



VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF	)		
RHETTA MOORE DANIEL	)	VSB DOCKET NOS.:	18-032-110445
	)		18-032-111046
	)		18-032-111733

ORDER

On February 21-22, 2019, the above-referenced matters were heard by the Virginia State Bar Disciplinary Board (the “Board”) pursuant to Notice served upon the Respondent, Rhetta Moore Daniel (the “Respondent”), in the manner provided by the Rules of the Supreme Court of Virginia (the “Rules”), Part Six, § IV, ¶ 13-18. A duly convened panel of the Board consisting of Michael A. Beverly, Second Vice Chair; Yvonne S. Gibney; Bretta M. Z. Lewis; Melissa W. Robinson; and Martha J. Goodman, Lay Member, heard the matter. Elizabeth K. Schoenfeld, Assistant Bar Counsel, and Prescott L. Prince, Assistant Bar Counsel, represented the Virginia State Bar (the “Bar”). The Respondent did not appear during the Bar’s presentation of its evidence and testimony for the misconduct phase of the proceeding, but she was represented by Henry E. Howell III, Esquire<sup>1</sup>, during her absence from the proceeding. The court reporter for the proceeding, Tracy J. Stroh of Chandler & Halasz, Post Office Box 9349, Richmond, Virginia 23227, telephone: (804) 730-1222, after duly being sworn by the Chair, reported the hearing and transcribed the proceedings. The Chair polled the members of the Board as to whether any of them had any personal or financial interest or bias that would preclude any of them from fairly

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<sup>1</sup> Mr. Howell represented Respondent during the misconduct phase of the proceedings only. At the conclusion of the testimony of Respondent’s witnesses during the misconduct phase, Respondent announced to the Board that she wished to terminate Mr. Howell as her legal representative. The Board thereupon ruled that Mr. Howell would remain available to Respondent as a legal advisor during the remainder of the proceeding.

hearing this matter and serving on the panel. Each member, including the Chair, responded that there were no such conflicts.

These matters came before the Board on the Subcommittee Determination (Certification) by the Third District Committee, Section II Subcommittee of the Bar, pursuant to Part Six, § IV, ¶ 13-18 of the *Rules*. The Certification was sent to Respondent on September 20, 2018.

Prior to the proceedings, at a hearing on Respondent's Motion for Hearing Continuance, the hearing of these matters was continued from February 14-15, 2019 until February 21-22, 2019. In addition, on February 20, 2019, in response to correspondence from Respondent's counsel asserting potential conflicts by two members of the Board assigned to sit on the panel for the hearing of these matters, the Chair, after consultation with all members of the panel, entered an Order determining that no conflict existed, in accordance with Part Six, § IV, ¶ 13-14(D) of the *Rules*.

At the final Prehearing Conference on February 13, 2019, Bar Exhibits 1-111 were admitted into evidence by the Chair, without objection from Respondent.<sup>2</sup>

The Board first announced that it overruled Respondent's challenge to the authority of the Bar to discipline Virginia attorneys.

The Board admitted the Bar's Exhibits 112 and 113 and Respondent's Exhibits 7, 8, 9, and 10 during the proceeding.<sup>3</sup>

The Board heard testimony from the following individuals on behalf of the Bar: John K. Burke, Jr., Esquire; Matthew T. Paulk, Esquire; and Alison R. Zizzo, Esquire.

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<sup>2</sup> Because counsel for Respondent timely entered an appearance in this proceeding, the Bar's Motion to Appoint Guardian *Ad Litem* to represent Respondent at the hearing, pursuant to Part Six, § IV, ¶ 13-23(G) of the *Rules*, is dismissed as moot.

<sup>3</sup> Respondent did not move the admission of any other documents into evidence.

The Board heard testimony from the following individuals on behalf of Respondent during the misconduct phase of the proceeding: the Respondent; Glen M. Robertson, Esquire; E. Grier Ferguson, Esquire; and David Reinhardt, Esquire. Two of the witnesses called by Respondent to testify on her behalf, Robin Mehfoud Ruffin and Mary Margaret Jones, declined to provide their testimony under oath and, accordingly, were not permitted to testify during the proceeding. Following Respondent's proffer of the testimony of Cina Wong and James E. Whitener, the Board sustained the Bar's objections to their testimony. The Board admitted into evidence Respondent's Exhibit 8, however, which had been prepared by Mr. Whitener. During the sanction phase of the proceeding the Board also heard testimony from the following individuals on behalf of Respondent: Mark J. Mills, M.D.; James E. Whitener; David W. Diggs; and Ellett R. McGeorge III.

The Board considered the witness testimony and the exhibits; heard argument of counsel for the Bar and counsel for Respondent, as well as argument of Respondent; and met in private to consider its decision. All of the factual findings made by the Board were found to have been proven by clear and convincing evidence.

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Board makes the following findings of fact and conclusions of law on the basis of the evidence presented:

1. Respondent has been licensed to practice law in the Commonwealth of Virginia for more than forty years.

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2. Complainants Alison Zizzo, Vanessa Stillman, and Glen Robertson are attorneys licensed to practice law in Virginia. They represented E. Grier Ferguson, a defendant in

litigation in the Circuit Court of the City of Suffolk in which Respondent represented the plaintiff, Mary Margaret Jones, beginning in or about September 2016: In Re: William Wellington Jones, Deceased: Mary Margaret Jones v. E. Grier Ferguson, Esq., Case No. CL15000254 (“Suffolk lawsuit”). Robertson’s complaint focused on Respondent’s conduct in the Suffolk lawsuit, particularly with respect to Respondent’s statements about and interactions with the presiding judge, Retired Judge John F. Daffron, Jr. *Bar Exhibit 73*. The complaint of Zizzo and Stillman also focused on Respondent’s conduct in the Suffolk lawsuit, particularly with respect to Respondent’s communications with Judge Daffron concerning settlement discussions and with respect to Respondent’s handling of pretrial discovery. *Bar Exhibit 83*.

