

**VIRGINIA:**

**IN THE CIRCUIT COURT FOR THE CITY OF PORTSMOUTH**

**VIRGINIA STATE BAR EX REL  
FIRST DISTRICT COMMITTEE  
Complainant,**

**v.**

**Case No. CL24-2438-00  
VSB Docket No. 24-010-130179**

**RICHARD JOSEPH DAVIS, III  
Kozak & Davis, P.C.  
355 Crawford Street, Suite 700  
Portsmouth, Virginia 23704-2824  
Respondent.**

**AGREED DISPOSITION MEMORANDUM ORDER  
PUBLIC REPRIMAND WITH TERMS**

This matter came to be heard on August 19, 2024, before a Circuit Court Three-Judge panel, upon the joint request of the parties for the Court to accept the Agreed Disposition endorsed by the parties and offered to the Court as provided by the Rules of the Supreme Court of Virginia. The panel consisted of the Honorable Alfred W. Bates, III, Judge of the Fifth Judicial Circuit, Designated Chief Judge; the Honorable Tanya Bullock, Judge of the Second Judicial Circuit; and the Honorable Jayne Ann Pemberton, Judge of the Twelfth Judicial Circuit. Richard Joseph Davis, III, Respondent, was present and was represented by counsel Mary T. Morgan. The Virginia State Bar appeared through its Assistant Bar Counsel Seth T. Shelley. The Chief Judge polled the members of the panel 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 judge responded in the negative. Court Reporter Jackie Longmire of Chandler and Halasz Stenographic Reporters, P. O. Box 1975, Mechanicsville, VA 23116, telephone 804-730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

**WHEREFORE**, upon consideration of the Agreed Disposition, the Certification, Respondent's Answer, the certification that Respondent has no disciplinary record, the arguments of the parties, and after due deliberation,

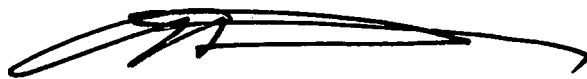
It is **ORDERED** that the Circuit Court accepts the Agreed Disposition, and the Respondent shall receive a sanction of a Public Reprimand with Terms. The Agreed Disposition is attached to and incorporated in this Memorandum Order.

It is further **ORDERED** that the sanction is effective the date of entry of this Order.

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

A copy teste of this Order shall be mailed to Richard Joseph Davis, III, Respondent, at his last address of record with the Virginia State Bar, Kozak & Davis, P.C., 355 Crawford Street, Suite 700, Portsmouth, Virginia 23704-2824; with an attested copy to Seth T. Shelley, Assistant Bar Counsel, Virginia State Bar, 1111 East Main Street, Suite 700, Richmond, VA 23219-0026; to Mary T. Morgan, Respondent's Counsel, at Infinity Law Group, PLC, 4646 Princess Anne Road, Unit 104, Virginia Beach, Virginia 23462; and to the Clerk of the Disciplinary System, Virginia State Bar, 1111 East Main Street, Suite 700, Richmond, Virginia 23219-0026.

ENTERED THIS 21<sup>st</sup> DAY OF AUGUST 2024.



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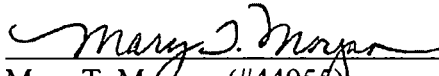
The Honorable Alfred W. Bates, III  
Chief Judge Designate

SEEN AND AGREED TO:



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Complainant,

v.

RICHARD JOSEPH DAVIS, III  
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Case No. CL24-2438  
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AGREED DISPOSITION  
[PUBLIC REPRIMAND WITH TERMS]

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, § IV, ¶ 13-18.A and Va. Code § 54.1-3935, the Virginia State Bar, by Seth T. Shelley, Assistant Bar Counsel, and Richard Joseph Davis, III, Respondent, and Mary T. Morgan, counsel for Respondent, hereby enter into the following Agreed Disposition arising out of the referenced matter.

