

**VIRGINIA:**

**BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD**

**IN THE MATTER OF  
WILLIAM FRANKLIN BURTON**

**VS B DOCKET NO. 19-051-115210**

**AGREED DISPOSITION MEMORANDUM ORDER  
ONE YEAR AND ONE DAY SUSPENSION**

On Wednesday, May 20, 2020 this matter was heard by the Virginia State Bar Disciplinary Board upon the joint request of the parties for the Board to accept the Agreed Disposition signed by the parties and offered to the Board as provided by Part Six, § IV, ¶ 13-6 H of the Rules of the Supreme Court of Virginia. The panel consisted of Yvonne S. Gibney, Chair; Devika E. Davis; Carolyn V. Grady; John D. Whittington; and Stephen A. Wannall, Lay Member. The Virginia State Bar was represented by Shelley L. Spalding, Assistant Bar Counsel. William Franklin Burton was present and was not represented by counsel. The Chair polled the members of the Board as to whether any of them were aware of any personal or financial interest or bias which would preclude any of them from fairly hearing the matter to which each member responded in the negative. Court Reporter Jennifer L. Hairfield, Chandler and Halasz, P.O. Box 9349, Richmond, Virginia 23227, telephone (804) 730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

**WHEREFORE**, upon consideration of the Agreed Disposition, Certification, Amended Certification, Respondent's Disciplinary Record, the arguments of the parties, and after due deliberation,

It is **ORDERED** that the Disciplinary Board accepts the Agreed Disposition and the Respondent shall receive a One Year and One Day Suspension, as set forth in the Agreed Disposition, which is attached and incorporated in this Memorandum Order.

It is further **ORDERED** that the sanction is effective May 20, 2020.

It is further **ORDERED** that:

The 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 of the Suspension of his license to practice law in the Commonwealth of Virginia, to all clients for whom he is currently handling matters 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 his care in conformity with the wishes of his or her clients. The Respondent shall give such notice within 14 days of the effective date of the Suspension, and make such arrangements as are required herein within 45 days of the effective date of the Suspension. The Respondent shall also furnish proof to the Bar within 60 days of the effective day of the Suspension that such notices have been timely given and such arrangements made for the disposition of matters.

It is further **ORDERED** that if the Respondent is not handling any client matters on the effective date of the Suspension, he shall submit an affidavit to that effect within 60 days of the effective date of the Suspension to the Clerk of the Disciplinary System at the Virginia State Bar. 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.

The Clerk of the Disciplinary System shall assess costs pursuant to ¶ 13-9 E. of the Rules.

It is further **ORDERED** that an attested copy of this Order be mailed to the Respondent

by certified mail, return receipt requested, at his last address of record with the Virginia State Bar at Burton Law, LLC, Suite 600, 5425 Wisconsin Avenue, Chevy Chase, MD 20815, and a copy hand-delivered to Shelley L. Spalding, Assistant Bar Counsel, Virginia State Bar, Suite 700, 1111 E. Main Street, Richmond, VA 23219.

ENTERED THIS 20th DAY OF May, 2020

VIRGINIA STATE BAR DISCIPLINARY BOARD

**Yvonne S. Gibney**

Digitally signed by Yvonne S.  
Gibney  
Date: 2020.05.20 12:25:45 -04'00'

---

Yvonne S. Gibney  
Second Vice Chair



VIRGINIA:

BEFORE THE DISCIPLINARY BOARD  
OF THE VIRGINIA STATE BAR

IN THE MATTER OF  
WILLIAM FRANKLIN BURTON

VSB Docket No. 19-051-115210

AGREED DISPOSITION  
ONE YEAR AND ONE DAY SUSPENSION

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-6.H., the Virginia State Bar ("VSB"), by Shelley L. Spalding, Assistant Bar Counsel and William Franklin Burton, Respondent *pro se*, hereby enter into the following Agreed Disposition arising out of this matter.

I. STIPULATIONS OF FACT

1. At all relevant times, Respondent was licensed to practice law in the Commonwealth of Virginia.

2. On March 21, 2019, Clifford L. Moore, Jr. ("Complainant") filed a complaint with the VSB against Respondent concerning his personal injury case with which he retained Respondent to assist him in 2009.