3. Respondent’s communications with and about the presiding judge in the Suffolk lawsuit reflected a profound disrespect for the judge’s authority and impugned the judge’s integrity. For example, in a September 14, 2017 email to Judge Daffron, which she copied to opposing counsel and to the Executive Director of the Bar, Respondent wrote, “I am tired of everyone’s lies, including your [Judge Daffron’s] blatant misrepresentations on the record.” *Bar Exhibits 72 and 112*. The “blatant misrepresentations” to which she referred pertain to Judge Daffron’s statement that Respondent had not provided her available trial dates, a statement Judge Daffron made during a September 6, 2017 hearing that Respondent did not attend. *Bar Exhibit 71 at VSB(RD) – 001851 - 001852*. Respondent’s September 14, 2017 email went on to say that “Everyone, including your [Judge Daffron’s] office received my available dates on August 31 or in the morning of September 1, that I sent on August 31.” *Bar Exhibits 72 and 112*.

In fact, Respondent had not provided her available dates for scheduling the trial. In an email dated August 31, 2017 to opposing counsel and copied to the judge concerning the scheduling of hearings and the trial, Respondent provided her available dates for “pretrial

hearings for 2017” and stated, “I will also provide you with my available Trial Dates for 2018, but I have no idea of the availability of my witnesses.” *Bar Exhibit 72 at VSB(RD) – 001861.*

Respondent also sent Judge Daffron a facsimile just prior to the hearing on September 6, 2017, from which Judge Daffron read out loud during the hearing. He read that Respondent had written:

I do not have any sets of trial dates for a three-day or four-day trial, but I am working on obtaining these dates in 2018. As soon as I have dates for a three to four-day trial, I will send them to the court and opposing counsel. I am having to contact 30 to 40 witnesses at least for trial dates.

*Bar Exhibit 71 at VSB(RD) – 001852.*

During a hearing on October 23, 2017, the Respondent resumed her accusation that Judge Daffron was not truthful – again concerning whether she had provided the Court with her available trial dates:

[RESPONDENT]: What was said on that transcript, which is attached, was a ball-faced lie, and I’m not going to stand for it.

THE COURT: What was a lie?

[RESPONDENT]: You said you had not received any dates, that I told you that I might get around to getting some, and they said that I hadn’t given them any dates, which was totally untrue . . . .

*Bar Exhibit 74 at VSB(RD) – 001888.* She continued her attack on the judge moments later:

So when they sat here in this courtroom and represented to this court that I had not sent dates, they were not telling the truth. And when you said you hadn’t received any dates, that was not the truth, either, Your Honor.

*Id. at VSB(RD) – 001889.*

Later in the same hearing she took issue with a decision by Judge Daffron to suspend subpoenas for “a lawyer’s trust account” that Respondent had requested. She said: “Judge, why are you raping the trust of money . . . when you know that is not going to work?” *Id. at VSB(RD)*

– 001908-001909. Respondent later repeated this accusation in her response to Mr. Robertson’s bar complaint against her. Respondent wrote, “Mr. Ferguson and his attorneys, with the help of Judge Daffron, are draining (raping) my client’s and her son’s Trust (the William Wellington Jones Revocable Trust) as fast as they can.” *Bar Exhibit 76 at VSB(RD) – 001990*. Respondent then continued her attack on Judge Daffron in the same response to the bar complaint by claiming that her client was “a victim of elderly abuse and exploitation” by Judge Daffron. *Id. at VSB(RD) – 001992*.

When questioned by the Board during the hearing whether she had taken any actions to withdraw or apologize for her statements to and about Judge Daffron, Respondent testified that she had taken no such action. *Hearing Transcript of In the Matter of Rhetta M. Daniel, VSB Docket Nos. 18-032-110445, 18-032-111046 and 18-023-111733, February 21-22, 2019 (“Tr.”) at 392-93*.

4. The statements by Respondent about and to Judge Daffron set forth above constitute misconduct in violation of the following provisions of the *Rules*:

**RULE 3.5 Impartiality and Decorum of the Tribunal**

**(f) A lawyer shall not engage in conduct intended to disrupt a tribunal.**

**RULE 8.2 Judicial Officials**

**A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge or other judicial officer.**

5. Respondent made statements to the Court in the Suffolk lawsuit that contained intentional misrepresentations concerning settlement following the Court-ordered judicial settlement conference.

The parties and their counsel participated in a settlement conference on November 21, 2017 at the direction of the Court. *Bar Exhibit 77*. Although they did not reach a settlement during the conference, Retired Judge Randolph West, who facilitated the settlement conference, encouraged Mr. Ferguson and his counsel to convey a settlement proposal to Respondent and her client that would remain open for a week for Respondent's client to consider. Mr. Ferguson's counsel did so and Judge West conveyed to Respondent and her client the outline of their settlement proposal during the conference. *Tr. at 417*.