I. STIPULATIONS OF FACT

1. At all relevant times, Richard Joseph Davis, III (“Respondent”), has been an attorney licensed to practice law in the Commonwealth of Virginia. Respondent was licensed to practice law in the Commonwealth of Virginia in September 2005.
2. On August 7, 2023, the Suffolk Juvenile and Domestic Relations District Court appointed Respondent to represent Madison Babe (“Complainant”) on multiple criminal charges.
3. On August 22, 2023, Complainant met Respondent at an unstaffed office in Suffolk for a client appointment. Complainant told Respondent about her financial stress.
4. On August 22, 2023, after the meeting with Complainant, Respondent sent a text message encouraging Complainant to “[c]ome back when you can stay longer.” Complainant suggested possible days she could stop by the office. Respondent stated, “I can be here. When you want. I’m always alone here.” Respondent followed that message with “I’m going to take care of you.” Complainant wrote, “we’ll see what happens but this needs to be a professional relationship. I’m 9 months pregnant.”

5. On August 29, 2023, Respondent texted Complainant that he would “be in Suffolk Thursday if you want to come by.” Complainant responded that she would stop by that day. Respondent texted, “[w]e can hang and see what happens.” Complainant wrote, “Okayy” with a smile emoji. Respondent responded, “I’ll have some money for you to help.” Complainant said, “Well good, someone needs to pay for this monitor<sup>1</sup> since I can’t work” with a laughing emoji. Respondent wrote, “I got u baby” and asked, “You got me?” Complainant responded, “As you said we can see what happens.”
6. Later on August 29, 2023, Respondent wrote “I told you I’ll take care of you. No one has to know.” When Complainant did not respond, Respondent wrote “Did I scare u off baby.” Complainant wrote that she would see Respondent on Thursday. Respondent wrote “Good baby” and asked, “Are you going to wear the tight little tank top you wore the other day.” Respondent continued, “Well baby.”
7. On August 30, 2023, Complainant texted Respondent and wrote “this is completely inappropriate.” Complainant asked if she “need[ed] to get another attorney.” Respondent assured Complainant “No. I get it. We are good.” Respondent stated he would contact Complainant when he received a discovery response from the prosecutor.
8. When Complainant had difficulty communicating with Respondent in September 2023, Complainant texted Respondent that she felt Respondent was “not trying to even help me anymore” because “I didn’t want to sleep with you.” Complainant wrote that she was “not trying to get screwed in court because I wouldn’t spread my legs.” Respondent did not respond to Complainant’s assertions.
9. On October 3, 2023, the pending criminal charges against Complainant were dismissed.
10. After the representation ended, Complainant texted Respondent that she was not “comfortable with the way you spoke to me.” Respondent did not respond.
11. On October 7, 2023, Complainant filed a bar complaint against Respondent. Complainant alleged that Respondent sent her inappropriate and sexually suggestive text messages after an initial office meeting. Complainant wrote that “[Respondent] implied he wanted to pay me for sex.” Complainant did not attach the text messages to the bar complaint.
12. On October 16, 2023, Respondent filed a written response to the bar complaint. Respondent wrote that his representation of Complainant was “nothing but professional” and that the allegations were “baseless, defamatory and offensive.” Respondent wrote that he has never “had any physical contact with any client” and “never propositioned [Complainant] in any manner.”

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<sup>1</sup> Complainant was required to wear an ankle monitor as a condition of bond.

13. On November 6, 2023, Complainant provided a rebuttal to the Bar. With the rebuttal, Complainant included screenshots of text messages from Respondent.
14. On March 21, 2024, the Bar interviewed Respondent as part of its investigation of the bar complaint. The bar investigator provided Respondent the screenshots of the text messages.
15. Respondent said he wrote “I’m always alone here” because he is always alone at the un-staffed Suffolk office. Respondent said he was referring to the criminal case when he texted that he would “take care of you.” When he wrote “we can hang and see what happens,” Respondent said he was stating that they would see what happened in Complainant’s criminal case. When asked about the text “I’ll have some money for you to help,” Respondent said “That doesn’t make sense. She asked for money. I had none to give her.” When asked to explain the text asking Complainant whether she would wear the “tight little tank top,” Respondent said that he had a phone call around that time with Complainant in which he told her “not to wear the tight tank top to court or anywhere else.” Respondent said the multiple occurrences of the word “baby” were the result of autocorrect when Respondent typed Complainant’s last name, Babe.
16. Respondent denied that he propositioned Complainant for sex. Respondent did not deny sending the text messages in question, although he claimed he no longer had them on his phone.
17. Respondent recognizes that his behavior and conduct towards Complainant were inappropriate. Respondent acknowledges that he cannot interact with clients in this manner.
18. Respondent has no disciplinary history.