3. On October 1, 2010, Respondent filed suit on Complainant's behalf in Fairfax County Circuit Court. However, because Complainant had been severely injured in the accident, Respondent believed the \$25,000 policy limit for the defendant's automobile insurance was not sufficient to fully compensate him for his injuries. Respondent determined that at the time of the accident the defendant was driving a vehicle owned by his employer and therefore the employer's corporate insurance coverage with policy limits of \$1,000,000 was potentially available.

4. In order to pursue this additional coverage, and so that Complainant could continue his treatment, Respondent non-suited the lawsuit on December 8, 2011. Complainant contends that Respondent did not inform him that he intended to take a nonsuit or that he had done so.

5. On May 10, 2012, Respondent refiled Complainant's personal injury case but did not request service of same upon the defendant driver at that time.

6. Complainant contends that Respondent advised him the case had been set for trial on September 9-10, 2013. Complainant contends that one week before the supposed trial date, Respondent told Complainant that the case had been dismissed because Respondent "forgot" to serve the lawsuit.

7. During the course of the investigation of this matter, it was determined that on April 5, 2013, the court issued a Notice of Hearing to Respondent and counsel for the defendants in the case due to the fact that twelve (12) months had or was about to pass since the second suit had been filed without evidence in the court file that service upon the defendant had been requested or accomplished. Respondent was ordered to appear at a hearing set for May 17, 2013 to provide proof either that service upon the defendant had been accomplished or that Respondent had exercised due diligence in attempting to serve the defendant.

8. On May 16, 2013, Respondent filed a Motion to Continue this hearing representing to the court that, "Defendant Moore (no relation to plaintiff) was served by private process server on April 17, 2013. An affidavit of service will be filed with the court as soon as I receive same from the process server." Respondent cannot establish that such service had been requested by private process server or was completed.

9. On May 16, 2013, counsel for defendant Moore filed a Motion to Dismiss the case for lack of service, serving same upon Respondent by email and U.S. mail on that date. The

motion, which averred that Respondent had made "no attempt whatsoever" to serve defendant Moore within twelve (12) months since the date of filing of the case, was granted by Order dated June 7, 2013.

10. In September 2013, after Complainant learned that his case had been dismissed, Complainant terminated Respondent and retained David M. Kopstein, Esquire who filed suit against Respondent on October 28, 2013 for legal malpractice. Respondent failed to respond to the lawsuit and on February 11, 2014, default judgment in the amount of \$450,000 against Respondent was awarded. To date, Respondent has paid \$750.00 towards this judgment.

11. During the investigation of this case, Respondent was interviewed by VSB Investigator Ronald H. McCall. At that time, Respondent claimed that he had taken steps to have defendant Moore served with the second suit after being notified by the court that the matter would be dismissed unless he did so. When asked why there was no evidence in the court file that Respondent either responded to the court's notice or took action to serve defendant Moore, Respondent stated he could not recall what had happened and promised to review the court file to attempt to refresh his recollection. Investigator McCall followed up with Respondent by e-mail several times in October 2019 to determine if he had checked the court file but Respondent did not respond to those e-mails.

12. Investigator McCall asked Respondent about his certification to the VSB on his Membership Renewal forms that he was covered by malpractice insurance at all times. Respondent stated that the certifications were correct and there was no gap in his malpractice insurance coverage. However, Investigator McCall obtained information from Westport and Travelers, the insurance companies Respondent identified, which confirmed that neither company insured the Respondent from February 2014 to June 22, 2016.

## II. NATURE OF MISCONDUCT

Such conduct by the Respondent 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.

### **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 4.1 Truthfulness in Statements To Others**

In the course of representing a client a lawyer shall not knowingly:

(a) make a false statement of fact or law[.]

### **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.

III. PROPOSED DISPOSITION

Accordingly, Assistant Bar Counsel and the Respondent tender to the Disciplinary Board for its approval the agreed disposition of a suspension of one year and one day as representing an appropriate sanction if this matter were to be heard through an evidentiary hearing by a panel of the Disciplinary Board.

Respondent further agrees that he will not appeal an Order approving this disposition.

If the Agreed Disposition is approved, the Clerk of the Disciplinary System shall assess costs pursuant to ¶ 13-9.E of the Rules.

THE VIRGINIA STATE BAR

By:   
Shelley L. Spalding, Assistant Bar Counsel

  
William Franklin Burton, Respondent