Later in the day, after the settlement conference concluded, Respondent sent an email to opposing counsel requesting them to send her their "Proposed Settlement Agreement and Mutual Release tomorrow, but no later than this Friday, Nov. 24." *Id. at VSB(RD) – 001997*. Because of the intervening Thanksgiving holiday, opposing counsel provided the requested draft settlement agreement on November 29, 2017. *Bar Exhibit 78*. The November 29 draft they sent included provisions requiring Respondent, her client, and her client's son, Francesco Bruno-Bossio,<sup>4</sup> to release their claims against Mr. Ferguson and his legal counsel, and requiring Respondent and her client to remove and retract any postings, comments, emails, or statements made by them about the Suffolk lawsuit to third parties. *Bar Exhibit 78 at VSB(RD) – 002004-002008*.

Respondent expressed her disagreement with the terms of the November 29 draft shortly after receiving it from opposing counsel, writing,

Francesco Bruno-Bossio was not a party to the Judicial Settlement Conference and is not a party in the litigation in either case.

Mary Margaret Jones cannot release any claims he may have.

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<sup>4</sup>According to the allegations of the Complaint filed to initiate the Suffolk lawsuit, Respondent's client's son, Francesco Bruno-Bossio, was "an interested or necessary party as he is a beneficiary of the . . . Trust [that was the subject of the lawsuit]." *Respondent's Exhibit 7* ("Coe" Complaint, ¶5).

His name will have to be removed from the Proposed Agreement.

*Bar Exhibit 79.* Nevertheless, two days later Respondent sent a facsimile to Judge Daffron in which she stated:

I am delighted to advise you that Mary Margaret Jones has accepted the Settlement Terms presented by the Defendant, E. Grier Ferguson, Esquire, and Judge West at the November 21, 2017 Court Ordered Judicial Settlement Conference.

I would appreciate your immediately sending to Judge West the attached Signed and Dated Acceptance of the Judicial Settlement Terms by Mary Margaret Jones as presented at the Settlement Conference by the Defendant, E. Grier Ferguson, Esquire, for the pending Will and Trust consolidated cases, commonly referred to as CL 15-254.

*Bar Exhibit 80.* The document Respondent attached to the facsimile was not the November 29 draft. Among other differences, it contained no language releasing Respondent or her client's son's claims and, with respect to removing postings and retracting statements to third parties, the document stated "I have no control over any Internet Posts and cannot remove any Internet Posts that were disseminated by someone other than me or Rhett M. Daniel, Esquire, my lawyer." *Id.* The most significant feature of the document Respondent attached to her facsimile was the fact that it had not been signed by Mr. Ferguson.

In her facsimile to Judge Daffron Respondent requested him to enter various orders transferring real estate to her client, revoking the trust her client was challenging in the Suffolk lawsuit, and dismissing the lawsuit. *Id.* Respondent did not copy Mr. Ferguson's attorneys on her facsimile to Judge Daffron, however, until more than six hours later. *Id.*

6. The statements by Respondent to Judge Daffron inaccurately representing that the parties had reached a settlement in the Suffolk lawsuit, constitute misconduct in violation of the following provisions of the *Rules*:

**RULE 3.3 Candor Toward the Tribunal**

**(a) A lawyer shall not knowingly:**

- (1) **make a false statement of fact or law to a tribunal[.]**

**RULE 8.4 Misconduct**

**It is professional misconduct for a lawyer to:**

- • •
- (c) **engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflect adversely on the lawyer's fitness to practice law[.]**

7. During the course of Respondent's involvement in the Suffolk lawsuit, she responded to discovery requests propounded by Mr. Ferguson through his legal counsel. The discovery responses provided by Respondent on behalf of her client were the subject of motions to compel filed by opposing counsel on February 22, 2017, April 7, 2017, and April 25, 2017. *Bar Exhibits 65 and 65A- 65C*. The Court considered the three motions to compel in a hearing on May 3, 2017, granting each motion and directing Respondent and her client to provide complete responses to the discovery. *Bar Exhibit 67*. The following response to a request for admission is an example of the discovery responses that gave rise to the motions to compel:

1. Admit that Exhibit "A" of your complaint, "William Wellington Jones Revocable Trust Agreement," dated November 19, 2007, to the best of your knowledge, is a true and accurate copy of the original.

RESPONSE:

I ADMIT MY FATHER WAS COMPETENT TO HANDLE ALL HIS LEGAL AND PERSONAL AFFAIRS AT LEAST THROUGH THE DATE OF DECEMBER 2014.

THIS ADMISSION AS TO MY FATHER'S COMPENTENCY ON JUNE 2, 2014 IS BASED ON THE DEFENDANT'S WITNESSING THE ALLEGED JUNE 2, 2011- AMENDMENT BY WILLIAM WELLINGTON JONES TO THE ALLEGED 2007- WILLIAM WELLINGTON JONES REVOCABLE TRUST DOCUMENT IN QUESTION IN THIS REQUEST FOR ADMISSIONS AND ON THE 2014- DOCUMENTS EXECUTED BY MY FATHER IN 2014 AND ACCEPTED BY THE COURT IN DECEMBER 2014.

I CANNOT ADMIT OR DENY THAT THE DOCUMENTS REFERRED TO AS EXHIBIT "A" ARE TRUE AND ACCURATE COPIES OF SOME ORIGINAL DOCUMENTS, BUT I DO NOT KNOW IF THESE DOCUMENTS ARE VALID

WILLIAM WELLINGTON JONES REVOCABLE TRUST AGREEMENT OR AMENDMENT.

I DO NOT KNOW IF MY FATHER HAD ANY OTHER TRUSTS OR MORE RECENT TRUSTS.

I CANNOT ADMIT OR DENY ANYTHING UNLESS THE ORIGINAL DOCUMENTS ARE COMPARED TO THE COPIES OF THE DOCUMENT IN ISSUE. I CANNOT ADMIT OR DENY IF THE REFERENCED AMENDMENT IS A VALID OR EFFECTIVE DOCUMENTS BASED ON THE DEFECTS IN THE DOCUMENTS.

