault Case until August 2008, did not pursue service of the defendants until the day prior to the expiration of one-year from the re-filing of the case in May 2007. Timely service was obtained on only one of the defendants. The defendants filed a motion to dismiss on the grounds that: i) the multiple amended complaints were filed on behalf of Mr. Artis without leave of court as required by Rule 1:8 of the Rules; and ii) service of the complaint filed on May 2007 was not served within a year as required by Rule 3:5(e) of the Rules. On February 6, 2009, the Assault Case was dismissed.

Respondent was unaware that he needed to obtain leave of court to file an amended complaint as required by Rule 1:8 of the Rules.

Respondent did not notify Mr. Artis of the dismissal of the Assault Case.

5. In May 2008, Respondent re-filed the Medical Malpractice Case. On June 11, 2008, defense counsel sent interrogatories and request for production of documents to Respondent. On June 25, 2008, Mr. Artis signed answers to the interrogatories. Shortly thereafter, Respondent sent Mr. Artis' answers to the interrogatories to defense counsel. Despite the fact that Mr. Artis' prior counsel had provided Respondent with hundreds of documents responsive to the request for production of documents, Respondent did not produce a single document.

On September 2, 2008, defense counsel filed a motion to compel alleging that Mr. Artis had failed to fully respond to the interrogatories or provide any documents in response to the

request for production of documents. Defense counsel sent Respondent a letter dated September 3, 2008 offering to withdraw the motion to compel upon receipt of an adequate supplemental discovery response. Respondent did not respond to that offer or appear at the hearing held on the motion to compel on September 17, 2008. On that date, the motion to compel was granted and Mr. Artis was ordered to fully respond to the discovery within ten (10) days and pay defendant \$1,845.00 in costs and attorneys' fees.

In November 2008, after Respondent had failed to supplement discovery responses or pay the monetary sanction by the court-ordered deadline, defense counsel filed a motion to enforce the September 17, 2008 order. Respondent refused to provide his available dates and did not appear at the hearing held on the motion to enforce on February 4, 2009. On that date, the motion to enforce was granted, resulting in the dismissal of the case with prejudice and the imposition of an additional monetary sanction against Mr. Artis in the amount of \$820.00.

Respondent did not advise Mr. Artis or Ms. Edwards of: i) the filing of the motion to compel or the ruling issued thereon on September 17, 2008; or ii) the filing of the motion to enforce or the ruling issued thereon on February 4, 2009.

6. Respondent had agreed to represent Mr. Artis in both the Assault Case and the Medical Malpractice Case for a total flat fee of \$5,000.00 of which \$4,000.00 was actually paid to Respondent. Respondent deposited the \$4,000.00 in advance fee monies paid to him for the representation directly into his operating account. Respondent did not refund any portion of the \$4,000.00 following termination of the representation.

II. NATURE OF MISCONDUCT

Such conduct by Sol Zalel Rosen constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

RULE 1.1 Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

RULE 1.3 Diligence

- (a) A lawyer shall act with reasonable diligence and promptness in representing a client.
- (b) A lawyer shall not intentionally fail to carry out a contract of employment entered into with a client for professional services, but may withdraw as permitted under Rule 1.16.
- (c) A lawyer shall not intentionally prejudice or damage a client during the course of the professional relationship, except as required or permitted under Rule 1.6 and Rule 3.3.

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 1.15 Safekeeping Property

- (a) All funds received or held by a lawyer or law firm on behalf of a client, other than reimbursement of advances for costs and expenses, shall be deposited in one or more identifiable escrow accounts maintained at a financial institution in the state in which the law office is situated and no funds belonging to the lawyer or law firm shall be deposited therein except as follows:
 - (1) funds reasonably sufficient to pay service or other charges or fees imposed by the financial institution may be deposited therein; or
 - (2) funds belonging in part to a client and in part presently or potentially to the lawyer or law firm must be deposited therein, and the portion belonging to the lawyer or law firm must be withdrawn promptly after it is due unless the right of the lawyer or law firm to receive it is disputed by the client, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.
- (b) When in the course of representation a lawyer is in possession of property in which both the lawyer and another person claim interests, the property shall be kept separate by the lawyer until there is an accounting and severance of their interests. If a dispute arises concerning their respective interests, the portion in dispute shall be kept separate by the lawyer until the dispute is resolved.
- (c) A lawyer shall:
 - (4) promptly pay or deliver to the client or another as requested by such person the funds, securities, or other properties in the possession of the lawyer which such person is entitled to receive.

RULE 1.16 Declining Or Terminating Representation

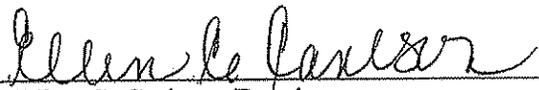
- (d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing

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).

III. CERTIFICATION

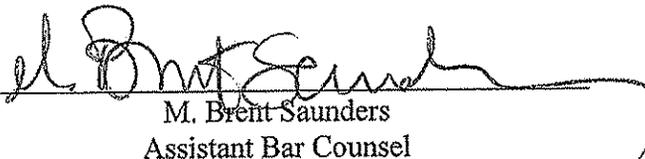
Accordingly, it is the decision of the subcommittee to certify the above matters to the Virginia State Bar Disciplinary Board.

SECOND DISTRICT SUBCOMMITTEE OF THE VIRGINIA STATE BAR

By 
Ellen C. Carlson, Esquire
Presiding Chair

CERTIFICATE OF SERVICE

I certify that on the 7th day of November, 2010, I mailed by Certified Mail, Return Receipt Requested, a true and correct copy of the foregoing Subcommittee Determination (Certification) to Sol Zalel Rosen, Esquire, Respondent, *pro se*, at Suite 102-261, 2200 Wilson Boulevard, Arlington, VA 22201, the Respondent's last address of record with the Virginia State Bar.


M. Brent Saunders
Assistant Bar Counsel