## II. NATURE OF MISCONDUCT

Such conduct by Respondent constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:<sup>2</sup>

*By claiming in his written response to the bar complaint that he was “nothing but professional” towards Complainant and that her allegations were “baseless” and by lying to the bar investigator when asked to explain his text messages to Complainant, Respondent violated the following Rule of Professional Conduct:*

### **RULE 8.1 Bar Admission and Disciplinary Matters**

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<sup>2</sup> Italicized language is for explanatory purposes.

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[.]

\* \* \*

*By texting Complainant during the representation in a sexually suggestive manner and by continuing to send sexually suggestive text messages after being asked by Complainant to be professional and by lying in the written response to the bar complaint and to the bar investigator, Respondent violated the following Rule of Professional Conduct:*

**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;

\* \* \*

*By claiming in his written response that he was “nothing but professional” towards Complainant and that her allegations were “baseless” and by lying to Investigator Collins when asked to explain his text messages to Complainant, Respondent violated the following Rule of Professional Conduct:*

**RULE 8.4 Misconduct**

It is professional misconduct for a lawyer to:

\* \* \*

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer’s fitness to practice law[.]

\* \* \*

**III. PROPOSED DISPOSITION**

Accordingly, Assistant Bar Counsel and Respondent tender to the Three-Judge Panel hearing this matter the Agreed Disposition of a Public Reprimand with Terms as representing an appropriate sanction if this matter were to be heard through an evidentiary hearing by the Three-Judge Panel. The terms with which Respondent must comply are as follows:

1. Respondent must attend the Virginia State Bar Professionalism course within twelve

months of the effective date of the Public Reprimand and provide proof of attendance to Bar Counsel within 15 days after attendance; and

2. For a period of two (2) years following the entry of this Order, Respondent will not engage in any conduct that violates the Virginia Rules of Professional Conduct, including any amendments thereto, and/or which violates any analogous provisions, and any amendments thereto, of the disciplinary rules of another jurisdiction in which Respondent may be admitted to practice law. The terms contained in this paragraph will be deemed to have been violated when any ruling, determination, judgment, order, or decree has been issued against Respondent by a disciplinary tribunal in Virginia or elsewhere, containing a finding that Respondent has violated one or more provisions of the Rules of Professional Conduct referred to above, provided, however, that the conduct upon which such finding was based occurred within the period referred to above, and provided, further, that such ruling has become final.

If any of the terms and conditions are not met by the deadlines imposed above, Respondent agrees that the alternative sanction shall be a suspension of his license for a period of one (1) year pursuant to Rules of Court, Part Six, Section IV, Paragraph 13-18.O.

Bar counsel, Respondent's counsel, and Respondent agree that the effective date for the sanction shall be the date of entry of the Order approving this Agreed Disposition.

Bar counsel, Respondent's counsel, and Respondent agree that, should the Three-Judge Panel reject this Agreed Disposition, the Three-Judge Panel retains jurisdiction to hear this matter on September 23, 2024 or anytime thereafter.

If the Agreed Disposition is approved, the Clerk of the Disciplinary System shall assess costs.



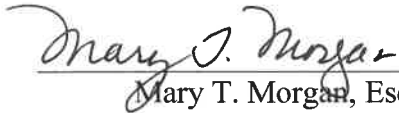
Pursuant to Part 6, § IV, ¶ 13-30.B of the Rules of the Supreme Court of Virginia, Respondent's prior disciplinary record shall be furnished to the Three-Judge Panel considering this agreed disposition.

THE VIRGINIA STATE BAR



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Seth T. Shelley  
Assistant Bar Counsel



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Mary T. Morgan, Esquire  
Respondent's Counsel



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Richard Joseph Davis, III, Esquire  
Respondent