*Bar Exhibit 65C at VSB(RD) – 001475* (capitalization in the original).

The responses Respondent and her client provided following the Court’s direction in the May 3, 2017 hearing became the subject of a motion for sanctions filed by opposing counsel on July 19, 2017 (*Bar Exhibit 68*), which the Court considered in a hearing on October 23, 2017.

*Bar Exhibit 74*. The Court took the motion for sanctions under advisement until April 26, 2018, when it announced its decision to award sanctions against Respondent and her client. *Bar Exhibit 103*. With respect to the discovery responses provided by Respondent and her client the Court stated:

Now, the most consequential action deals with the discovery abuse. The – it’s stunning to see the ineptitude in erroneous discovery responses that have been filed ....

There was a motion to compel. That was not done. Defense counsel have filed notices, I believe more than one, asking to compel the answers and asking for sanctions. The misbehavior, illegal actions, unethical actions are so severe that as a consequence of that, I am dismissing [Respondent’s client’s] case. This is clearly provided for in the rules of court, and the errors and the ineptitude and inappropriate practice are so severe that that is my judgment of what should occur.

...  
... I intend to enter an order that says [Respondent] is removed for misconduct in the case[.]

*Id. at VSB(RD) - 002169-002171*.

The Court entered an order on May 18, 2018 that provided for an award of attorneys’ fees, in an amount to be determined at a hearing scheduled for June 18, 2018, based on “the

misconduct by Plaintiff and her counsel, [Respondent], in this case, upon Plaintiff's failure to adequately and fully respond to the discovery propounded by the Defendant in this matter, and for the reasons set forth in the Court's ruling as reflected in the transcript attached hereto, the Defendant's Motions for Sanctions and for Costs are GRANTED." *Bar Ex 105*. The Order further provided that "[t]he sanctions . . . shall constitute a personal judgment against Mary Margaret Jones and her counsel [Respondent]." *Id.* The Order also removed Respondent as counsel for Mary Margaret Jones and "barred [her] from appearing in the Circuit Court for the City of Suffolk indefinitely." *Id.*

8. The inadequate and improper discovery responses provided by Respondent and her client in the Suffolk lawsuit, which required the Court's involvement to consider and rule on three motions to compel and a motion for sanctions, and which ultimately resulted in a sanctions award against Respondent and her client and in Respondent being barred from appearing in the Circuit Court for the City of Suffolk, constitute misconduct in violation of the following provisions of the *Rules*:

**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 3.4 Fairness to Opposing Party and Counsel**

**A lawyer shall not:**

**. . .**

**(g) Intentionally or habitually violate any established rule of procedure or of evidence, where such conduct is disruptive of the proceedings.**

9. During the course of Respondent's involvement in the Suffolk lawsuit, she made statements to the Suffolk Commonwealth's Attorney, the Suffolk police, the Supreme Court of

Virginia, various press outlets, and others about Mr. Ferguson and his legal counsel, accusing them of criminal and other wrongdoing.

In an April 28, 2017 email to Phillips Ferguson, the Commonwealth's Attorney for Suffolk, Respondent suggested that funds had been misappropriated, that federal and/or state tax fraud had occurred, and that a criminal investigation was warranted. *Bar Exhibit 66*. Two days later Respondent forwarded the email to opposing counsel in the Suffolk lawsuit, with this message to them:

Please see the email I sent to Phillips Ferguson.  
My math was not correct.  
The approximate amount is now approximately 1.4 million dollars that Grier [Ferguson] has had under his control since 8/11/11.  
Where has the 1.4 million gone?

*Id.* When Glen Robertson brought this email to the Court's attention during a hearing on October 23, 2017, the Court and Respondent engaged in the following exchange:

THE COURT: I think every lawyer in Virginia knows that it is unethical to threaten criminal prosecution to collect a debt.

[RESPONDENT]: That's right. I don't – I don't deny that, but if there's criminal activity going on, I have a right to protect my client and even at my risk, and I'm going to do it.

*Bar Exhibit 67 at VSB(RD) – 001590.*

On February 8, 2018, Respondent sent another email to the Commonwealth's Attorney, which appeared to be a forwarded letter she had sent to Chief Justice Lemons of the Supreme Court of Virginia. In it she wrote:

I urge the Virginia Supreme Court and the Virginia State Bar to act immediately to stop the Elder Abuse, Financial Exploitation and theft from the Jones Estate and the Jones Trust based on the evidence already presented to the Virginia State Bar of E. Grier Ferguson's 2017 theft of the discrete amount of \$8,710.00 the Jones Estate.

Mary Margaret Jones, and Elder, is being abused everyday by Mr. Ferguson and his attorneys who are refusing to repair the furnace for her home (it is unheated in this

extreme weather), refusing to pay the Dominion Power bill that must be paid for her to even be able to use space heaters, failing to provide her with any funds to pay for the utilities for the Jones' Residence that belongs to the Jones' Trust, or to pay for her food and other necessities.

*Bar Exhibit 90 at VSB(RD) – 002074.*

On February 14, 2018, Respondent sent another email to the Commonwealth's Attorney, as well as to the Bar, the Supreme Court of Virginia, the Internal Revenue Service, the Department of Justice, opposing counsel, and various media outlets, using the subject matter "Re: Alleged Grand Larceny and Other Crimes - Jones Estate/Trust Funds." In it Respondent wrote:

WHERE HAS ALL THE MONEY GONE SINCE DECEMBER 31, 2017, THAT PREVENTS E. GRIER FERGUSON, ESQUIRE, EXECUTOR & TRUSTEE FROM DISBURSING \$5,000.00 TO MARY MARGARET JONES FOR FEBRUARY 2018 AND FROM PAYING THE DOMINION POWER ELECTRIC BILL FOR THE TRUST OWNED JONES' RESIDENCE IN WHICH MARY MARGARET JONES LIVES WITH NO CENTRAL HEAT?

WHERE ARE THE BANK STATEMENTS FOR JANUARY 2018?

WHY HAS E. GRIER FERGUSON LIQUIDATED AND DRAINED THE ASSETS OF WILLIAM WELLINGTON JONES, MARY MARGARET JONES AND THE JONES TRUST/ESTATE SINCE AUGUST 11, 2011?

WHY ARE THEY [sic] PROPER AUTHORITIES ALLOWING THIS GRAND LARCENY, ELDER ABUSE, FINANCIAL EXPLOITATION, TAX FRAUD, INSURANCE FRAUD TO CONTINUE TO GO UNADDRESSED?

THE VICTIM, MARY MARGARET JONES DESERVES IMMEDIATE ANSWERS AND ACTION FROM ALL APPROPRIATE AUTHORITIES WHO HAVE BEEN PUT ON NOTICE BEGINNING ON OCTOBER 16, 2016, AND CONTINUING THROUGH TODAY.

*Bar Exhibit 89.*

The effect of Respondent's scattershot tactics of communicating her accusations against her opposing counsel was addressed by Alison Zizzo during her testimony in this proceeding:

A . . . I spent an inordinate amount of time defending not only my client but the allegations that were lodged against me personally. The amount of time spent was massive in dealing with the written communication from [Respondent].

Q And how did that affect you mentally?

A There were many times when I questioned the practice of law in general because of this case. I had never been treated as poorly and, quite frankly, as disrespectfully as [Respondent] – by [Respondent].

*Tr. at 176.*

10. Respondent’s communications to the Commonwealth’s Attorney, the Supreme Court of Virginia and other authorities and media outlets in which she accused Mr. Ferguson and his legal counsel of grand larceny, tax fraud, insurance fraud, elder abuse, and financial exploitation, constitute misconduct in violation of the following provisions of the *Rules*:

**RULE 3.4 Fairness to Opposing Party and Counsel**

**A lawyer shall not:**

. . .

**(j) File suit, initiate criminal charges, assert a position, conduct a defense, delay a trial, or take other action on behalf of the client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another.**

**RULE 8.4 Misconduct**

**It is professional misconduct for a lawyer to:**

. . .

**(c) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer’s honesty, trustworthiness or fitness to practice law[.]**

Docket Nos. 18-032-111046 and 18-032-111733

11. The Bar’s investigation of these two matters focused on Respondent’s conduct toward the presiding judge and opposing counsel, and on Respondent’s response to the court’s orders in litigation in the Circuit Court of Charles City County: Timothy W. Ruffin v. Robin Mehfoud Ruffin, Case No. CL09-3800 (“Charles City lawsuit”), a divorce case in which Respondent entered an appearance on behalf of Robin Mehfoud Ruffin more than four years

after the case had ended. The investigation for Docket No. 18-032-111733 focused specifically on two facsimile communications from Respondent to the presiding judge, while the investigation for Docket No. 18-032-111046 addressed other conduct of Respondent during her involvement in the Charles City lawsuit, including the consequences of Respondent's conduct for her client, Ms. Ruffin.

12. Respondent noted her appearance in the Charles City lawsuit in mid-November 2016 (*Bar Exhibit 8*), at which time she filed a motion for a rule to show cause, seeking monetary sanctions against three law firms and individual attorneys who are current or former members of the firms. *Bar Exhibit 7*. Two weeks later Respondent filed a second motion for rule to show cause against two law firms – including one she targeted in the first show cause – as well as two individual attorneys who were members of the firms. *Bar Exhibit 9*. Like the first show cause motion, the second sought monetary sanctions, but also requested the Court to order a non-party – Thomas Gates, LLC – to convey to Respondent's client an interest in certain real estate. *Id.* The client's interest in the real estate in question had previously terminated in 2012 when her final divorce decree was entered. *Bar Exhibit 13 at VSB(RD) – 000552 – 000568*. During the hearing Respondent in fact admitted during her testimony that she “was wrong to include Ms. Mehfoud and ask the Court to transfer the property – her percentage of the property to her individually.” *Tr. at 403*.

Through the first show cause motion, Respondent sought to re-litigate an issue that had been decided by the Court five years earlier. At that time Ms. Ruffin asserted that the law firm Hirschler Fleischer, P.C. (“HF”) had a conflict of interest and should be disqualified from representing her husband. The Court agreed and disqualified HF from the representation. *Bar Exhibit 11 at VSB(RD – 000467*. Mr. Ruffin's choice to represent him after the Court's ruling

was Matthew Paulk, with the firm Matthew T. Paulk, P.C. Prior to accepting that representation, however, Mr. Paulk disclosed to the Court that his wife was a member of HF and requested the Court's permission to represent Mr. Ruffin. *Id. at VSB(RD) – 000468*. The Court confirmed its approval of Mr. Paulk's representation in a May 16, 2011 letter, expressly finding that “no conflict of interests exists because your wife is a partner in the Hirschler Fleischer law firm.” *Id. at VSB(RD) – 000470*.

Respondent alleged in the first show cause motion that Matthew Paulk and his wife, Courtney Paulk, had previously represented the Ruffins and that HF continued to represent Mr. Ruffin in the Charles City litigation despite having been disqualified by the Court. *Bar Exhibit 7*. The HF billing records Respondent attached to her motion provided no support for these allegations. *Bar Exhibit 7 at VSB(RD) – 00068 – 000297*.

The law firms and attorneys targeted in the first motion filed responsive pleadings seeking the dismissal of the motion and in the response filed by Matthew Paulk, the imposition of monetary sanctions. *Bar Exhibits 10 and 11*. The Court heard their motions on July 21, 2017, announced from the bench that sanctions would be awarded to the moving parties, and directed opposing counsel to prepare an order reflecting the Court's ruling. *Bar Exhibits 37 and 45*. More than three months passed before the Court entered written orders because Respondent refused to endorse the orders prepared by opposing counsel. *Bar Exhibit 45*. Instead, on September 5, 2017 Respondent sent a 21-page order that she had prepared, contrary to the Court's direction. *Bar Exhibit 40*. In it she attacked the presiding judge, Judge B. Elliot Bondurant, in a litany of objections to his ruling that she included in her order. Her objections included the following:

Judge Bondurant imposed the sanctions on Defendant's counsel to attempt to chill and prevent counsel for the Defendant from being able or willing to continue to represent the Defendant in the instant matters in Case No. CL 09-38 . . .

Judge Bondurant deliberately took action to deceive the Defendant, Defendant's counsel on March 7, 2017, so Judge Bondurant could punish Defendant and Defendant's counsel out of spite because the Court knew in November/December 2016 that the Court had **no procedural jurisdiction** to conduct any Hearings . . .

*Id. at VSB(RD) – 0001164 and 0001172* (emphasis in the original).

Citing health reasons, Respondent did not appear for the September 12, 2017 hearing that had been scheduled to determine the amount of sanctions to be assessed against Respondent and her client. *Bar Exhibit 42*. Six weeks later, Respondent filed a motion to withdraw as counsel. *Bar Exhibit 46*.

At a hearing on October 27, 2017 the Court awarded sanctions against Respondent and her client, jointly and severally, in the amount of \$23,556.45 to be paid to HF. *Bar Exhibit 47*. The Court also awarded sanctions against Respondent in the amount of \$3,000.00 to be paid to Matthew Paulk and Matthew T. Paulk, PC. *Bar Exhibit 48*. In the Order the Court found that Respondent's motions were "filed in violation of Va. Code § 8.01-271.1, in that [Ms. Ruffin] and [Respondent] are pursuing claims and arguments that are not warranted by Virginia law, or a good faith extension, modification or reversal of existing law, and [Ms. Ruffin's] Motion was filed for improper purposes and has needlessly increased the costs of litigation . . ." *Bar Exhibit 49 at VSB(RD) – 0001239-0001240*.

In her testimony during the hearing on these matters Respondent identified no evidence that supported the allegations in the motions for show cause in which she had requested the Court to hold the attorneys and law firms in contempt of court and to award Ms. Ruffin monetary sanctions, in addition to other relief. In what appeared to be a justification for these baseless motions, Respondent testified:

We never had a hearing on the merits of those motions. Never. We did not have a hearing on the merits of those motions. Judge Bondurant would not entertain any evidence regarding the merits of those motions. Those motions were defective when filed and never should have gone forward. I never asked to have them brought forward.

*Tr. at 525.*

The second motion for show cause Respondent filed in the Charles City lawsuit sought monetary sanctions against Mr. Ruffin (the plaintiff); HF; James Cluverius, an HF attorney; Channing M. Hall, III; and Channing M. Hall, III, P.L.L.C., based on alleged fraud in a real estate transaction involving Thomas Gates, LLC. *Bar Exhibit 9*. Mr. Ruffin and the law firms and attorneys targeted in the second motion filed responsive pleadings seeking the dismissal of the motion and the imposition of monetary sanctions. *Bar Exhibits 12-14*. Four days before the Court was to hear the motions, Respondent filed a motion to recuse Judge Bondurant. *Bar Exhibit 17*.

At the March 7, 2017 hearing the Court denied the motion to recuse and granted the motions to dismiss and for sanctions. *Bar Exhibit 18 at VSB(RD) – 000819 and 000905-000906*. It ordered Respondent and Ms. Ruffin, jointly and severally, to pay attorneys' fees and costs of more than \$14,000. *Id. at 000905-000906*. The Court stated that its grounds for awarding sanctions included that the motions were “done, not grounded in fact, nor warranted by existing law, and . . . imposed on improper purpose.” *Id. at 000904*.

On April 21, 2017 the Court entered an order reflecting its ruling announced during the March 7 hearing. *Bar Exhibit 35*.

Ms. Ruffin subsequently appealed, *pro se*, the April 21, 2017 order, although the footer on some of the pleadings she filed stated: “[THIS DOCUMENT WAS PREPARED BY RHETTA M. DANIEL, ESQUIRE, FOR THE PRO SE APPELLANT.]” *Bar Exhibit 39*. The Court of Appeals denied the appeal on November 16, 2017, held that the appellees were “entitled

to a reasonable amount of attorney's fees and costs," and remanded the matter to the trial court to determine the amount of the award. *Bar Exhibits 51 and 52*. Following remand, the Court ordered Ms. Ruffin to pay more than \$41,000 in attorneys' fees and noted that this award was "in addition to a judgment for fees and costs awarded in this Court's Order of April 21, 2017 against [Robin Ruffin] and [Respondent], jointly and severally . . ." *Bar Exhibit 57*.

13. With respect to Docket No. 18-032-111046, Respondent's conduct in the Charles City litigation in which she: filed defective pleadings that the trial court and Court of Appeals determined to be frivolous, resulting in awards of monetary sanctions against Respondent and her client; sought relief through those pleadings that could not be granted; did not withdraw the pleadings despite knowing that they were defective; and impugned the integrity and qualifications of Judge Bondurant in objections she included in a draft order she submitted to the Court, constitute misconduct in violation of the following provisions of the *Rules*:

**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 3.1 Meritorious Claims and Contentions**

**A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established.**

**RULE 8.2 Judicial Officials**

**A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge or other judicial officer.**

**RULE 8.4 Misconduct**

**It is professional misconduct for a lawyer to:**

. . .

**(b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness to practice law.**

14. Respondent continued to engage in obstinate conduct in the Charles City lawsuit in her response to Matthew Paulk's Petition for a Rule to Show Cause against Respondent when she disobeyed the Court's order and failed to pay the sanctions that had been awarded to Paulk. The misconduct investigated in Docket No. 18-032-111733 focused, in particular, on two facsimile communications from Respondent to Judge Bondurant concerning the hearing the Court had scheduled to consider Mr. Paulk's Petition.

On or about February 1, 2018 Respondent sent a facsimile to Judge Bondurant, copied to Ms. Ruffin and Mr. Paulk, that stated:

**I will NOT be in court tomorrow at 1 pm or anytime soon.**

**NOTICE TO YOU:**

**Do not issue another Bench Rule to Show Cause for me because you do not believe I am sick when I notify you I am and I send you a valid Doctor's excuse and/or an email such as this one. Also, dont [sic] even thinkn [sic] about holding me in contempt of court, much less doing so.**

**You are one of the main reasons I am in the hospital tonight with your ridiculous imposition of \$45,000+ in punitive sanctions on my former client and me based on run-up, frivolous, completely unnecessary and unreasonable and crazy legal fees your [sic] buddies.**

*Bar Exhibit 60* (bold face type in the original).

Respondent sent a second facsimile to Judge Bondurant shortly thereafter, which she again copied to Ms. Ruffin and Mr. Paulk. It included the following statement:

Trust me, if I do not die of a heart attack before you are supposed to be considered for another round on the bench, I will appear before the General Assembly when that time comes.

I decided tonight lying in this hospital bed to not mince my words. If you try to punish me, I will fight you to the end.

There is plenty of evidence clearly documented in the Ruffin Hearing Transcripts in the pending cases to prove your unfitness to preside over any cases in any court.

I shall provide that evidence to JIRC if I survive to do so.

*Bar Exhibit 61.*

In her testimony during the hearing in these matters, Respondent admitted that she had taken no actions to withdraw her statements and that she meant everything she said about Judge Bondurant. *Tr. at 392.* In her closing statement, when she addressed her statements to Judge Bondurant, she conceded only that “They were not prudent.” *Tr. at 543.*

15. With respect to Docket No. 18-032-111733, Respondent’s statements to and about Judge Bondurant in the two facsimiles, assailing his qualifications and integrity, constitute misconduct in violation of the following provisions of the *Rules*:

**RULE 8.2 Judicial Officials**

**A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge or other judicial officer.**

**RULE 8.4 Misconduct**

**It is professional misconduct for a lawyer to:**

. . .

**(b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer’s honesty, trustworthiness or fitness to practice law.**

Sanction Phase of Hearing

After the Board announced its finding that the Respondent had committed the violations of the *Rules* as set forth above, the Board heard testimony and received further evidence regarding the appropriate sanction to be imposed.

Respondent's disciplinary record reflects no prior disciplinary history. *Bar Exhibit 113.*

Dr. Mark J. Mills, a forensic psychiatrist who testified on behalf of Respondent, opined that Respondent is competent to practice law based on his examination of her in person and over the phone, as well as his review of her medical records and the materials relied upon by the Bar in the misconduct proceeding. Dr. Mills did not reach a diagnosis of Post-Traumatic Stress Disorder (PTSD), as he saw no evidence of it.<sup>5</sup> He further testified that the two facsimiles Respondent sent to Judge Bondurant were a conscious choice made by Respondent.

Other witnesses called to testify on Respondent's behalf during the sanction phase of the hearing, including James E. Whitener, David W. Diggs, and Ellett R. McGeorge III, all testified to Respondent's compassionate and passionate representation of her clients, noting that she often represented her clients *pro bono*.

The Board considered the *ABA Annotated Standards for Imposing Lawyer Sanctions*<sup>6</sup> in reaching its decision. Those standards support the appropriateness of revocation in this matter. Revocation "is generally appropriate when a lawyer knowingly violates a court order or rule with the intent to obtain a benefit for the lawyer or another, and causes serious injury or potentially serious injury to a party or causes serious or potentially serious interference with a legal proceeding."<sup>7</sup>

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<sup>5</sup> In her testimony, Respondent attempted to explain her disobedient conduct toward the Chair during the hearing by claiming "some of the things that are happening with the reactions are actually the result of PTSD from all of the abuse that I have suffered in the last four years." *Tr. at 289.* Dr. Mills, Respondent's own witness, discredited this explanation for her conduct.

<sup>6</sup> ABA, *Annotated Standards for Imposing Lawyer Sanctions* (2015)

<sup>7</sup> *Id.*, Standard 6.21.

The evidence presented in this proceeding demonstrate that Respondent intentionally misused the judicial process by failing to abide by court rules concerning discovery in the Suffolk lawsuit, falsely accusing Judge Daffron and Judge Bondurant of improper or criminal behavior, submitting false information about settlement in the Suffolk lawsuit, and engaging in rude and disruptive behavior during hearings in both the Charles City and Suffolk lawsuits. The harmful consequences of Respondent's actions include awards of sanctions against her clients in both lawsuits, and the inevitable embarrassment and distress Judge Bondurant, Judge Daffron, and opposing counsel in both lawsuits endured as Respondent engaged in her years-long campaign of baseless attacks on their competence, reputation, and professionalism.<sup>8</sup> Revocation is further supported by Respondent's multiple acts of misconduct in both lawsuits, as they reflect a pattern of disdain for the courts and the judicial process.

In its consideration of aggravating and mitigating factors applicable to the appropriate sanction, the Board found that the absence of a prior disciplinary record, Respondent's lack of a dishonest motive, and the payment of restitution, albeit by Respondent's malpractice carrier, were mitigating factors.<sup>9</sup>

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<sup>8</sup> A compelling statement of the impact Respondent's conduct made on her targets came from the testimony of Glen Robertson, who described Respondent's statements about him:

It's defamatory. And I've been practicing 30 years trying to establish a good reputation. I don't need somebody in – Madison County, the only thing they know about me is that I'm supposedly part of a criminal syndicate in Suffolk to protect a lawyer who's stealing money and, quote, killing the client, unquote.

So, yeah, it's – it's affected me, too. . . . It's infuriating, and it's insulting.

*Tr. at 441.* Mr. Robertson testified further:

I mean, that's not – you don't – that's not right. I mean, this is a profession. It's just not right.

*Tr. at 443.*

<sup>9</sup> *Id.*, Standard 9.32.

The aggravating factors far outweighed the mitigating factors, however. The evidence reflects a pattern of misconduct; multiple offenses; Respondent's bad faith obstruction of the disciplinary process by failing to comply with rules or orders of the disciplinary agency;<sup>10</sup> Respondent's refusal to acknowledge the wrongful nature of her misconduct; the vulnerability of Respondent's victims, her clients; and Respondent's substantial experience in the practice of law.<sup>11</sup>

### Disposition

At the conclusion of the evidence in the sanction phase of this proceeding, Respondent requested that the Board not impose a revocation because Respondent was already suspended. The Bar requested the imposition of a revocation of Respondent's license to practice law.

After the Board recessed to deliberate the appropriate sanction, the Board reconvened and announced its decision. Having considered the testimony and evidence presented and the argument of Bar Counsel and Respondent, it is

ORDERED, by unanimous vote of the Board, that the Respondent's license to practice law in the Commonwealth of Virginia be, and it is hereby REVOKED, effective on February 22, 2019.

It is further ORDERED that Respondent must comply with the requirements of Part Six, § IV, ¶ 13-29 of the *Rules of the Supreme Court of Virginia*. The Respondent shall forthwith give notice by certified mail, return receipt requested, of the revocation of her license to practice law in the Commonwealth of Virginia to all clients for whom she is currently handling matters

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<sup>10</sup> This was particularly evident from Respondent's failure to appear for the Bar's presentation of the evidence concerning Respondent's misconduct and in Respondent's conduct at the end of the first day of the hearing when the Chair announced that the hearing would adjourn until the following morning. Respondent was displeased with this and stated "No. I want to finish this today." *Tr. at 279-280*. As the chair attempted to respond to her over her repeated interruptions, Respondent said, "Don't raise your voice, sir." *Id.* She then said, "You cannot control me." "You do not have contempt power." *Id.*

<sup>11</sup> ABA, *Annotated Standards for Imposing Lawyer Sanctions* (2015), Standard 9.22.

and to all opposing attorneys and presiding judges in pending litigation. The Respondent shall also make appropriate arrangements for the disposition of matters then in her care in conformity with the wishes of her clients. Respondent shall give such notice within fourteen (14) days of the effective date of the revocation and make such arrangements as are required herein within forty five (45) days of the effective date of the revocation. Respondent shall also furnish proof to the Bar within sixty (60) days of the effective day of the revocation that such notices have been timely given and such arrangements made for the disposition of matters.

It is further ORDERED that if Respondent is not handling any client matters on the effective date of revocation, she shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar within sixty (60) days of the effective day of the revocation. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13-29 shall be determined by the Virginia State Bar Disciplinary Board, which may impose a sanction of Revocation or additional Suspension for failure to comply with the requirements of this subparagraph.

It is further ORDERED that pursuant to Part Six, § IV, ¶ 13-9(E) of the *Rules of the Supreme Court of Virginia*, the Clerk of the Disciplinary System shall assess all costs against Respondent.

It is further ORDERED that a copy *teste* of this Order shall be mailed by certified mail, return receipt requested, to Respondent at her last address of record with the Bar, at Rhett Moore Daniel, Esquire, 3420 Short Pump Road, #170, Richmond, Virginia 23233, and a copy by regular mail to Henry E. Howell III, The Eminent Domain Litigation Group, P.L.C., 164 George Washington Highway South, Chesapeake, Virginia 23323, and hand delivered to Elizabeth K.

Shoenfeld, Assistant Bar Counsel, at Virginia State Bar, 1111 East Main Street, Suite 700,  
Richmond, Virginia 23219-0026.

ENTERED THIS 22nd DAY OF MARCH, 2019

VIRGINIA STATE BAR DISCIPLINARY BOARD

A handwritten signature in black ink, appearing to read "MB", is positioned above a horizontal line.

Michael A. Beverly, Second Vice Chair